

## Questions and Answers – Interment Rights Holder

Pursuant to the Funeral, Burial and Cremation Services Act, 2002 and Ontario Regulation 31/11 s.161(1) and all amendments thereto, no Cemetery Operator shall be permitted to inter human remains in a lot, other than the remains of the Rights Holder(s), without the written consent of the Rights Holder(s).

### What Does This Mean for Family Plots?

The Cemetery must receive written permission from the Interment Rights Holder on record before any interment or memorialization.

The Interment Rights for a grave or plot give the Rights Holder the right to say who can be buried in the grave. Interment Rights also include the right to erect a memorial and direct inscriptions. If there is more than one Rights Holder, then ideally all parties must give their consent before any interments take place or a memorial is erected (except where one of the current owners is being buried).

The granting of Interment Rights to a grave does not actually mean you own the land itself but that you have the Right to direct burials and memorials in the assigned space, subject to the cemetery bylaws and government regulations. The land remains the property of the licenced cemetery operator.

The Interment Rights Holder of record is the person that is named on the official Deed/Certificate of Interment Rights. Usually, but not always, the Interment Rights Holder of record is/was the person who purchased the interment rights. This becomes an issue when the Interment Rights Holder is deceased.

### What Happens When the Interment Rights Holder is Deceased?

When the Interment Rights Holder dies, the Rights are considered an asset of the estate and as such are distributed to the beneficiaries of the deceased's estate. The Rights must then be registered in the new owner's name for the transfer to be completed.

The Interment Rights do not automatically transfer to the "children or spouse etc." Interment Rights to a plot cannot be given or taken without first notifying the cemetery owner/operator.

Situations often arise where family members want to arrange for a further burial to take place or for an additional inscription to be placed on the memorial but the registered Rights Holder is deceased. As stated, a living Rights Holder is required to give permission for a burial to take place or a memorial to be erected or altered. In order for the burial or memorial request to proceed, the Interment Rights need to be transferred to the person(s) entitled to those Interment Rights.

## Who is Entitled to the Burial Rights?

If the Interment Rights Holder left a will, then the main beneficiary of the deceased's estate is entitled to the Interment Rights. If the estate is divided equally between a number of persons they are all entitled to the Interment Rights. If the Rights Holder did not leave a will, then the persons entitled to the Rights are the direct next of kin following their blood line. Confirmation from an Estate Solicitor may be required to verify blood relationship. This is a sworn statement explaining that the registered Rights Holder is deceased and names who is entitled to the Interment Rights and why. This statement must give names of all those persons entitled to the Rights, whether they wish to be owners or not.

If you are the registered Rights Holder and would like another person to also be an owner, you can assign the Rights making you joint owners with the following benefits:

- In the future when a Rights Holder is deceased this leaves a remaining living Rights Holder and no further legal transfer is required.
- Ensures there is a "living" Rights Holder to take care of any future burials/memorialization.
- Where a "family" plot has sufficient space, it provides continuity through generations.