



## Interment Documentation Proof Required

*This document is intended to provide direction to cemetery staff and residents in situations where an individual or individuals, other than the Registered Interment Rights Holder(s), is seeking to direct staff to perform an interment.*

This document provides a list of common situations involving the direction of burials. The chart includes a corresponding list of proof/documentation which cemetery staff require for each fact situation.

The requirements for proof/documentation under this document are in addition to any other requirements for documents regarding a burial, including interment Authorizations, Burial Permits and Cremation Certificates.

Cemetery staff shall seek legal advice where there is any uncertainty regarding the proof required by those requesting interment and where the fact scenario or proposed proof is not contemplated in this document.

The Town has the authority to make decisions regarding situations which do not clearly fall within one of the fact situations described in this document.

Where there is more than one owner of interment rights, the proof described in Schedule K must be obtained in relation to each Registered Interment Rights Holder.

All documents must be original documents, and retained by the Municipality, save for a Certificate of Appointment of Estate Trustee, where the original must be viewed by the staff and a copy retained and initialed by staff after review of the original.

Where a letter of permission has been submitted by an original Interment Rights Holder, that letter of permission continues to be binding and enforceable unless revoked by the original Registered Interment Rights Holder. A subsequent individual who becomes an Interment Rights Holder by virtue of this policy, does not have authority to revoke an existing letter of permission.

Any requirement for an indemnity agreement must be in the form provided by Legal and Legislative Services. Any proposed changes to the indemnity agreement must be approved by the Town.

If, despite individuals being able to meet the proof described in this form another person or person assert(s) a right to the interment rights or raises an objection to the Cemetery staff regarding the proof being provided, the matter must be referred to the Town.

Notwithstanding the provisions of this document, the Town of Essex may require an indemnity agreement be provided by anyone other than the Registered Interment Rights Holder at any time.

	Fact Situation	Documentary Proof to be Provided to Staff
1.	The Registered Interment Rights Holder is the deceased person to be interred.	No additional documents required. Where any additional interment rights remain in the deceased's name, staff should encourage the Direct Beneficiaries to arrange for a transfer of the rights.
2.	The Registered Interment Rights Holder is alive and consents to interment of the deceased person or transfer of the interment rights.	The following is required: a) Proof of identity of the Registered Interment Rights Holder. b) Written and signed consent of the Registered Interment Rights Holder granting the right of interment or transfer of the interment rights. Staff to make and preserve copies of the various proofs and consent.
3.	The Registered Interment Rights Holder is deceased.	The Estate Trustee may direct interment or transfers in the same manner as the Registered Interment Rights Holder. The following is required: a) Proof of identity of the Estate Trustee. b) Certificate of Appointment of the Estate Trustee or a letter from the Estate Lawyer confirming the appointment of the Estate Trustee. c) Written and signed consent of the Estate Trustee granting the right of the interment or transfer of the interment rights. Staff to make and preserve copies of the various proofs and consent.
4.	The Registered Interment Rights Holder is deceased, the Estate Trustee is no longer available or able to act, and all Direct Beneficiaries are alive and capable to sign an affidavit.	The form of affidavit can only be used for all the Direct Beneficiaries of the deceased Registered Interment Rights Holder named in the will (i.e.: spouse, children etc.). All Direct Beneficiaries must sign. The following is required: a) Sworn affidavit of all those beneficiaries of the deceased Registered Interment Rights Holder. b) Proof of identity of the Beneficiaries. Staff to make and preserve copies of the various proofs. If all Direct Beneficiaries cannot sign (i.e. one has passed away) item 7 below must be used.
5.	The Registered Interment Rights Holder is deceased, the Estate Trustee is no longer available or able to act, and there is no will.	The following is required: a) Sworn affidavit of a lawyer as to the entitlement under applicable estate legislation of the person seeking to direct an interment or transfer of interment rights. b) Proof of identity of the person seeking to direct an interment or transfer of interment rights. Staff to make and preserve copies of the various proofs.

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).

6.	The Registered Interment Rights Holder is deceased, the deceased to be interred is the legal spouse of the Registered Interment Rights Holder, and the Estate Trustee is no longer available or able to act.	The following is required: a) Sworn affidavit of a family member of the Registered Interment Rights Holder, or if no family members are present, a person having knowledge of the affairs of the Registered Interment Rights Holder. b) Proof of identity of the person swearing the affidavit. Staff to make and preserve copies of the various proofs.
7.	The Registered Interment Rights Holder and his/her spouse are deceased, at least one of the Direct Beneficiaries are the Registered Interment Rights Holder are deceased, and a person or persons in successor generations is entitled to interment rights, or is seeking to direct interment or a transfer of interment rights.	The following is required: a) Sworn affidavit of at least one of the beneficiaries that i. they are a beneficiary of the Registered Interment Rights Holder, ii. there is no contrary Will of the Registered Interment Rights Holder iii. signed and witnessed consent of all the beneficiaries (direct and successive generations) of the Registered Interment Rights Holder is attached to the affidavit iv. they are not aware of any other heir or beneficiary who does not consent to the burial v. clear tracing of the ownership rights to the plot(s) through Wills of persons starting with the Registered Interment Rights Holder and ending with the beneficiary signing the affidavit and all beneficiaries that the person making the affidavit will indemnify the Municipality. The affidavit must be reviewed and approved by the Town b) Proof of identity of all the beneficiaries. Staff to make and preserve copies of the various proofs.
8.	The Registered Interment Rights Holder and his/her spouse are deceased, at least one of the Direct Beneficiaries of the Registered Interment Rights Holder is deceased, and a person or persons in successor generations is entitled to interment rights, or is seeking to direct interment or a transfer of interment rights, but the beneficiaries are unable to meet the required proof in item 7 above.	Such proof as the Town may require.  Staff to make and preserve copies of the various proofs.
9.	Refusal or inability to meet one of the foregoing.	Purchase a new plot or obtain a court order as to ownership.