

## Interment Rights FAQs

### 1. When I buy a plot, do I own the land?

No. As an Interment Rights Holder (“Rights Holder”) what you own is an “interment right”. This gives you the right to determine who can be buried in your grave, crypt, or niche and what memorialization, if any, will be placed there, providing it is permitted within the cemetery’s bylaws. The land remains the property of the Municipality and its responsibility too.

### 2. How long do I own my Interment Rights?

Ontario law requires that every interment right be sold in perpetuity. This means you and your heirs will own the interment rights forever.

### 3. How do I know that the cemetery will be maintained forever?

Ontario law requires that a percentage of the purchase price for each interment sold must be placed into a care and maintenance trust fund. These contributions can never be removed. The interest and dividends generated by these investments are paid out to the cemetery to provide for the ongoing maintenance of these grounds. If the income generated isn’t enough to maintain the cemetery, the legislation allows the cemetery’s assets to be transferred to the municipality who then take on the responsibility of maintaining the cemetery grounds in perpetuity.

### 4. Can there be more than one Rights Holder?

Yes. Interment rights can be arranged for one individual or for multiple individuals with rights of survivorship.

### 5. How can I change the Rights Holder?

As the cemetery records are the official book of record, any changes must be registered with the Town. If you want to change or add Rights Holders, you need to bring the current Interment Rights Certificate with you to the Town Hall as written authorization from the Rights Holders listed on the certificate will be required to make any changes. The Town will update its records and provide a replacement Interment Right Certificate reflecting the new Right Holder(s). A fee may be charged to register the changes.

#### **DID YOU KNOW?**

For a contract to be valid (referred to as enforceable), it must be signed by you and the Town. Ensure that you receive a signed copy. The Town will explain your cancellation and refund rights.

## **6. What happens when the registered Interment Rights Holder dies?**

If a sole owner dies, he or she can be automatically buried in the interment right and any future interest in the right becomes part of the sole owner's estate. If a joint owner dies, the surviving Rights Holder(s) must give their permission for the burial as well as placing or inscribing a memorial. Any future interest in the interment rights then automatically goes to the remaining surviving owners.

NOTE: If a Power of Attorney existed for a Rights Holder, it becomes immediately null and void at his or her death and the individual holding the Power of Attorney no longer has any authority regarding the interment right.

When a person dies, his or her property (including the interment rights) becomes part of their estate. If further use is to be made of the interment right, and the last surviving Rights Holder has died, his or her estate must be cleared with Town Hall as follows:

- If the death occurred within the last 3 years and there was a Will, the Executor (or co-Executors) will have signing authority for the interment rights until the estate has been prorated and distributed, or the third anniversary of the date of death, whichever comes first.

- After this, or if there was no Will, succession laws apply, and any new Rights Holders (minimum 18 years of age) will be established at no charge in the following order:

- Children – if no children, then
- Grandchildren – if no grandchildren, then
- Great-Grandchildren – if no great-grandchildren, then
- Parents – if no parents, then
- Brothers and Sisters – if no brothers and sisters, then
- Grandparents – if no grandparents, then
- Aunts, Uncles, Nieces, Nephews.

## **7. Can I pre-authorize who can be buried within the interment rights?**

Yes. an Allocation document in which the Rights Holder pre-authorizes who can be buried in the future, specifies the location of the burials. The document also allows memorialization for those named and can be completed at the Town Hall.

## **8. Can anyone in my family use the grave/niche?**

Anyone – they don't have to be in your family – can make use of a grave or niche, but the written permission of the registered Rights Holder(s) is required.

**9. What happens if I pre-purchase Interment Rights at a cemetery, but change my mind or move away from the area?**

If you change your mind for any reason within 30 days of your purchase and you haven't used your interment rights, we will refund 100% of what you paid.

**10. Can I sell my plot to someone else?**

The Town permits the Interment Rights Holder to sell or transfer their interment rights to a third party, as at no more than the current price listed on the cemetery price list, so long as the sale or transfer is conducted through the cemetery operator and the interment rights holder and purchaser meet the qualifications and requirements as outlined in the Town of Essex by-laws. (Refer to By-Law 1812 s. 31-37)

NOTE – If the original Interment Rights Certificate cannot be found, the Town may issue a duplicate Interment Rights Certificate to facilitate the sale or transfer endorsement. An administration fee may apply.

**11. What happens when an Interment Rights Holder becomes incapacitated and cannot sign for matters relating to the interment right?**

Often a Power of Attorney is granted to allow someone to oversee the individual's affairs. For cemetery purposes, we will accept a General Power of Attorney or Property Power of Attorney. Once we have reviewed the document, the person with the Power of Attorney can sign in place of the Interment Rights Holder.

**12. What happens if the Interment Rights Holder has a legal name change?**

The Town will require proof of the name change so that our records can be updated. Proof can be one of the following: marriage certificate, driver's licence.

**13. How many interments can be placed in one grave?**

Interment rights permit in one (1) in-ground lot:

- One (1) full size traditional and two (2) cremation interments
- OR
- Three (3) cremation interments

Interment rights permit in one (1) niche:

- Two (2) cremation interments

**14. What are the requirements prior to interment?**

In addition to any other requirements under the *Act* and the Regulations and any other legislation that may be in force from time to time, the following shall be received by the Town prior to an Interment in a Cemetery:

- a contract for the Interment;
- if the remains to be interred are NOT those of a Rights Holder, the written consent of all Rights Holders, or their authorized representatives, to such interment;
- payment in full of the Fee for the Interment
- burial permit
- certificate of cremation (if applicable)

**15. What if I change my mind after I purchase interment rights (referred to as the 30-day Cooling-Off Period)?**

If the above Interment Rights have not been used the Purchaser may in writing to the owner within thirty (30) days from the signing of the contract cancel this contract and receive a full refund. If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment or scattering rights.

**16. What is the difference between a “plot” and a “lot”?**

A lot means an area of land in a Cemetery being approximately 3’4” x 8’ containing, or set aside to contain, interred human remains;

A plot means two (2) or more lots in respect of which the Interment Rights have been sold as a unit.