

INTERMENT RIGHTS

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 ?

Loyalist Township, as the licensed cemetery operator for Glenwood, Pentland, Lutheran & Switzerville Cemeteries, must receive written permission from the Plot Owner on record before any burial or marker installation or addition of text, other than for the burial of the Plot owner themselves.

The Interment Rights, or Burial 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 licensed cemetery operator (Loyalist Township) and the Interment Rights cannot be transferred to another owner without permission.

The Interment Rights Holder (Plot Owner) 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 and other family members wish to use the plot.

What Happens When the Interment Rights Holder (Plot Owner) is Already 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 confirmed and 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 Loyalist Township - the cemetery owner/operator and the owner of the land itself.

Situations often arise where family members want to arrange for a further burial (other than for the Plot owner) to take place or for an additional inscription to be placed on the memorial but the registered Plot Owner is deceased. As stated, a living Rights Holder is required to give permission for another burial to take place or for 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.

NB: This is not to be confused with the burial of the Interment Rights Holder which can be authorized by their estate executor, spouse or adult child – in that order. It can be assumed that the owner of the Rights has implicit consent by virtue of their ownership.

Who is Entitled to the Burial Rights?

If the Interment Rights Holder left a will, and did not specifically bequeath the Rights, 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 beneficiaries, they are all entitled to a share in the Interment Rights. If the Rights

Holder did not leave a will (died intestate), then the persons entitled to the Rights are the direct next of kin following their blood line and in accordance with the *Succession Law Reform Act, 990*.

Family Tree Flow Chart (Intestate or no will)

Surviving Spouse → All surviving children → All surviving grandchildren
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No children → Parents → All surviving full siblings → All full nieces /nephews → equal NOK

How to Transfer or Confirm Interment Rights

Apply to the Administrative staff at the Odessa office for specific guidance and documents. Our staff are available to assist and explain what steps or documents are required. Tel: 613-386-7351 ext. 175 or 121. Every application is treated on an individual basis.

Any original documents confirming or supporting family ownership of a burial plot/grave or other satisfactory evidence of ownership will be required in addition to an application with supporting documents which may include a Statutory Declaration provided by the Township. 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. A Renunciation Form is attached to the Statutory Declaration which also needs to be completed when there are other entitled persons who are also willing to “renounce their rights”. In the event of a family dispute regarding entitlement or rights, a legal opinion should be sought from an Estates lawyer. Ownership cannot be transferred or confirmed if any entitled family members do not renounce their Rights.

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 one Rights Holder dies, 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 the generations

Upon the death of a sole Interment Rights Holder, the estate executor or family is encouraged to transfer the rights of remaining graves to a “living” Rights Holder at no charge. Transfer fees will be applicable from August 2016 for all other transfer outside estate administration.

Key Points of Cemeteries By-law 2015-078

- No person can be interred without the written consent of the Interment Rights Holder; in the case of the burial of the Rights Holder, their executor, spouse or children can give consent.
- The private sale of graves or Interment Rights to any other person(s) is not permitted. If you wish to surrender your Interment Rights, an application must be made to Loyalist Township to “buy back” the graves/ Interment Rights. The Township is not required to do this if any of the Interment Rights have been used.
- All interments must comply with all laws, regulations and legislation and the following provided to the Township offices prior to burial (no grave can be opened by any person not authorized by the Township):
 - Burial permit or cremation certificate
 - Interment Order (obtain from Township) giving consent by the Interment Rights Holder
 - All applicable fees
- No marker or monument can be erected without permission from the Township and full details of dimensions and particulars must be provided. Please note that for joint headstones, monument companies should be advised of the correct burial positions to avoid any error.