

ASSIGNMENT OF BURIAL RIGHTS

Under the Ontario **Funeral, Burial and Cremation Services Act, 2002 (FBCSA)**, cemeteries are highly regulated. You do not own the ground; you own the “burial rights” The Burial Rights Certificate gives the right to designate who is buried in a specific spot. The Bereavement Authority of Ontario (BAO) strictly governs how these rights are bought, sold, and transferred to prevent price gouging and ensure cemeteries are properly maintained forever.

It is very common for older generations to purchase multiple cemetery plots in advance, intending to keep the family together. When the owner of those plots passes away, the unused graves become part of their estate.

Transferring a plot to a family member is usually straightforward if the intentions of the original owner have been documented either in his/her Will or in an Assignment of Burial Rights form. These are prepared in advance with the assistance of the cemetery operator.

Should it be determined that the Will does not indicate the wishes of the original owner and there are no other documents to assign the burial rights, the executor of the estate becomes the individual legally allowed to sign over the plot on behalf of the deceased.

The cemetery will require proof of the executor’s authority such as a copy of the Last Will and Testament or the Certificate of Appointment of Estate Trustee. A formal transfer form and new Interment Rights Certificates can be prepared.

Transfer of burial rights can also be completed during the lifetime of the owner. If they do not plan to use the grave for their own burial or if cemetery bylaws allow more than one set of ashes they may assign burial rights to other individuals.

Where more than one individual claims burial rights and a family dispute results in relevant consents being withheld, an agreement must be reached before the ownership can be transferred.

Steps for Assignment of Rights of Burial

1. **Confirm the existing right**
 - Identify the grave/plot, lot number, section and cemetery.
 - Confirm the name of the current holder of the right of burial.
 - Check with the cemetery to ensure the right has not already been transferred, used, surrendered or otherwise restricted.
2. **Determine whether an assignment is permitted**
 - Review the cemetery's bylaws, rules and regulations.
 - Determine whether the right can be transferred to another person.
3. **Verify the identities and authority of the parties**
 - Confirm the identity of the current holder and obtain supporting documentation where necessary.
 - If the holder is deceased, determine who has legal authority to deal with the right—for example, an executor, administrator or other authorized representative.
 - If there are multiple rights holders, obtain the required consent from all of them.
4. **Complete an Assignment of Burial Rights form with the Cemetery.**
 - cemetery name and location; lot/plot/grave identification;
 - name of current holder; name and contact information of the new holder;
 - date of assignment; signatures of the parties;
 - required witness or certification; and acknowledgment that the assignment is subject to the cemetery's bylaws and applicable law.
 - provide the new holder with a copy of the completed assignment or a certificate confirming the right of burial.