

COMPLIANCE, MANAGEMENT, ABANDONMENTS & APPROVALS OF CEMETERIES & CREMATORIALS

AMCTO - WORKSHOP & TRAINING PROGRAM - Zone 7

Funeral, Burial And Cremation Services Act, 2002

&

Ontario Regulations 30/11, 184/12, 216/18 & 374/18

4 November 2021

BAO | Bereavement
Authority of
Ontario

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Focus of the Presentation



SPECIFIC QUESTIONS & ISSUES provided by AMCTO – ZONE 7 – 4 Nov 2021

- Abandonment Process – to Municipalities
- Sales of lots – graves, niches, crypts, scattering grounds
- Documents required to be maintained - Public Register, Contracts/Interment Rights Holder Certificates & Contracts, Bylaws, Price Lists
- Documents to be provided to consumers – Interment Rights Certificates, Consumer Information Guide, Bylaws, Price List
- Interment Rights Holder – Person identified in the Interment Rights Certificate is the authority. If deceased; then it's the personal representative.
 - Make decisions about selling or transferring plots
 - Who can be buried there?
 - Disinterments must be authorized by the Interment Rights Holder
- Resales/Transfers of Interment Rights AND identification of Interment Rights Holder
- What do we do when the person who purchased the plot and their immediate family has all passed? Get authorization from person who inherited the estate or seek legal advice or order from Ontario Superior Court of Justice or relevant court.

HISTORY OF CEMETERY LEGISLATION & ADMINISTRATION



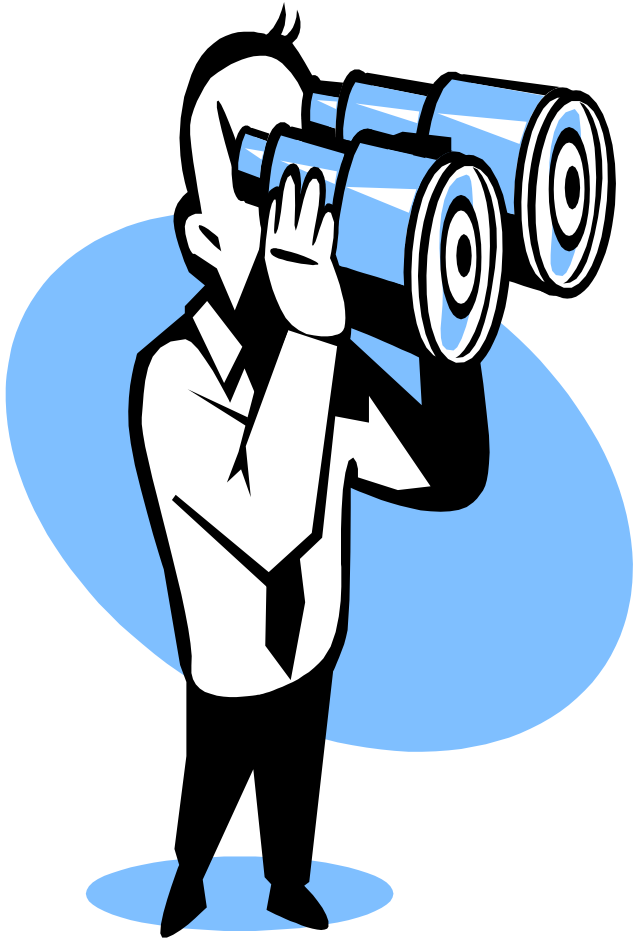
- Cemeteries Act (Revised) – April 1, 1992
 - Required every cemetery in Ontario to be licensed by the owner of the land on which the burial is situated. Owner was the licensed “OWNER”.
 - If the landowner could not be identified, then the Municipality was licensed as the owner of the cemetery NOT of the land
 - Cemetery – Land containing **ONE** or more human remains intentionally buried in keeping with tradition, culture, religion etc.

Funeral, Burial And Cremation Services Act, 2002 – July 1, 2012

- Continues requirements of predecessor. Licenses owner of land or another person, who has the consent of the landowner, to be licensed as the “OPERATOR” of the cemetery.

Note: Only the landowner can apply to increase the size of a cemetery or to close a part of the cemetery!!! Has an impact on Municipalities (road widenings/development) when they are the licensed operator but are not the owner of the land. Cannot apply to close a part of the cemetery!!

Content of the Presentation



- Understanding your obligations under the FBCSA as they relate to compliance, management, abandonments & approvals for cemeteries and crematoriums
- The “Legislation” and services provided by the Bereavement Authority of Ontario (Page 4-5)
- **Legislative amendments as of July 1, 2021 and January 1, 2022 (Pages 6-7)**
- Requirements for licensing of Operators & Sales Representatives and exemption (Pages 8-14)
- Family Led Funerals (Pages 15-17) & Assisted Burials and Cremations (Page 18)
- Interment, Scattering and unclaimed cremated remains (Pages 19-20)
- Cemetery & Crematorium statistics (Pages 22)
- Interment Rights (Page 23) & 30-day Cooling off period & related obligations (Pages 24-25)
- Public Information – Cemetery and Crematorium Registers (Page 26)
- **Price Lists** (Pages 27-29)
- Who is required to establish a Care and Maintenance Trust Fund (CMF) or Care and Maintenance Trust Account (CMA)? **Contributions (as of Jan 1, 2022)** (Pages 32-34)
- Who can be the Trustee of the CMF or CMA? (Page 35-36)
- Use of Income from the CMF or CMA (Pages 37-38)

Content of the Presentation (Continued)



- Who can be the Trustee of the CMF or CMA? (Page 35-36)
- Use of Income from the CMF or CMA (Pages 37-38)
- Access to capital to increase capacity – land or columbarium/mausoleums – Amendments as of January 1, 2022 (Pages 41)
- Annual Licensure Report – Reporting to the Registrar (Pages 43-47)
- 30-day Contract Cancellations- Resales & Re-purchase of Interment Rights (Pages 48-50)
- By-laws (Pages 51-59)
- Unlicensed, Neglected and abandoned cemetery sites (Pages 60-61)
- Municipal – Proactive outreach & Transfers of abandoned and neglected cemeteries
- Burial Site Discoveries (Page 62)
- Archaeological investigations on cemetery lands – Investigation Authorizations (Page 63-65)
- Municipal Approval” process obligations to Licence a Cemetery Site/Operator (Pages 67-80)
- Approvals and Process to Licence a Crematorium or Alkaline Hydrolysis facility (Pages 70-77)
- Requirements and Process to Licence a Crematorium Operator (Pages 81-95)
- Prohibitions and Concerns related to Radioactive Implants (Pages 96 - 97)
- Process to Licence a Hydrolysis Operator (Page 98)

Legislation governing the Bereavement Sector

Funeral, Burial and Cremation Services Act, 2002 (FBCSA)

FBCSA - Royal Assent on December 13, 2002

O. Regs & Proclamation into force on February 9, 2011

Came into forces - Bereavement Sector law, as of July 1, 2012

Legislation includes:

- Ontario Regulation -- 30/11 (General)
- Ontario Regulation - 184/12 (Care and Maintenance Trust Fund Exemptions & Social Service Charges)
- Ontario Regulation 216/18 (Code of Ethics)
- Ontario Regulation 374/18 (Discipline & Appeal Committees Regulations)

Ministry of Government and Consumer Services (MGCS) delegated administration authority (DAA) for the Bereavement Sector to the Bereavement Authority of Ontario (BAO) under the Registrar, FBCSA

MGCS retained oversight for Abandoned Cemeteries, Burial Sites, Cemetery Closures and War Graves (ABCW) under the Registrar, FBCSA, MGCS

**BAO established
January 16, 2016**

Regulation of Cemetery, Crematorium, Funeral Establishment & Transfer Service Operators, Funeral Directors, Funeral Preplanner and sales representatives under the Bereavement Authority of Ontario

Services Provided By The Bao

Established as a DAA on January 16, 2016, the BAO –

- **Oversees** the entire bereavement sector in Ontario
- **Administers the FBCSA, Licenses and Inspects** funeral establishment, cemetery, crematorium, and transfer service operators, funeral directors, funeral preplanners, transfer service sales representatives, and sales representatives.
 - **Offers a convenient single point of contact** for the funeral, transfer service, cemetery and crematorium sectors and for consumers of bereavement supplies & services
- **Monitors** the Care and Maintenance Fund or Accounts of cemeteries and Prepaid Funds and Accounts of funeral establishments, transfer services, cemeteries and crematoriums
- **Provides more efficient service delivery and enforcement**

Legislative Amendments – July 1, 2021

Licence display requirement:

No requirement; that cemetery, crematorium, funeral establishment, and transfer service operators (bereavement service operators) display their licence or a copy of it near the main entrance of their establishment

Requirement; that every bereavement service operator who maintains or makes use of a website to promote, or to enter contracts for, the sale or provision of a licensed supply or service to make available in a clearly visible place on that website their licence number and a description of their type of licence.

Price list and Consumer Information Guide:

Requirement that every bereavement service operator who maintains or makes use of a website to promote, or to enter contracts for, the sale or provision of a licensed supply or service to make available in a clearly visible place on that website:

- a free, printable electronic version of the operator's price list; and
- a link to the consumer information guide prepared by the Registrar of the BAO.

Find these regulatory changes on the e-Laws website, found here: [O. Reg. 258/21: GENERAL \(ontario.ca\)](#); [O. Reg. 259/21: GENERAL \(ontario.ca\)](#).

Legislative Amendments – January 1, 2022

Cemetery care and maintenance funds and accounts:

- Permit non-commercial cemetery operators to access the capital portion of a cemetery care and maintenance fund or account, to increase the capacity of a cemetery:
 - Buy land adjoining the cemetery
 - Install a Mausoleum or Columbarium or Increase the size of a mausoleum or columbarium
 - Establish a scattering garden in a cemetery

subject to approval from the Registrar of the Bereavement Authority of Ontario (BAO), under the condition that the capital is paid back into the trust fund or account.

- Increase minimum care and maintenance fund/account contribution amounts. Please see the attached table for additional information.
- Require the Minister to review the prescribed care and maintenance fund/account contribution amounts every five years.

Find these regulatory changes on the e-Laws website, found here: [O. Reg. 258/21: GENERAL \(ontario.ca\)](#); [O. Reg. 259/21: GENERAL \(ontario.ca\)](#).

Requirements For Licensing – Operator & Sales Reps

FBCSA Section 4. (1),(2) & (3)(5)(6)

Operating cemeteries (inground graves, mausoleums, columbariums and scattering grounds)

4 (1) No person shall operate a cemetery or hold themselves out as the operator of a cemetery, unless the person is licensed to do so. Note: This prohibition includes the operation of a GREEN cemetery

Selling rights and services

(2) No person shall sell or offer to sell interment rights, scattering rights or cemetery services to the public, or hold themselves out as available to sell such rights or services to the public, unless,

(a) the person holds a prescribed licence and is acting on behalf of a cemetery operator; or

(b) the person is licensed as a cemetery operator.

Interring remains

(3) No person shall inter human remains in a place other than in a cemetery that is operated by a person licensed under subsection (1).

Land for scattering

(5) No person shall maintain or set aside land to be used for the purpose of scattering cremated human remains unless the person is licensed as a cemetery operator and the land is within a cemetery.

Fee for scattering

(6) No person shall charge a fee for the use of land for scattering cremated human remains unless the person is a licensed cemetery operator and the scattering takes place on land within a cemetery.

Requirements For Licensing – Operator & Sales Reps

FBCSA Section 5. (1)(2)(3)(5)

(Continued)

Operating cemeteries (inground graves, mausoleums, columbariums and scattering grounds)

Owner's (Landowner) duties

5 (1) An owner of a cemetery shall,

(a) ensure that the cemetery is operated and maintained by a person who is licensed to operate the cemetery; and

(b) ensure that the cemetery operator complies with the requirements of this Act and the regulations.

Owner

(2) If there is no licensed operator of a cemetery, the owner of the cemetery is subject to the duties of an operator of a cemetery under this Act, subject to the regulations.

Operator's duties

(3) A cemetery operator shall ensure that the cemetery is operated in accordance with this Act and the regulations and shall ensure that,

(a) any interment of human remains and any scattering of cremated human remains are carried out in a decent and orderly manner and that quiet and good order are maintained in the cemetery at all times;

Requirements For Licensing – Operator & Sales Reps

FBCSA Section 5. (1)(2)(3)(5) (Continued)

Operating cemeteries (inground graves, mausoleums, columbariums and scattering grounds)

Operator's duties (continued)

- (b) cemetery grounds, including all lots, structures and markers, are maintained to ensure the safety of the public and to preserve the dignity of the cemetery; and
- (c) every person has reasonable access to a lot or scattering ground at any time except as prohibited by the cemetery by-laws.

Operator's duties re: employees, etc.

(5) A cemetery operator shall ensure that,

- (a) every licensee that the operator employs carries out his or her duties in compliance with this Act and the regulations; and
- (b) every other person to whom the operator delegates responsibility carries out that responsibility in compliance with this Act and the regulations.

Educational requirements for all licensees - Cemetery, Crematorium & Alternative Disposition Facilities (Hydrolysis), Funeral Establishment and Transfer Service Operators, Pre-planners and Sales Representative licences.

Requirements For Licensing – Operator & Sales Reps

Section 1.1 and 6. (1)(2) & (3) - FBCSA

Operating Crematoriums and Alkaline Hydrolysis Facilities- (Alternative Disposition Facilities)

6 (1) No person shall operate a crematorium or hold themselves out as the operator of a crematorium, unless the person is licensed to do so. 2002, c. 33, s. 6 (1).

Selling services

(2) No person shall sell or offer to sell crematorium services to the public, or hold themselves out as available to sell crematorium services to the public, unless,

(a) the person holds a prescribed licence and is acting on behalf of a crematorium operator; or

(b) the person is licensed as a crematorium operator. 2002, c. 33, s. 6 (2); 2006, c. 34, Sched. D, s. 5.

Cremating remains (Locations)

(3) No person shall cremate a human body at a place other than a crematorium operated by a person licensed under subsection (1).

Requirements For Licensing – Operator

FBCSA - Section 8. (2), & 12 , Ontario Regulation 30/11, Section 7. (2)

Selling Funeral Services:

8. (2) No person shall sell or offer to sell funeral services to the public, or hold themselves out as available to sell funeral services to the public, unless,

- (a) the person holds a prescribed licence and is acting on behalf of a funeral establishment operator;**
- (b) the person is a licensed funeral establishment operator; or**
- (c) the person is part of a prescribed class of persons and the services are prescribed.**

Exception – Place of Worship:

(3) A licence is not required with respect to rites or ceremonies traditionally provided in a place of worship.

Selling Transfer services:

12 (1) No person shall operate, or hold themselves out as the operator of a transfer service, unless the person is licensed to operate a transfer service

(2) No person shall sell or offer to sell transfer services to the public, or hold themselves out as available to sell transfer services to the public, unless,

- (a) the person is licensed as a transfer service operator or a funeral establishment operator; or**
- (b) the person holds a prescribed licence and is acting on behalf of a transfer service operator or a funeral establishment operator.**

Requirements For Licensing – Sales reps.

FBCSA - Section 4. 2 (a) and 8.(2)(3), Ontario Regulation 30/11, Section 7. (1)

Selling Cemetery Supplies and Services:

No person shall sell or offer to sell interment rights, scattering rights or cemetery services to the public, or hold themselves out as available to sell such rights or services to the public, unless,

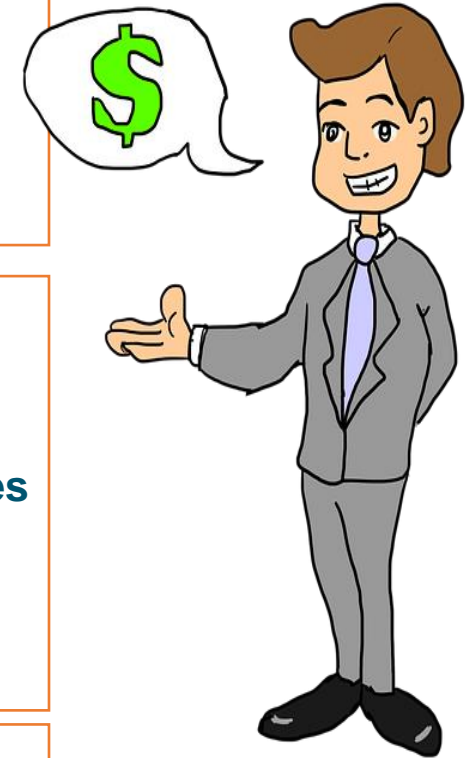
- the person holds a prescribed licence and is acting on behalf of a cemetery operator; or
- the person is licensed as a cemetery operator.

A person is exempt from clause 4 (2) (a) of the Act if,

- (a) the person is acting on behalf of the operator of a cemetery other than a commercial cemetery;
- (b) selling licensed supplies or services is not the person's primary occupation; and
- (c) the person is not selling, or holding oneself out as available to sell, licensed supplies or services in circumstances in which,

- (i) money is required to be held in trust under section 52 of the Act, or
- (ii) payment is to be made by way of proceeds of an annuity or insurance contract, including group insurance. O. Reg. 30/11, s. 7 (1).

A family member of the deceased may/must Register the death of the individual at the Municipality in which the dead individual resides. The Medical Certificate of Death (from the Doctor who pronounced the death) along with the completed Statement of Death Form (from the Municipality) must be provided so that a Burial Permit may be issued.



Exemption from being Licensed as a Sales Representative (Continued)

Personal Licences– FBCSA – ss. 4. (2) & section 7 of O. Reg. 30/11

Simply put, the regulation provides an exemption from being licensed as a sales representative if 7. (1)(a) applies together with 7. (1)(a) or 7. (1)(b). In other words a person is exempt if :

- The person is acting on behalf of an operator of a cemetery other than a commercial cemetery
 - Cemeteries that are “other than commercial cemeteries” include municipal, religious, non-share and trustee/volunteer boards. The exemption is not applicable to a person acting on behalf of an operator of a not-for-profit cemetery
 - A commercial cemetery operator includes “not-for-profit” and “for profit” operators

AND

- Selling licensed supplies and services is not the person’s primary occupation

AND

- The person is not selling or indicating that they are available to sell licensed supplies and service when:
 1. The money paid by the consumer (for the contract) is required to be held in trust (i.e. pre-paid money) or
 2. The payment for the contract is to be made by the proceeds of an annuity or insurance contract, including group insurance.

So, if the person is acting in a part-time position for a non-commercial cemetery but is selling supplies and services that include pre-paid monies having to be trusted or involve insurance products, the person must be licensed.

- Please review the legislation provided above to be absolutely clear.

FAMILY LED FUNERALS

Preparation, Transfers, Cremation &/or Burials



Note: A family member of a deceased individual is exempt from subsection 8 (2) of the Act when the family member is, for no consideration, providing funeral services in respect of the deceased individual, other than arterial embalming. Subsection 8. (2) addresses selling or offering to sell funeral services to the public.

Family Led Funerals – Continued

FBCSA - section 8. (2), Ontario Regulation 30/11, Section 7. (2)

A family member (for no consideration) may:

- Take possession of a deceased individual from a hospital, Coroner's Offices, or other facility upon providing suitable/required authorization (may require the Burial Permit)
- Transport the deceased individual in a respectable/dignified vehicle to another facility or residence for preparation/ceremonies

Note: There is no current law or by-law that dictates or prohibits the period of time during which dead human may be held in a residence.

- A family member may not carry out the service of arterial embalming in respect of the deceased individual.

A family member (for no consideration) may:

- Place the deceased individual in a suitable container/shroud etc. that satisfies the requirements of the operator of the disposition facility i.e. Crematorium, Alkaline Hydrolysis Facilities or Cemetery
- Transport the deceased in a respectful/dignified manner to the site of final disposition

A family member should:

- Contact the hospital, cemetery or crematorium prior to attending at that facility to ensure that the required documentary identification and authorizations are acceptable
- Confirm the type of container required (if necessary) to transport the deceased individual.

Family Led Funerals – Continued

FBCSA - section 8. (2), Ontario Regulation 30/11, Section 7. (2)

A family member of the deceased may also apply for a Coroner's Cremation Certificate at the Office of Chief Coroner of Ontario if they do not wish to use the services of a licensee. Will require the Medical Statement of Death in order to apply for the Cremation Certificate.

Once the family member applies for and receives the **Coroner's Cremation Certificate** using the electronic process through the Office of the Chief Coroner of Ontario, the family must then contract with a licensed crematorium/alternative disposition facility operator to have the body cremated or alternatively disposed.

The operator will complete a **Cremation Application** (Authority from Next-of -Kin to cremate) upon being provided with:

1. The Coroner's Cremation Certificate 2. The Death Certificate and 3. The Burial Permit.

The operator will require the person making the application to comply with the Crematorium or Alternative Disposition facility's bylaws e.g. casket/container/shroud is constructed of flammable materials etc., and to confirm that the body does not contain any radioactive implants (and if the body did have radioactive implants that there are no time period restrictions or that the implants have been removed etc.)

Assisted Burials And Cremations

O. Reg. 30/11, Sections 162 And O. Reg. 184/12—sections 3 & 4

Upon receiving a written instruction from a delivery agent (defined in the *Ontario Works Act, 1997*), a cemetery operator who has available space must provide:

- A lot for the interment of the remains of any person referred to in the direction
- Opening and closing services in conjunction with the interment
- Install a marker if,
 - One is provided
 - The operator install markers for other persons at the cemetery and
 - The cemetery bylaws permit the installation.
- If scattering is requested and a common scattering ground is available the operator shall:
 - Scatter, or permit the scattering of the cremated remains
 - Install a marker as mentioned above.

Issue: Disproportionate demands for lots from Delivery Agents. Negotiate!!

The regulation has set the maximum amount that may be charged for a burial service, it is the the lesser of:

- (a) \$1,300 for all services that the operator provided with respect to the interment or scattering; and
- (b) the price that the operator charged for the services as shown on the operator's price list.

Scattering or Interment of Cremated Remains

O. Reg. 30/11, Sections 161-164

Interment and Scattering Rights

- If cremated remains are to be interred, the cremated remains must be interred in a registered cemetery (see definition of “human remains” and “cemetery”)
- The FBCSA regulates scattering on cemetery land
- The purchase and exercise of scattering rights is regulated in a manner consistent with interment rights
- Where a person intends to offer scattering services, other than on cemetery land, for a fee, they must be licensed as an operator under the FBCSA. This includes scattering on land covered by water
- Family members and others may continue to scatter the cremated remains of their loved ones where the scattering is permitted by the landowner.

Unclaimed Cremated Human Remains

O. Reg 30/11, Sections 28, 53, 64, 161.3, O. Reg. 184/12, Section 2

- An operator who has possession of unclaimed cremated remains that were not for the purpose of scattering or interment shall retain them until they are claimed or interred in a cemetery
- If the cremated remains are not claimed within one year from the date of cremation and the operator has made reasonable efforts to contact the purchaser of the cremation service or personal representative/family member of the deceased the operator may have the remains reinterred in a cemetery, including in a common lot in a cemetery
- If the cremated remains are claimed before they are interred i.e. less than a year since the cremation was conducted, the operator shall refund any refundable deposit charged for the interment
- The maximum amount that an operator may specify on the price list as a refundable deposit to inter unclaimed cremated remains is,
 - If the operator is NOT also a cemetery operator, \$350; or
 - If the operator is also a cemetery operator , the lesser of \$350 AND the minimum amount the operator charges for the interment of cremated remains in a common lot in the cemetery.

Note: Ss. 161.3 - No offering, selling or providing “Term” burials or scattering.

Cemeteries are important to Ontario as Religious, Historic & Heritage Cemetery Sites



Cemetery operators licensed to operate cemetery Sites in Ontario as of April 1, 2021

Currently 5,220 licensed operators of cemetery sites in Ontario:

Organization Type	Active Sites	Inactive Sites	Total Sites
Corporation - Crown	1	58	59
Corporation - Municipal - not for profit	859	1697	2556
Corporation - Not for profit	62	6	68
Corporation - Private	89	50	139
Corporation - Publicly Traded		1	1
Corporation - Religious - not for profit	1446	291	1737
Corporation - Trustee/Volunteer Board	529	76	605
Partnership (all types)	1	4	5
Sole Proprietorship	10	40	50
Grand Total	2997	2223	5220

Organization Type	Active Sites	Inactive Sites	Total Sites
Corporation - Crown	2%	98%	100%
Corporation - Municipal - not for profit	34%	66%	100%
Corporation - Not for profit	91%	9%	100%
Corporation - Private	64%	36%	100%
Corporation - Publicly Traded	0%	100%	100%
Corporation - Religious - not for profit	83%	17%	100%
Corporation - Trustee/Volunteer Board	87%	13%	100%
Partnership (all types)	20%	80%	100%
Sole Proprietorship	20%	80%	100%

Currently 77 licensed crematorium operators in Ontario operated by 53 Organizations:

Interment/Scattering Rights

FBCSA- Section 1 (definitions), 48, Succession Law Reform Act - Definitions



What is an Interment Right?

- “inter” means the burial of human remains and includes the placing of human remains in a lot;
- “interment rights” includes the right to require or direct the interment of human remains in a lot;
- An interment rights holder or a person authorized to act on the holder’s behalf has the right to,
 - (a) inter any human remains in the lot to which the interment rights relate in accordance with the cemetery by-laws;
 - (b) erect a marker on the lot, or other receptacle for human remains, to which the interment rights relate if doing so does not contravene the cemetery by-laws;
 - (c) have reasonable access to the lot to which the interment rights relate at any time, except as prohibited by the cemetery by-laws; and
 - (d) once the interment rights have been paid in full, receive a certificate of interment rights from the operator.

Note: The similar rights apply with necessary modifications to scattering rights

Who is “the” Interment Rights Holder?

- “interment rights holder” means the person who holds the interment rights with respect to a lot whether the person be the purchaser of the rights, the person named in the certificate of interment or such other person to whom the interment rights have been assigned
- “personal representative” means a personal representative as defined in the *Succession Law Reform Act* i.e. “personal representative” means an executor, an administrator or an administrator with will annexed.

The 30- Day Cooling Off Period & Cancellations After 30 Days -Who, What, When and Where?

FBCSA—Section 42-44, O. Reg. 30/11 Sections 140

Q. When can a purchaser of licensed supplies and services cancel the contract for those licensed supplies and services?

A. Anytime, so long as the supplies and services have not been provided.
However, the timing of the cancellation will effect the amount of the refund!

30-Day cooling off period (FBCSA, Sections, 40 - 43):

- If a purchaser enters into a contract for the provision of licensed supplies and services and all of the contract requirements specified in subsection 40 (1) are met, the purchaser is entitled to cancel the contract at any time within 30 days after the day on which the last of the requirements described in subsection 40 (1) is met.

Note: None of the supplies or service have been used or provided i.e. under waiver
E.g. Interment rights used, cremations etc.

- Request for cancellation must be in writing
- Operator who receives notice of cancellation must refund all money together with amounts that are prescribed within 30 days of receiving the notice

Note: Ss. 161.3 - No offering, selling or providing “Term” burials or scattering.

Public Access To Information

O. Reg. 30/11, Sections 110,111

Public Register and Information Provided to the Public

- Cemeteries must maintain a public register with information such as the name and address of interment rights holders, who is interred/scattered and the location of the lot or scattering ground... and more
- Crematoriums must maintain a public register with information such as the name of person cremated, the date of cremation and the information on the metal tag – personal identifier for the body & name of crematorium operator
- Licensees are obligated to provide the registrar, within the time that the registrar specifies, the information that the registrar requests. This may include verification by affidavit
- The registrar is required to make available to the public, without charge, by electronic or other means information regarding a licensee such as the licensee's address and any disciplinary action taken against the licensee.

Cemetery & Crematorium Operators- Obligations

Subsections 68.(1), S. 113 And Ss. 118. (1)o. Reg. 30/11

Every operator shall provide, without charge a copy of a price list to every person who requests it.

Every operator of a cemetery or crematorium shall provide a copy of the by-laws to every person who requests it.

Price list and Consumer Information Guide

(As of July 1, 2021):

Requirement that every bereavement service operator who maintains or makes use of a website to promote, or to enter contracts for, the sale or provision of a licensed supply or service to make available in a clearly visible place on that website:

- a free, printable electronic version of the operator's price list; and
- a link to the consumer information guide prepared by the Registrar of the BAO.

Every operator shall ensure that, before a contract for the sale of licensed supplies and services is entered into, a prospective purchaser has also received:

- A copy of the Consumer Information Guide
- A copy of the operator's price list
- Disclosure related to the contract (See section 113 of O. Reg. 30/11)

Price Lists

FBCSA Sections 33-34, O.Reg.30/11 Sections 54-75, ss. 87.(1)

- **PRICE** “means the price payable by the purchaser, excluding taxes” (ss. 87.(1))
- **SPECIFIC INFORMATION ON PRICE LIST** - Name of operator, prices for all supplies and services offered for sale, package prices, affiliated services etc. **Note:** Ensure there are no misrepresentations or excessive prices
- **DATED** - Must have a date on the price list. Out of date price lists must be kept for 6 years
- **INTERMENT RIGHTS** - depending on how they are priced, the price list may show a range of lowest and highest prices
- **CONTRIBUTIONS TO THE CMF OR CMA** - are either a percentage off the “PRICE” or a minimum amount based on the price. The price payable for an interment right includes the CMF or CMA contribution!

See examples on next slide

PRICE “means the price payable by the purchaser, excluding taxes” - (ss. 87. (1) of O. Reg. 30/11)

PRESCRIBED AMOUNTS - (S. 166- 168 of O. Reg. 30/11)

PRICE PAID BY INSTALLMENTS – “the pro rata portion of the payment required” (ss. 87. (3) of O. Reg. 30/11)

PRICE PAID FOR PRIVATE MAUSOLEUMS/COLUMBARIUMS – Calculated on the ground lot size and cost of structure (ss. 87. (5) of O. Reg. 30/11)

Prices for Interment Rights

FBCSA Sections 33-34, O. Reg.30/11 Sections 54-75, ss. 87.(1)

Town of Gadsby's price list shows:

Type	Interment Rights	40% C&M	2019	HST	Total paid by consumer
E.g. 1 grave plot, flat marker	\$1346.40 (X)	\$538.56 (X)	\$1884.96	\$245.04	\$2130

Incorrect as the **Price of the interment right is misleading** and the contribution to the **C&M is incorrect**: There is a shortage in the contribution.

	Interment Rights	40% C&M	2019	HST	Total paid by consumer
Should be listed as:	\$1884.96	\$753.98	\$1884.96	\$245.04 (13%)	\$2130

Again, the contribution to the C&M must be the greater of 40% of the price (\$1884.96) of the interment right i.e. \$753.98, and \$250. The price of the interment right payable by the consumer is \$1884.96 plus \$245.04 (HST) for a total of \$2130. **The price of the interment right is simply the price, paid by the consumer, less the HST!!** And the contribution as of January 1, 2022 is the greater of \$290 or 40% of the price.

Town of Kingsgarden:

Price list only shows:

Single grave adult: Interment Rights = \$875 That's fine!!

If you wish to give details:	Interment Right	40% C&M	2019 Price	HST	Total (payable by consumer)
Single grave adult:	\$875	\$350	\$875	\$113.75	\$988.75

Price Lists

FBCSA Sections 33-34, O.Reg.30/11 Sections 54-75, ss. 87.(1)

- **Price list and Consumer Information Guide: (As of July 1, 2021)**
 - Require that every bereavement service operator who maintains or makes use of a website to promote, or to enter contracts for, the sale or provision of a licensed supply or service to
 - make available in a clearly visible place on that website:
 - a free, printable electronic version of the operator's price list; and
 - a link to the consumer information guide prepared by the Registrar of the BAO.
 - **NO REQUIREMENT TO FILE** - a price list with the Registrar, Bereavement Authority of Ontario
 - **REGISTRAR MAY REVIEW AND DISALLOW A PRICE** - that is excessive or significantly higher
- Note:** For supplies and services that must be purchased from the operator, the price offered cannot be more than or exceed the direct cost of the operator or other person providing those supplies and services
- E.g.:**
- Supplies and services related to inspecting the installation of a foundation or marker
 - Supplies and services related to constructing a foundation
 - Supplies and services related to installing or setting a marker
- **NO INSPECTION FEE FOR CASKETS** – purchased from another source
 - An operator may appeal the Registrar's decision to disallow a price
 - The *Consumer Protection Act* applies as well.

Municipal Approvals, Prices and, Care and Maintenance of Columbariums



Why does Legislation require a Care and Maintenance Fund (CMF) or Care and Maintenance Trust Account (CMA)?



Reasons to ensure the CMF or CMA is established and secured



Care and Maintenance Fund (CMF) or Care and Maintenance Account (CMA) - provisions for Interment/Scattering Rights – Who, Why, How, When?

FBCSA- Sections 53, O. Reg. 30/11 Sections 76, 83-95, 106, 109, 165-169

Subsection 53. (1) of the FBCSA requires that “Every cemetery operator who sells, assigns or transfers interment rights or scattering rights or who permits the interment of human remains or the scattering of cremated remains in the cemetery shall have a care and maintenance fund or if the regulations so permit, a care and maintenance account”

Note: This is a requirement not an option!

Why must a cemetery operator establish a CMF/CMA ? What is the purpose of the CMF/CMA?

- The purpose is to generate income for the care and maintenance of the cemetery in perpetuity!
- A trustee of a CMF/CMA shall pay the income from the fund, after deducting the trustee’s fees, to the cemetery operator

How are the contributions to the CMF/CMA calculated?

- CMF/CMA contributions are based on a prescribed amount or percentage the PRICE of the interment or scattering rights and on the SIZE of the marker or monument.

CMF or CMA (Continued)

FBCSA - Sections 53, O. Reg. 30/11 Sections 76, 83-95, 106, 109, 165-169

Operators establishing new cemeteries are required to establish a CMF and deposit \$100,000 into the fund (municipalities are exempted from this requirement). Note: \$165,000 as of Jan 1, 2022

- Within 60 days after the earlier of the day the operator sells or transfers interment rights or scattering rights and the day the interment or scattering is carried out or a marker is installed. (ss. 87. (2) of O. Reg. 30/11).
- For lots and markers sold prior to 1955, if no contributions were collected, a non-commercial cemetery operator may charge care and maintenance at the current price list price (ss. 95. (2) of O. Reg. 30/11)
- Requirement for a CMF/CMA also applies to operators of existing “active” cemeteries or, of cemeteries that they intend to “re-activate”
- Bequests, Endowments & Donations, that specify or are intended for the long term care and maintenance of a cemetery, must be deposited in the CMF.
- Failure, refusal, or resistance to collecting/submitting and growing the CMF will eventually result in the abandonment of cemeteries and an additional burden on the community/tax –payer. Note: It is a requirement and not an option!

Care & Maintenance Contributions

January 1, 2022

Contribution Type	Current Contribution Amount	Contribution Amount (effective January 1, 2022)
In-ground graves that are 2.23 m ² (24 ft ²) or larger	\$250 or 40% of price (whichever is greater)	\$290 or 40% of price (whichever is greater)
In-ground grave that is smaller than 2.23 m ² (24 ft ²)	\$150 or 40% of price (whichever is greater)	\$175 or 40% of price (whichever is greater)
Tomb, crypt or compartment in a public mausoleum	\$500 or 20% of price (whichever is greater)	\$830 or 20% of price (whichever is greater)
Niche or compartment in a public columbarium	\$100 or 15% of price (whichever is greater)	\$165 or 15% of price (whichever is greater)
Scattering ground for which there will be only one scattering rights holder	\$100 or 40% of price (whichever is greater)	\$115 or 40% of price (whichever is greater)
Scattering ground for which there will be more than one scattering rights holder	\$25 or 15% of price (whichever is greater)	\$30 or 15% of price (whichever is greater)
Scattering ground for which there will be no scattering rights holder	\$25	\$30
A private mausoleum provided or constructed by a person other than the cemetery operator is installed in a cemetery	\$500 multiplied by the number of tombs, crypts, compartments or 20% of the sum of specified prices (whichever is greater)	\$575 multiplied by the number of tombs, crypts, compartments or 20% of the sum of specified prices (whichever is greater)
A private columbarium provided or constructed by a person other than the cemetery operator is installed in a cemetery	\$100 multiplied by the number of niches and compartments or 15% of the sum of specified prices (whichever is greater)	\$115 multiplied by the number of niches and compartments or 15% of the sum of specified prices (whichever is greater)
To establish a cemetery	\$100,000	\$165,000
Flat marker measuring less than 1,116.13 cm ² (173 in ²)	\$0	\$0
Flat marker measuring at least 1,116.23 cm ² (173 in ²)	\$50	\$100
Upright marker measuring 1.22 m (4 ft) or less in height and 1.22 m (4 ft) or less in length, including the base	\$100	\$200
Upright marker measuring more than 1.22 m (4 ft) in either height or length, including the base	\$200	\$400

Another Reason to Ensure the CMF is Established and Secured



Who can be the trustee of a CMF or CMA?

FBCSA – Subsection 53 (3) (5)(6)(8), O.Reg.30/11- Sections 83-85, 107

Care and Maintenance Fund (CMF) or Account (CMA)

- A Care and Maintenance Fund or account shall be established in a “prescribed type of institution” i.e.:
 - A Corporation registered under the Loan and Trust Corporation Act or
 - A Credit Union or league as defined in the Credit Unions and Caisses Populaires Act
- And, A municipality may act as the trustee of a CMF or a CMA for a:
 - Cemetery of which the municipality is the owner; or
 - Cemetery of which the municipality is NOT the owner, if the cemetery operator requests the municipality to act as trustee
 - Cemetery operator may enter into a Memorandum of Understanding, instead of a Trustee Agreement (Template available), with the municipality
- List of Loan and trust companies registered in Ontario: <http://loanandtrust.fsco.gov.on.ca/>
- Ontario Credit Unions and Caisses Populaires Listing: <http://creditunion.fsco.gov.on.ca/english/>
- All Trustee Agreements and MOUs must be reviewed and approved by the Registrar prior to requesting consent to transfer:
 - Trustee must take responsibility for all investments (Subsection 27(5) of the *Trustee Act*)
 - Trust agreement is something more than a custodian agreement
 - Capital cannot be released without Registrar’s consent
 - Cemetery operator cannot be compensated for placing funds with trustee.

Who can be the trustee of a CMA?

FBCSA – Subsection 53 (5)(6)(8), O.Reg.30/11- Sections 83-85, 107

Care and Maintenance Account – Less than \$50,000 of care and maintenance money being held.

- A cemetery operator shall be the trustee of a care and maintenance account (CMA) if:
 - Care and maintenance money being held is less than 50K
 - The operator is the operator of a non-commercial cemetery, and
 - The municipality has declined to hold the operator's funds, and
 - The operator has obtained the consent of the Registrar and notify the Registrar in writing prior to using the account
- The CMA shall i.e. must be:
 - maintained at an eligible depository (E.g. Bank)
 - designated as the care and maintenance account
 - established in the name of the cemetery operator as it appears on the licence, as trustee
 - used only as a care and maintenance account to hold care and maintenance trust money
- Money in the account may be invested in:
 - Interest-bearing account
 - GIC's, deposit receipt, term deposit etc. issued by an eligible depository

Note: These investments must be transferred to a prescribed "Trustee" once the account reaches \$50 K +\$1
<https://thebao.ca/wp-content/uploads/2019/07/Application-to-Transfer-Cemetery-Care-and-Maintenance-Fund-Account.pdf>

Public Guardian and Trustee: A cemetery operator who does not have a practical alternative may require the Public Guardian and Trustee to act as the Trustee for care and maintenance money for a cemetery.

For what purposes can the income from the CMF/(CMA) be used?

O. Reg. 30/11, section 93



- **USE OF INCOME** - A cemetery operator who receives money i.e. income from the fund/account shall use the money only to maintain, secure and preserve the cemetery, including its grounds, buildings, structures and markers, and the equipment used to maintain, secure and preserve the cemetery
 - if the work described above has been completed, to maintain, secure and preserve other cemeteries operated by the same operator, including their grounds, buildings, structures and markers, and the equipment used to maintain, secure and preserve the other cemeteries, and
 - to pay the expenses incurred in establishing and maintaining any of the cemetery's CMF/CMA or to purchase equipment to be used strictly for the care and maintenance of the cemetery, if,
 - A. the operator is no longer selling interment rights, and is no longer selling scattering rights, for the cemetery, and
 - B. the cemetery does not generate any revenue from the operation of a funeral establishment, crematorium or transfer service or from the sale of caskets or markers.

Income from the CMF/(CMA) be used for? (Continued)

FBCSA – Subsections 53. (4), 53. (15-19), O. Reg. 30/11 – sections 83-91, 93

Note: Excerpts from O. Reg. 30/11, s. 93 “For greater certainty”

- the operator is not permitted to use income from the fund or account to purchase equipment or to apply to any other purpose other than the care and maintenance of the cemetery
- the operator is permitted to use income from the fund or account to pay a worker wages and benefits for engaging in, or supervising, the stabilization, maintenance, securing or preservation of markers
- the operator is permitted to use income from the fund to pay a worker wages and benefits for engaging in, or supervising, the maintenance, securing or preservation of,
 - the cemetery or any of its grounds, buildings, structures or markers; or
 - the equipment used to maintain, secure or preserve the cemetery. O. Reg. 30/11, s. 93 (4).
- the operator is not permitted to use income from the fund or account to pay a worker wages or benefits for office work, sales work or engaging in, or supervising, the opening or closing of lots.



More importantly:

- No trustee of a CMF/CMA shall pay out any of the capital portion of the fund or account except as required or permitted by the FBCSA or the associated Regulations.
- A trustee of a CMF/CMA may transfer the fund or account to another trustee, with the written consent of the registrar
- Surplus interest i.e. unused interest, must be redeposited in the CMF/CMA. Interest not released cannot be released or used as a credit or at a later date.

Access to the Capital of CMF/(CMA)? (Continued)

FBCSA – Subsections 53. (4), 53. (15-19), O.Reg 258/21 and O. Reg. 30/11 – sections 83-91, 93

As of January 1, 2022 – Section 94 of O. Reg 258/21

- Permit non-commercial cemetery operators to access the capital portion of a cemetery care and maintenance fund or account to increase the capacity of a cemetery subject to approval from the Registrar of the Bereavement Authority of Ontario (BAO), under the condition that the capital is paid back into the trust fund or account.
- The cemetery operator shall only use a payment received under subsection (1) to increase the capacity of the cemetery, including,
 - (a) to purchase land adjoining the cemetery in order to enlarge the cemetery;
 - (b) to establish a columbarium or mausoleum in the cemetery;
 - (c) to increase the volume of a columbarium or mausoleum in the cemetery;
 - (d) to establish a lot or scattering ground in the cemetery; and
 - (e) to increase the dimensions of a scattering ground in the cemetery.

Reporting to the Registrar – Annual Licensure Reports

FBCSA-Section 111, O. Reg. 30/11, Sections 103-109 O. Reg. 30/11

- All operators are required to file licensure reports annually – “Annual Licensure Report” – Form 1 – Will be online
- For CMF/CMA, operators must also file a “Report on Care and Maintenance Funds” – Form 2, and include trustee statements showing the year-end balance and list of capital deposits
- Operators must file an ‘Audit Report’, if the C&M Trust Funds exceed \$500,000 or there is a funeral establishment on one of the operator’s cemeteries
- Operators that sell prepaid supplies and services must file the “Report on Prepaid Trust Money” annually.
- An “Audit Report” or “Review Engagement Report” must be filed by an operator if their prepaid trust money is equal to or greater than \$100,000 at any time during the fiscal year
- The Registrar or the BAO Compliance Inspector may request to see specific documents
- The operator is required to provide the Registrar with a copy of their Trust Agreements relevant to the Care and Maintenance Trust Fund
- The operator is required to provide notice of change to the Registrar within 15 days of the change – including changes to ownership, operator, address, contact information, officers/directors/trustees, shares and share distribution.



Bereavement
Authority of
Ontario

100 Sheppard Avenue East,
Suite 505 Toronto, ON M2N 6N5
Tel: 647-483-2645 Toll-free: 844-493-6356
Fax: 647-748-2645 Email: info@thebao.ca

Annual Licensure Report (ALR) - Form 1
Cemetery/Crematorium Operator
Funeral, Burial and Cremation Services Act, 2002 (FBCSA)

Organization #:	Reviewed by:
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Name and Mailing Address:

Form 1 (includes List of Cemetery/Crematorium Sites) & 2 (if applicable) must be completed and filed with licence renewal payment (if applicable) to the Bereavement Authority of Ontario (BAO) within 90 days of your fiscal year end. You may access fillable ALR forms on the BAO website (www.thebao.ca).

REVIEW THE INFORMATION BELOW AND INDICATE ANY CHANGES:

1. Operator contact name:		Position/Title:
Telephone no:		Fax no:
Email address (required):		

2. Business Structure Type (choose one only):

Corporation:

- ☐ Private ☐ Not for profit
☐ Publicly Traded ☐ Municipal - not for profit
☐ Trustee/Volunteer Board ☐ Religious - not for profit
☐ Crown

Other:

- ☐ Sole proprietorship
☐ Partnership (all types)
☐ Cooperative

3. Does the operator sell licensed supplies and services before the time of need (yes or no):

4. Please indicate below the total number of full body interments, cremation interments, scatterings and cremations to determine the licence renewal fee. Licence renewal fees are \$15.00 plus \$12.00 per interment, scattering and cremation. Operators who conduct less than 10 in total are exempt from the licence renewal fee.

Payment: If this form is due and received by March 31, 2021, FEES ARE WAIVED. After March 31, 2021, pay via credit card, cheque or money order payable to the Bereavement Authority of Ontario in the amount calculated below. A \$35 service charge applies for NSF cheques. Access the BAO website (www.thebao.ca) for the credit card payment form.

Fiscal year end	Full body Interments	Cremation Interments	Scatterings	Crematorium Cremations	Total Licence Renewal Fee
January 1, 2020 - December 31, 2020	(A)	(B)	(C)	(D)	(Total Fee is exempt if total activity is less than 10) ((A+B+C+D) x \$12) + \$15 = \$ Total Fee Required

Complete the boxes below if the cemetery/crematorium operator's fiscal year end date is different

Fiscal year end	Full body Interments	Cremation Interments	Scatterings	Crematorium Cremations	Total Licence Renewal Fee
, 20 - , 20	(A)	(B)	(C)	(D)	(Total Fee is exempt if total activity is less than 10) ((A+B+C+D) x \$12) + \$15 = \$ Total Fee Required

5. Please list below all officers/directors of the cemetery/crematorium operator, attach a separate sheet if necessary:

Name	Full Address	Position/Title	Phone #
1.			
2.			
3.			
4.			
5.			
6.			

Notice and consent as required by applicable privacy laws

In order to complete or verify the information provided on Forms 1, it may be necessary for the BAO to collect additional information from some or all of the following sources: federal, provincial and municipal licensing bodies and police forces, other law enforcement agencies, sheriff's offices, the Registrar of Bankruptcy, credit bureaus, trust companies for compensation fund records, professional and industry associations, former and current employers, employers for whom you may work while this registration is valid, the Ontario Ministry of Transportation and Industry Canada. Only information relevant to your registration/licence will be collected. Please refer to our Privacy and Access Code on the BAO website.

I consent to the collection of this information as authorized under the *Funeral, Burial and Cremation Services Act*, 2002. I understand that this information will be used to determine whether I am and remain qualified to be licensed under the FBCSA.

Note: For corporations, this report must be signed by two officers, except if there is only one officer/director. For partnerships, this report must be signed by all partners. For municipalities, religious organizations, trustees and volunteer boards this report must be signed by an authorized officer.

WARNING: IT IS AN OFFENCE TO PROVIDE FALSE INFORMATION ON THESE REPORTS.

I (we) certify that to the best of my (our) knowledge and belief the within statements are true and correct and are in agreement with the records maintained by the cemetery/crematorium operator.

Authorized signature:	Print full name:	
Position:	Telephone no.:	Date (dd/mm/yyyy):
Authorized signature:	Print full name:	
Position:	Telephone no.:	Date (dd/mm/yyyy):

Return all forms to the address below. Submission by email or fax is preferred. If you sent forms by mail, keep a copy for your records. For questions or assistance completing the forms, please contact:

Bereavement Authority of Ontario
100 Sheppard Avenue East, Suite 505
Toronto, ON M2N 6N5
Tel: 647-483-2645 Toll-free: 844-493-6356 Fax: 647-748-2645
Email: trust@thebao.ca

Please note we are updating all licensee information on our public register.

PLEASE DOUBLE CHECK, COMPLETE AND CORRECT (IF NECESSARY) ALL FIELDS BELOW:

Organization #:		Name:					
Licence # & Status (Active or Inactive)	Physical Cemetery Address	Office/Mailing Address (location where day to day business occurs)	Person in Charge of day to day operations	Number of full body interments	Number of cremation interments	Number of Scatterings	Number of Cremations (Crematorium only)
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Licence #:	Cemetery Name & Address:	<input type="checkbox"/> Same as cemetery address <input type="checkbox"/> If not, provide full address:	Name:				
Status:	Lot:		Position:				
	Concession:		Telephone #:				
Total Sites:				Total:			

How To Login to the Licensing Portal

Please ensure that you review the names and addresses of the cemeteries listed on the site list as being under your care and supervision

If those sites names are incorrect or are not located in your municipality please note on site list and advise the BAO IMMEDIATELY.

Form 2 Instructions

Funeral, Burial and Cremation Services Act, 2002 (FBCSA)

Return Address:

Bereavement Authority of Ontario
100 Sheppard Avenue E., Suite 505,
Toronto, ON M2N 6N5

Required Documents Checklist:

- ☐ Cemetery/Crematorium Annual Licensure Report – Form 1
 - ☐ Payment included if activity is 10 or greater
 - ☐ Form 1 signed (two signatures for corporation)
- ☐ Report on the Care and Maintenance Trust Fund/Account – Form 2
 - ☐ Care and Maintenance Trustee/Bank Statement
 - ☐ Form 2 signed (two signatures for corporation)

Form 1 & 2 must be completed and filed with the BAO within 3 months of your fiscal year end

Care and Maintenance Trust Fund/Account

- Unless the regulations provide otherwise, every cemetery operator who sells, assigns or transfers interment rights or scattering rights or who permits the interment of human remains or the scattering of cremated human remains in the cemetery shall have a care and maintenance fund or, if the regulations permit, a care and maintenance account.
- Income earned from the investment and reinvestment of money paid into the care and maintenance fund/account must be used to stabilize, maintain, secure and preserve markers in the cemetery; and to maintain, secure, and preserve the cemetery, including its grounds, buildings, structures and markers and the equipment used to maintain, secure and preserve the cemetery.
- The use of capital (including realized capital gains) in the care and maintenance trust fund/account is strictly prohibited.

Care and Maintenance Contribution Requirements (FBCSA)

Care and maintenance contributions below must be deposited to the trust fund/account within 60 days. Do not send care and maintenance trust money to the BAO. "Selling Price" means the price (excluding taxes) as set out on the price list at the time of purchase.

Type of Interment & Scattering Rights	Non-Instalment Sales Per Interment or Scattering Right	Marker Size/Type	Amount Prescribed Per Marker Installed
In-ground grave (2.23m ² /24ft ² or larger)	40% of selling price or \$250, whichever is greater	Flat Marker (smaller than 1.116.13cm ² /173in ²)	\$0
In-ground grave (smaller than 2.23m ² /24ft ²)	40% of selling price or \$150, whichever is greater	Flat Marker (1.116.13cm ² /173in ² or larger)	\$50
Crypt	20% of selling price or \$500, whichever is greater	Upright Marker (1.22m/4ft or less in height and 1.22m/4ft or less in length, including the base)	\$100
Niche	15% of selling price or \$100, whichever is greater	Upright Marker (more than 1.22m/4ft or less in height and 1.22m/4ft, including the base)	\$200
Scattering Ground (single scattering right holder)	40% of selling price or \$100, whichever is greater		
Scattering Ground (multiple scattering rights holders)	15% of selling price or \$25, whichever is greater		
Scattering Ground (no scattering rights holder)	\$25 per scattering		

Visit our website for our care and maintenance calculator. Instructions: enter in browser www.thebao.ca → click "Care & Maintenance Calculator" at the bottom of the home page

Additional Reporting Requirements

Multiple C&M Funds	Attach C&M Trustee/Bank Statement	Audit Report
If you have multiple C&M Funds, you must submit a separate Form 2 for each.	Include: <ul style="list-style-type: none"> - Asset Details/Account Summary - Book value(s)/Tax cost(s) of fund/account - Capital & Revenue Transactions (must be displayed separately) - Statement of Realized Capital Gains/Losses (if applicable) 	An audited financial statement for the C&M Fund must be submitted within 6 months of the operators fiscal year end if: <ul style="list-style-type: none"> a) if total care and maintenance exceeds \$500,000, or b) Operator has a funeral establishment on one or more of their cemeteries

The instructions below correspond to the numbered fields on the attached Form 2

1. Report the total value [book value/tax cost of assets plus capital cash] of the care and maintenance fund/account at the beginning of this reporting period. Do not include any income/revenue cash in this figure.
2. ADD (if applicable): care and maintenance contributions collected but not deposited during the previous fiscal year.

Number of interment/scattering rights sold or assigned	Non-instalment sales		Instalment Sales	
	Total amount of Sales (\$)	Total C&M Contributions (\$)	Total instalment payments (\$)	Total C&M contributions for instalment payments (\$)
Report the total number (#) of interment/scattering rights (lots, niches and crypts) sold, assigned or transferred during this reporting period.	Report the total amount (\$) of sales (excluding taxes) of interment/scattering rights (lots, niches and crypts) during this reporting period.	Report the required care and maintenance contributions for interment/scattering rights. Refer to the chart in page 1 of this instruction sheet for requirements.	Complete columns D and E if the interment/scattering rights were paid by instalments.	Report the care and maintenance contributions per requirement.

4. Indicate the total required care and maintenance amounts contributions for all marker installations for this reporting period. Refer to the chart in page 1 of this instruction sheet for requirements.
5. Include additional care and maintenance contributions required as a result of the resale of interment/scattering rights. Attach a separate sheet if more space is needed.
6. Include additional care and maintenance contributions from payment in lieu of property tax.

Note: Cemetery operators other than religious organizations or municipalities that engage in non- interment, non-scattering, bereavement-related activities may be required to pay property tax on the portion of land used for such purposes. Cemetery operators that are religious organizations and municipalities engaging in those bereavement-related activities and are exempt from imposed property tax, are required to make a payment into their care and maintenance fund equivalent to the property tax that would be payable. This does not replace the care and maintenance contributions required from the sale of interment or scattering rights and marker installations.
7. Include any care and maintenance contributions from other sources and provide an explanation for the contribution into the capital portion.
8. Add Realized Capital Gains or Subtract Realized Capital Losses resulting from the disposal of assets in the trust fund. Request the institution holding your funds to provide a realized capital gains/losses statement.
9. SUBTRACT (if applicable): total care and maintenance contributions not yet deposited to the trustee after the end of your fiscal year. Provide date when funds were sent after your fiscal year end.
10. Ending balance, sum of lines 1 to 9. Verify your records and calculations to ensure the operator ending balance matches the closing capital balance (book value/tax cost of assets plus capital cash) on the trustee statement at the end of this fiscal year.

Additional Information

- Report total care and maintenance income received during your fiscal year (including municipal grants), net of trustee/banking fees.
 - Total expenses paid for care and maintenance of the cemetery in your reporting period
11. Provide a reconciliation or explanation if Line 13 does not match the closing capital balance (book value/tax cost of assets plus capital cash) on the trustee statement at the end of the fiscal year.
 12. Attach detailed care and maintenance statement from your financial institution covering your full fiscal year.



Bereavement
Authority of
Ontario

100 Sheppard Avenue East,
Suite 505 Toronto, ON M2N 6N5
Tel: 647-493-2643 Toll-free: 844-493-6356 Fax:
647-748-2643 Email: info@thebao.ca

Annual Licensure Report (ALR) - Form 2
Report on Care and Maintenance
Trust Fund/Account

Submit a separate Form 2 for each care and maintenance fund/account. You may access fillable ALR forms on the BAO website (www.thebao.ca). See the instruction sheet for further details and additional reporting requirements.

COMPLETE ALL FIELDS BELOW:

Name of Care and Maintenance Fund Trustee:		Account number:
Name of Trustee Contact:		Position/Title
Address:		Telephone #:
		Email Address:

Account relates to (check applicable boxes): ☐ Interment/Scattering Rights ☐ Monuments/Markers

Fiscal year reporting period: ☐ January 1 to December 31, ☐ OR ☐ , 20 to , 20

1. Total amount [i.e. book value/tax cost (\$) plus capital cash (\$) only] at the end of the previous fiscal year.

\$

2. ADD (if applicable): care and maintenance contributions collected but not deposited during the previous fiscal year.

\$

3. ADD (if applicable): care and maintenance contributions for the sale of interment and scattering rights:

*For assistance, please visit our care and maintenance calculator on the BAO website.

Type of Interment/Scattering Rights & *Prescribed Contributions	Non-instalment Sales			Instalment Sales	
	Number of interment/scattering rights sold or assigned	Total amount of Sales (\$)	Total C&M Contributions (\$)	Total instalment payments (\$)	Total C&M contributions for instalment payments (\$)
In-ground grave (2.23m ² /24ft ² or larger) *\$250 or 40% of selling price, whichever is greater					
In-ground grave (smaller than 2.23m ² /24ft ²) *\$150 or 40% of selling price, whichever is greater					
Crypt *\$500 or 20% of selling price, whichever is greater					
Niche *\$100 or 15% of Selling Price, whichever is greater					
Scattering Ground (single right) *\$100 or 40% of selling price, whichever is greater					
Scattering Ground (multiple rights) *\$25 or 15% of selling price, whichever is greater					
Scattering Ground (no rights) *\$25 per scattering					
Total A :				Total B:	

Total care and maintenance contributions for interment and scattering rights, Total A + Total B =

\$

4. ADD (if applicable): care and maintenance contributions for marker installation:

Type of Marker Installed	(A) Number of Markers installed	(B) Prescribed Contribution	(C) Total C&M Contributions (\$)
Flat Marker (1,116.23cm ² /173in ² or larger)		\$50.00	
Small Upright Marker (1.22m/4ft or less in either height or length, including the base)		\$100.00	
Large Upright Marker (more than 1.22m/4ft in either height or length, including the base)		\$200.00	

Total care and maintenance contributions for marker installation, sum of Column C =

\$

5. ADD (if applicable): care and maintenance contributions from the resale of interment/scattering rights.

*Attach additional spreadsheet if necessary

(A) Type of interment/Scattering Right	(B) Price per price list (\$)	(C) Required C&M contributions	(D) C&M contribution from previous sale (\$)	(E) Additional C&M contribution (C-D)
Example: 1 x In-ground grave (adult)	\$500.00	\$250.00	\$100.00	\$250.00 - \$100.00 = \$150.00

Total care and maintenance contributions from resale, sum of Column E =

\$

6. ADD (if applicable): care and maintenance contributions for the payment in lieu of property tax (attach copy of the MPAC statement). Please refer to the instruction sheet.

\$

7. ADD (if applicable): other care and maintenance contributions.

Provide reason:

\$

8. ADD (if applicable) Realized Capital Gains or SUBTRACT (if applicable) Realized Capital Losses.

\$

9. SUBTRACT (if applicable): total care and maintenance contributions not yet deposited to the trustee after the end of your fiscal year.

\$()

Provide date when funds were sent after your fiscal year end:

Date Sent (mm/dd/yyyy):	Amount (\$)
*Example: 01/08/2020	\$400.00
1.	
2.	

*Example: sold in-ground grave (adult) interment right December 1st, 2019 for selling price of \$1,000.00. Deposited C&M contribution of \$400.00 (40%) on January 8, 2020 (within 60 days).

10. Ending Balance (SUM of Lines 1-9)

= \$

Additional Information:

• Total care and maintenance income received during your fiscal year (include municipal grants)

\$

• Total expenses paid for care and maintenance of the cemetery in your reporting period

\$

11. Provide a reconciliation/explanation if the ending balance (Line 10) does not match the closing balance (book value/tax cost + capital cash) on the trustee statement at the end of your fiscal year:

--

12. Attach detailed care and maintenance statement from your financial institution covering your full fiscal year.

Notice and consent as required by applicable privacy laws

In order to complete or verify the information provided on Form 2, it may be necessary for the BAO to collect additional information from some or all of the following sources: federal, provincial and municipal licensing bodies and police forces, other law enforcement agencies, sheriff's offices, the Registrar of Bankruptcy, credit bureaus, trust companies for compensation fund records, professional and industry associations, former and current employers, employers for whom you may work while this registration is valid, the Ontario Ministry of Transportation and Industry Canada. Only information relevant to your registration/licence will be collected. Please refer to our Privacy and Access Code on the BAO website.

I consent to the collection of this information as authorized under the *Funeral, Burial and Cremation Services Act*, 2002. I understand that this information will be used to determine whether I am and remain qualified to be licensed under the FBCSA.

Note: For corporations, this report must be signed by two officers. For partnerships, this report must be signed by all partners. For municipalities, religious organizations, trustees and volunteer boards this report must be signed by an authorized officer.

WARNING: IT IS AN OFFENCE TO PROVIDE FALSE INFORMATION ON THESE REPORTS.

I (we) certify that to the best of my (our) knowledge and belief the within statements are true and correct and are in agreement with the records maintained by the cemetery/crematorium operator.

Authorized signature:	Print full name:	
Position:	Telephone no.:	Date (dd/mm/yyyy):
Authorized signature:	Print full name:	
Position:	Telephone no.:	Date (dd/mm/yyyy):

Return all forms to the address below. If you have any questions or require assistance completing the forms please contact:

Bereavement Authority of Ontario
100 Sheppard Avenue East, Suite 505
Toronto, ON M2N 6N5
Tel: 647-483-2645 Toll-free: 844-493-6356 Fax: 647-748-2645
Email: info@thebao.ca

Annual Licensure Reports must be submitted within 90 days/3 months of your fiscal year end date.

Failure to file means that your licence has not been renewed and that you are in violation of the FBCSA!! Penalties can be implemented!!

Audited Financial Statements must be submitted within 180 days/6 months of your fiscal year end.

If you are going to be late, please notify the Financial Compliance Unit (FCU) at the BAO

The 30-Day Cooling Off Period & Cancellations After 30 Days (Continued)

Who, What, When and Where? FBCSA—Section 42-44, O. Reg. 30/11 Sections 140

Cancellation after the 30-Day cooling off period:

- Refund of all money received under the contract along with the greater of; the income earned on the money AND the income that would have been earned had the money been deposited as required by the FBCSA & Regulations
- Refund of all money received after deducting the value of any supplies and services that have been provided and the lesser of the following amounts, if the balance is positive:
 - 10% of the sum of the money received by the operator under the contract and the interest/income earned AND
 - \$350

Note: Following the 30-day cooling off period for a contract for interment rights, the purchaser becomes the owner of the interment rights. Should they wish to cancel the contract they must abide by the by-laws of the cemetery relating to the resale of lots i.e. Does the cemetery restrict the re-sales of interment rights and buy them back OR Does the cemetery require the interment rights holder to sell the lot on the open market.

Re-sale/ Re-purchase of Interment/Scattering Rights

FBCSA- Section 4, O. Reg. 30/11-Sections 140

**If Cemetery
operator's by-laws
prohibit re-sale:**

**The re-sale price
cannot be more
than the price listed
on the operator's
current price list**

- Cemetery operator must re-purchase the rights at market value (the price listed on the operator's current price list) less the amount that was originally paid into the cemetery's care and maintenance fund
- Operator may choose to refund full amount, however no money may be withdrawn from the operator's care and maintenance fund and this portion of the refund would come from the operator's own funds
- The operator is not obligated to re-purchase interment rights in a plot, if any lots within the plot have been used, i.e. contain a burial or have a monument already installed on the lot
- When the operator re-sells the rights to another consumer, the consumer pays the current price for the rights, including the full amount required for care and maintenance
- When the operator re-sells the rights, the operator is required to top-up the care and maintenance fund with the difference between what was deposited into the fund for care and maintenance originally and the current amount of care and maintenance that would now be required

Re-Sale/Re-Purchase of Interment/Scattering Rights

FBCSA - Section 4, O. Reg. 30/11 – Section 140

**If Cemetery
operator's by-laws
do not prohibit
re-sale:**

**Prohibition - The purchase
of interment or scattering
rights for the sole purpose
of reselling the rights with a
view to making a profit i.e.
financial gain, is prohibited.**

- The interment rights holder has a right to sell their interment or scattering rights to a third party on the open market
- The sale price cannot exceed the market value for the rights (the price listed on the operator's current price list)
- Neither the interment rights holder, nor the purchaser is required to deduct or pay any additional care and maintenance on the rights and the interment rights holder may sell the rights for the full price of the rights
- The exchange of money is between the interment rights holder and the purchaser; however, the transfer of the rights must be carried out by the licensed cemetery operator
- The operator may charge a reasonable administrative fee to complete the transfer and issue a new interment rights certificate to the purchaser
- The operator is required to confirm that the seller is the interment rights holder of the rights and may require that the original certificate be returned

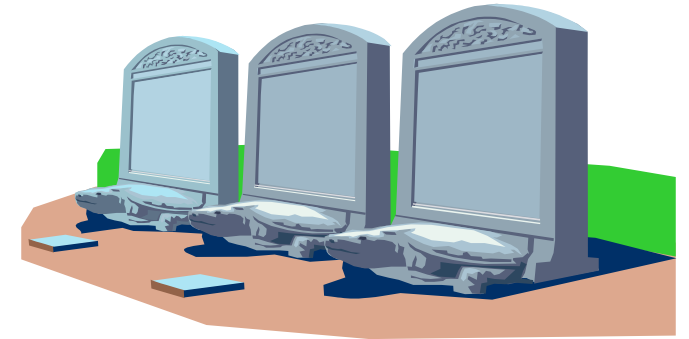
By-laws – Cemetery

FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 162 (20), 189-191

- Defined in the FBCSA as “the rules under which the cemetery or crematorium is operated”

CEMETERY BY-LAWS

- A cemetery operator may make by-laws governing the operation of the cemetery and, in particular, governing rights, entitlements and restrictions with respect to interment and scattering rights
- A cemetery by-law shall not prohibit an interment or scattering rights holder from making required arrangements with the cemetery operator by telephone or otherwise if the arrangements are necessary to exercise the rights
- No cemetery operator shall operate a cemetery except in accordance with the by-laws of the cemetery
- A cemetery’s by-laws shall specify the documentation required in order to carry out an interment, scatterings or the installation of a marker
- A cemetery operator is not prohibited from removing human remains placed in a cemetery without permission of the cemetery operator if the removal is authorized by the cemetery by-laws and if the removal is done in accordance with the cemetery by-laws.



By-laws (Continued)

FBCSA Subsection 40.1(e), 47.(1), O. Reg. 30/11 sections 118, 150-153, 189-191



- By-laws are a vital requirement for a contract to be valid i.e.:
 - in the case of a contract for the purchase of interment or scattering rights, the operator delivers to the purchaser,
 - (i) a copy of the by-laws of the cemetery and written notice as to whether the by-laws of the cemetery permit the purchaser to resell the interment rights or scattering rights to a third party, and
 - (ii) a description of the location of the lot or scattering ground that is purchased;
 - in the case of a contract for the purchase of crematorium supplies and services, the operator delivers to the purchaser a copy of the crematorium's by-laws; and
- By-laws are an integral requirement for the resale of Interment Rights i.e.:
 - an interment rights holder or a scattering rights holder has the right to sell the interment rights or scattering rights, as the case may be, to a third party before the rights are exercised, if such a resale is not prohibited by the by-laws of the cemetery. 2002, c. 33, s. 47 (1).

By-laws (Continued)

FBCSA Subsection 48.1 &2, O. Reg. 30/11 sections 118, 150-153, 189-191

- In accordance with the cemetery by-laws:
 - An interment rights holder or a person authorized to act on the holder's behalf has the right to,
 - (a) inter any human remains in the lot to which the interment rights relate
 - (b) erect a marker on the lot, or other receptacle for human remains, to which the interment rights relate
 - (c) have reasonable access to the lot to which the interment rights relate at any time, except as prohibited by the cemetery by-laws; and
 - (d) once the interment rights have been paid in full, receive a certificate of interment rights from the operator
 - An interment rights holder and the relatives of any person whose remains are interred in a cemetery have the right to decorate the lot in which the remains are interred if the decoration does not contravene the cemetery by-laws
- Same with Scatterings
 - (a) every person has reasonable access to a lot or scattering ground at any time except as prohibited by the cemetery by-laws.

By-laws (Continued)

FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 189-191

CREMATORIUM BY-LAWS

- A crematorium operator may make by-laws governing the operation of the crematorium, including any rights or entitlements of purchasers of crematorium services or restrictions on the rights or entitlements of such purchasers
- No crematorium operator shall operate a crematorium except in accordance with the by-laws of the crematorium
- No crematorium operator shall cremate animal remains unless the by-laws of the crematorium authorize it

CONTENT OF CREMATORIUM BY-LAWS

- The by-laws of a crematorium shall specify the documentation required by the operator in order for a cremation to be carried out
- The by-laws of a crematorium shall provide that, without the written and signed consent of the purchaser of the cremation services, the operator is prohibited from,
 - (a) cremating the remains of more than one person at once;
 - (b) cremating human remains together with animal remains; and
 - (c) co-mingling cremated remains

By-laws (Continued)

Submission Procedures for Approval

FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 189-191

- **NO CEMETERY &/OR CREMATORIUM BY-LAW OR BY-LAW AMENDMENT IS EFFECTIVE UNTIL THE REGISTRAR, FBCSA, BAO, HAS APPROVED IT**
- The exception to obtaining the registrar's approval applies to a standardized by-law previously approved by the registrar. however, the notice provisions still apply
- Notice of filing must be:
 - a. Published once in a newspaper with general circulation in the locality in which the cemetery is located.
 - b. Conspicuously posted on a sign (for 4 weeks) at the cemetery entrance.
 - c. Delivered to each supplier of markers who has delivered a marker to the cemeteries during the previous twelve-month period
- The notice shall state that the owner will allow interested parties access to the proposed by-law in order to make copies of it and that all proposed by-laws are subject to the Registrar's approval
- The owner shall allow interested persons to inspect and make copies of the proposed by-law.

By-laws (Continued)

Submission Procedures for Approval

FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 189-191

The Licensing Officer, BAO will therefore require the following:

1. Two copies of the proposed by-laws to be approved by the Registrar
2. A copy of the newspaper notice.
3. A photo of the sign that was posted at the cemetery entrance for 4 weeks (Please indicate the beginning and end dates of posting on the back of the photo). Please submit one photo of the sign that clearly shows the wording and one photo of the sign indicating its size and position in relation to the cemetery entrance.
4. A list of monument dealers and their addresses that the cemetery by-laws were delivered to.

Upon approval by the Registrar, a copy endorsed by the BAO will be returned.

PROVIDING COPIES OF BY-LAWS

- **NOTE:** Every operator of a cemetery or crematorium shall provide a copy of the cemetery by-laws or crematorium by-laws, as the case may be, to every person who requests it.

By-laws (Continued)

Submission Procedures for Approval

FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 189-191

SAMPLE NEWSPAPER NOTICE FOR THE BY-LAWS

(Note: The sign and newspaper notice should be identical in content)

NOTICE

(Name of Cemetery/Crematorium)

(Name of Operator) has submitted by-laws to the Registrar, *Funeral, Burial, and Cremation Services Act, 2002, Bereavement Authority of Ontario*.

The by-law or by-law amendment is not effective until the Registrar approves it.

Any interested parties may contact:

(Name of Operator's Representative) at Tel: (XXX) XXX-XXX for information, or to make copies.

By-laws or amendments may be reviewed or copied at (enter address location).

These by-laws are subject to the approval of the Registrar, *Funeral, Burial, and Cremation Services Act, 2002, Bereavement Authority of Ontario*. Telephone: Bereavement Authority of Ontario 647-483-2645 or 1-844-493-6356, E-mail info@thebao.ca

By-laws (Continued)

Submission Procedures for Approval of Standardized By-laws FBCSA Subsection 40.1(e), O. Reg. 30/11 sections 118, 150-153, 189-191

- Standardized by-laws submitted by a recognized organization and previously approved by the Registrar are not required to be submitted. However, the previously mentioned notice provisions must be followed.
- Submission procedures for the approval of a “standardized” Cemetery and/or Crematorium by-laws with minor deletions and/or amendments or addendums
- If a cemetery operator intends to adopt a previously approved standardized by-law that includes a few by-laws that are unsuitable/un-applicable to the operation of their particular cemetery, or requires additional by-laws the operator may:
- Submit the standardized by-laws with:
 - an addendum of additional by-laws, or
 - the unsuitable/un-applicable by-laws stroked out and initialed by the operator
 - the unsuitable/un-applicable by-laws stroked out and initialed by the operator along with an addendum of any additional by-laws required to reflect the particular requirement
- The Registrar will then only review and approve the additional by-laws included in the addendum/schedule.

Note: The above-mentioned notice provisions must be followed.

Approval Or Revocation Of By-laws

O. Reg. 30/11 sections 150-153

Approval

- Registrar will approve a by-law or by-law amendment filed unless,
 - (a) approval of the by-law or by-law amendment is not in the public interest; or
 - (b) the effect of the by-law or by-law amendment is to give the cemetery/crematorium operator or other supplier an unreasonable or unfair competitive advantage over another supplier
- Should the Registrar refuse to approve a by-law or by-law amendment, the Registrar shall give the cemetery operator written notice of the refusal and provide reasons and a statement that the cemetery operator may appeal the refusal
- A cemetery/crematorium operator may appeal the Registrar's refusal to approve a by-law or by-law amendment to the Tribunal, by mailing or delivering, within 15 days after service of the notice of refusal, a written request for a hearing to the Registrar and to the Tribunal.

Revocation

- The Registrar may revoke the approval of a cemetery/crematorium by-law or by-law amendment if the registrar is satisfied that,
 - (a) the by-law or by-law amendment is not or is no longer in the public interest; or
 - (b) the effect of the by-law or by-law amendment is to give the cemetery/crematorium operator or other supplier an unreasonable or unfair competitive advantage over another supplier

Unlicensed, Neglected and Abandoned Cemeteries

FBCSA - Section 101.1, O. Reg. 30/11 - Sections 170-171

Neglected Cemeteries:

- A municipality may order a cemetery operator who does not keep the cemetery in good order and repair to restore it to good order and repair
- If an operator does not restore a cemetery as specified in an order given within such reasonable time as is set out in the order, the municipality may have the required work done and recover the costs from the operator

Abandoned Cemeteries:

- An application to declare a cemetery abandoned may be made to a judge of the Superior Court of Justice, if the owner of the cemetery,
 - a. cannot be found or is unknown; or
 - b. is unable to maintain it; or
 - c. is not a licensed operator and there is no licensed operator
- The application may be made by the Crown, the local municipality, the owner or operator, or the Registrar, FBCSA, Ministry of Government and Consumer Services

Municipal Support to Cemeteries

FBCSA - Section 101.1, O. Reg. 30/11 - Sections 170-171

Proactive support of Municipalities:

- The BAO seeks the assistance of Municipalities to:
 - to proactively offer support and assume responsibility of cemeteries – community, family and volunteer run etc., by providing maintenance and materials, and/or administrative assistance so that those cemeteries can continue to serve their communities without having to resort to complete abandonment
 - locate/identify cemetery sites within the jurisdiction which are not currently licensed under the FBCSA.

Unlicensed Cemetery Sites:

- All landowners in Ontario are required by the FBCSA to be licensed as the operators of these important historic, heritage cemeteries
- Municipalities can assist by either providing the landowners with the contact information of the BAO or providing the BAO with the contact information and addresses/location of these cemetery sites.

Neglected and Abandoned Cemeteries (Continued)

FBCSA - Section 101.1, O. Reg. 30/11 - Sections 170-171

- The municipality is responsible for the cost of an abandonment application, unless the cemetery is not declared to be abandoned by the judge, in which case the owner of the cemetery is responsible for the cost of the application
- The municipality is responsible for the cost of a survey of the land involved and the maintenance of the cemetery during the application
- A judge to whom an application is made, upon being satisfied that there is a basis for the application, shall, by order, declare the cemetery to be abandoned
- Upon declaration that a cemetery is abandoned, the judge will convey the cemetery and the land on which the cemetery is situated to the municipality
- Once the declaration/order is registered in the appropriate land registry office, the municipality becomes the owner of the cemetery with all the rights and obligations with respect to the cemetery, and the assets, trust funds and trust accounts related thereto, that the previous owner had.
- The process for the transfer of the site to the Municipality also includes the transfer of any Care and Maintenance Funds or Accounts that cemetery operator may have had.

Burial Site Discoveries

FBCSA Sections 94-100, O. Reg. 30/11 Sections 174-184

The discovery of human remains outside a cemetery (accidentally or during an archaeological assessment) must be reported to the Police and Coroner and the Registrar, FBCSA, Ministry of Government and Consumer Services



ARCHAEOLOGICAL INVESTIGATIONS IMPACTING ON CEMETERY LANDS

REGISTRAR'S DIRECTIVE

Authorization for Stages 2-4 Archaeological Fieldwork (Assessments and Investigations) on Cemetery Lands
(updated as of February 12, 2021)

The Registrar, *Funeral, Burial and Cremation Services Act, 2002*, Bereavement Authority of Ontario (BAO), requires that a professionally licensed archaeologist retained to conduct any Stages 2-4 archaeological fieldwork (invasive ground disturbances) within a cemetery or within lands adjacent to a cemetery where the boundaries cannot be conclusively determined based on records, maps and plans of the cemetery, apply for and receive a Cemetery Investigation Authorization (CIA) prior to conducting this fieldwork¹.

Pursuant to subsection 96. (1) (2) and (3) of the *Funeral, Burial and Cremation Services Act, 2002*, (FBCSA) the CIA will relieve the licensed archaeologist of the prohibition and liability related to the intentional disturbance of a human burial within a cemetery during this fieldwork.

The application for a CIA must include a copy of the Stage 1 archaeological assessment report and a letter confirming the report was entered into the Ontario Public Register of Archaeological Reports (the Register). Please allow 30 days for review of the CIA application. For reports entered into the Register prior to this Directive, or not yet submitted to Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review, the licensed archaeologist must instead provide a detailed fieldwork strategy along with MHSTCI correspondence indicating concurrence with that strategy².

ARCHAEOLOGICAL INVESTIGATIONS IMPACTING ON CEMETERY LANDS

REGISTRAR'S DIRECTIVE CONTINUED...

Please note that GPR or other non-invasive methods are considered supplementary and not a replacement for a full Stage 3 cemetery investigation for confirming the presence or absence of burials.

Should grave shafts and/or human remains be documented during archaeological fieldwork, all work must cease, and the BAO must be contacted immediately. Should human remains be found outside of the confirmed boundaries of a cemetery, the Coroner and Police must be notified immediately. If the human remains are not determined to be of forensic interest the matter must then be reported to the Registrar, *Funeral, Burial and Cremation Services Act, 2002*, Ministry of Government and Consumer Services.

For advice on meeting the 2011 Standards and Guidelines for Consultant Archaeologists in relation to any invasive Stage 2-4 archaeological fieldwork within cemetery lands, or adjacent lands when the boundaries cannot be conclusively determined, please contact MHSTCI at Archaeology@ontario.ca.

For further information about the FBCSA or this Directive, please contact the BAO at info@thebao.ca or (647) 483-2645.

Carey Smith

Registrar, *Funeral, Burial and Cremation Services Act, 2002*, Bereavement Authority of Ontario

1. *Term and Condition of Archaeological license #6 requires: The licensee shall comply with relevant provisions of the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 and Regulation 30/11 and, for projects that took place before July 1, 2012, of the Cemeteries Act, R.S.O. 1990, c. C.4 and Regulation 133/92.*

2. Further assessment and mitigation measures may need to be required if archaeological sites and/or grave shafts/human remains are identified or if the information provided by the licensed archaeologist is otherwise found to be inaccurate, incomplete, misleading, or fraudulent.

ARCHAEOLOGICAL INVESTIGATIONS IN OR IMPACTING ON CEMETERY LANDS

APPLICATION FOR A CEMETERY INVESTIGATION AUTHORIZATION (as of February 12, 2021)

Pursuant to subsection 96. (1) (2) and (3) of the *Funeral, Burial and Cremation Services Act, 2002*, the archaeologist may cause an investigation of a described area of the cemetery lands and property to confirm the presence of archaeological resources including human remains within the property.

In order that a Cemetery Investigation Authorization (CIA) can be issued we require that the archaeologist, retained by a proponent to conduct an archaeological assessment, in or in close proximity to a cemetery (whose boundaries have not been credibly confirmed), provide in addition to any other relevant information, the following – indicate yes or no:

No.	Required information to be submitted	Yes	No
1.	The name and full contact information of the proponent		
2.	The name and full contact information of the cemetery operator		
3.	The name and full contact information of the landowner		
4.	The name and full contact information of the Archaeologist who has contracted with the proponent		
5.	The 'correct' name, address, and legal description of the cemetery		
6.	Confirmation that the research has been conducted into the cemetery records and the legal boundaries of the cemetery have been confirmed or have not been confirmed		
7.	The reason for the assessment/investigation		
8.	The PIF number and date of issue from the Ministry of Heritage, Sport, Tourism and Culture Industries		
9.	Confirmation that the archaeologist understands and is aware of the related cemetery legislation i.e. Funeral, Burial and Cremation Services Act, 2002 & Ontario Regulation 30/11.		
10.	Confirmation that the archaeologist will provide the Bereavement Authority of Ontario a copy of the report(s) documenting the fieldwork applicable to this CIA and MHSTCI's letter confirming the report(s) have been entered into the Ontario Public Register of Archaeological Reports.		
11.	The proposed date to commence the archaeological investigation. Note: The Bereavement Authority of Ontario will require at least 30 days' notice to review the information provided and issue the Cemetery Investigation Authorization unless there are extenuating circumstances.		
12.	Any other information the archaeologist determines may be relevant to the request.		

Another Reason to Ensure the CMF is Established and Secured



APPROVALS TO ESTABLISH A CEMETERY

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149

APPROVAL & PUBLIC NOTICE PROCESS

Starts with the
landowner/operator
getting Municipal
Approval

- The FBCSA and O. Reg 30/11 require Municipal Approval for the establishment, alteration or increase in capacity of a cemetery prior to the Registrar consenting to issuing a licence to operate a cemetery
 - Municipality - if the cemetery is to be situated within the local municipality
 - Minister of Natural Resources – if the cemetery is to be situated on Crown land in territory without municipal organization. May be referred to the MNR District office
- Municipality “shall grant” approval, in a reasonable time, if, in the Municipality’s opinion, it is in the Public Interest. Must identify “Public Interest”
- When a decision is made to approve or refuse request for approval the Municipality shall:
 - Send a copy of the decision, identifying “public interest” reasons, to the Registrar and the applicant making the request. Registrar must be provided reasons in order to decide whether or not to appeal!! NO REASONS IS GROUNDS FOR AN APPEAL!!
 - Publish notice of the decision in a local newspaper (consider website as well)
- Note: Sections 149 & 185 of O. Reg 30/11 provide that “A building permit is acceptable as proof of municipal approval for a mausoleum, columbarium and a crematorium, but does not eliminate the requirement for a public notice”
 - Applies to installations within an existing cemetery.

NOTICE OF MUNICIPAL APPROVAL TO ESTABLISH A CEMETERY

Sample Notice of Municipal Decision to be incorporated/adapted into standard municipal notices
FBCSA subsection 84.(4)(b) and section 85 (See specifics for sample notice on next page)

FUNERAL, BURIAL AND CREMATION SERVICES ACT, 2002

NOTICE OF MUNICIPAL COUNCIL DECISION

[Name of Municipality]

TAKE NOTICE that on *[date of approval]* Council of the *[Name of Municipality]* approved the *[establishment, alteration or increase of a cemetery/crematorium/Hydrolysis at/address/location of cemetery]* to permit *[specifics of what was approved e.g. Cemetery – Mausoleum, Columbarium, Crematorium etc.]*

AND FURTHER TAKE NOTICE that the applicant, Registrar or any person with an interest therein may, within 15 days after publication of this notice refer the municipality's decision to the Local Planning Appeal Tribunal (previously the Ontario Municipal Board) for a hearing.

Further information may be obtained from *[name of municipality's contact who will provide further information]*

Dated at *[Name of Municipality]* this *[date]* *[day]* of *[month]* *[year]*

Approvals To Establish A Cemetery

FBCSA- Sections 86, O. Reg. 30/11-sections 146-149

Publishing Notice of Decision in a Local Newspaper

- Specifics of what was approved is to be described in the newspaper notice and should include:
 - sufficient detail to identify what was approved. (E.g. A one-acre cemetery; A 6 -story or six (6) floor mausoleum containing 10,000 crypts; a one floor columbarium containing 2000 niches; a single story two retort crematorium building)

NOTE: Despite an applicant providing the required documentation to establish, alter or increase the capacity of a cemetery in a local municipality, the registrar shall not consent to the establishment, alteration or increase unless:

- Notice of the municipality's decision to grant its approval has been published in accordance with clause 84 (4) (b) i.e. in a local newspaper and
- Registrar has received a copy of the notice of decision with the public interest reasons.

Approvals to Establish a Cemetery (continued)

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149

APPEAL PROCESS

- **Appeal:**
 - The applicant, Registrar or any person with an interest in the decision to grant the approval, may appeal the decision to the Local Planning Appeal Tribunal (LPAT) (previously the Ontario Municipal Board) within 15 days after the publication of the decision and/or receipt of a copy of the municipality's decision (see section 85 of the FBCSA)

Note: If the Registrar has not been provided with a copy of the decision and reasons for the decision the Registrar may appeal to LPAT. "NO REASONS" IS GROUNDS FOR AN APPEAL!!

- **Hearing:**
 - LPAT may hold a hearing and Registrar is entitled to make representations
 - LPAT may reverse the decision and substitute its own decision which is final!!

Municipal Approvals to Establish a Cemetery (continued)

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149

APPROVAL CRITERIA & PROCESS

- Who makes the decision to approve? Who makes the Public Interest determinations and ensures Public Safety if approval is given?
 - Planning department?
 - Building department?
 - By-law department?
 - Sewer Use By-law department?
 - Ontario Government – Ministries of Natural Resources and Forestry, Environment, Labour, and Tourism, Culture and Sport
 - Delegated Authorities – Bereavement and Technical Standards Safety Authority
- Municipal Approval considerations:
 - Location complies with municipality's development plan
 - Proposed use complies with municipal by-laws i.e. Zoning bylaws
 - Amendments to the zoning by-law to allow establishment – i.e. non-confirming use
 - *A certificate of the Medical Officer of Health stating that the land is suitable for use as a cemetery i.e. water and soil conditions.
 - Any designation under the *Ontario Heritage Act*.

Municipal Approvals to Establish a Cemetery (continued)

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149

APPROVAL CRITERIA & PROCESS

- Criteria to consider re: Compliance with Zoning by-laws:
 - Does the proposed establishment (cemetery, crematorium, funeral and transfer service establishment) fit the definitions within the by-law or does the zoning by-law need to be amended? E.g. Many municipal zoning by-laws in Ontario do not define a crematorium (flame-based or otherwise)
 - Can a “Flame-based” crematorium possibly be considered an ancillary use to a Funeral Home i.e. Funeral Establishment?
 - Does an establishment meet the zoning requirement if that particular establishment is not specifically identified in the by-law?
 - Consider the various developments and structures to be located within the cemetery.
 - Will the cemetery be impacted by the surrounding establishments, residences and vice versa.
 - Are there potable water sources within close (250 m) proximity of inground graves
 - That permits, issued for buildings (greater than 15 cubic m. in volume) within the cemetery, will ensure that the building will be installed at least 4.57 m or 15 ft. from any inground grave or scattering ground.
 - Access to the cemetery – pedestrian, vehicular, easement.

Approvals to Establish a Cemetery – Recommendations & Considerations

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149, 157

- **Criteria to consider re: “Public Interest” – Public Safety and/or Community Standards:**
 - Is the proposed cemetery land suitable for burials in keeping with religious and cultural requirements?
E.g. Swamp lands or lands with very high water tables or Rocky, impenetrable and hazardous lands.
 - Certificate and recommendations from the Medical Officer of Health will be implemented.
 - Will the use be safe for the community vs. Hazardous to the community?
E.g. Are there natural water sources – wells, rivers, streams, ponds etc. in close proximity to the proposed burial area. These could also be water wells and/or aquifers
 - Will there be community acceptance and is there a need for a cemetery?
E.g. Access, roadways and parking for vehicular traffic during funerals, visitations etc.
 - Proximity to residential areas, primary schools, senior citizen residences.
 - Has the operator provided sewers and drains that are necessary to provide proper drainage so that caskets are not lowered into graves full of water.

Check these links:

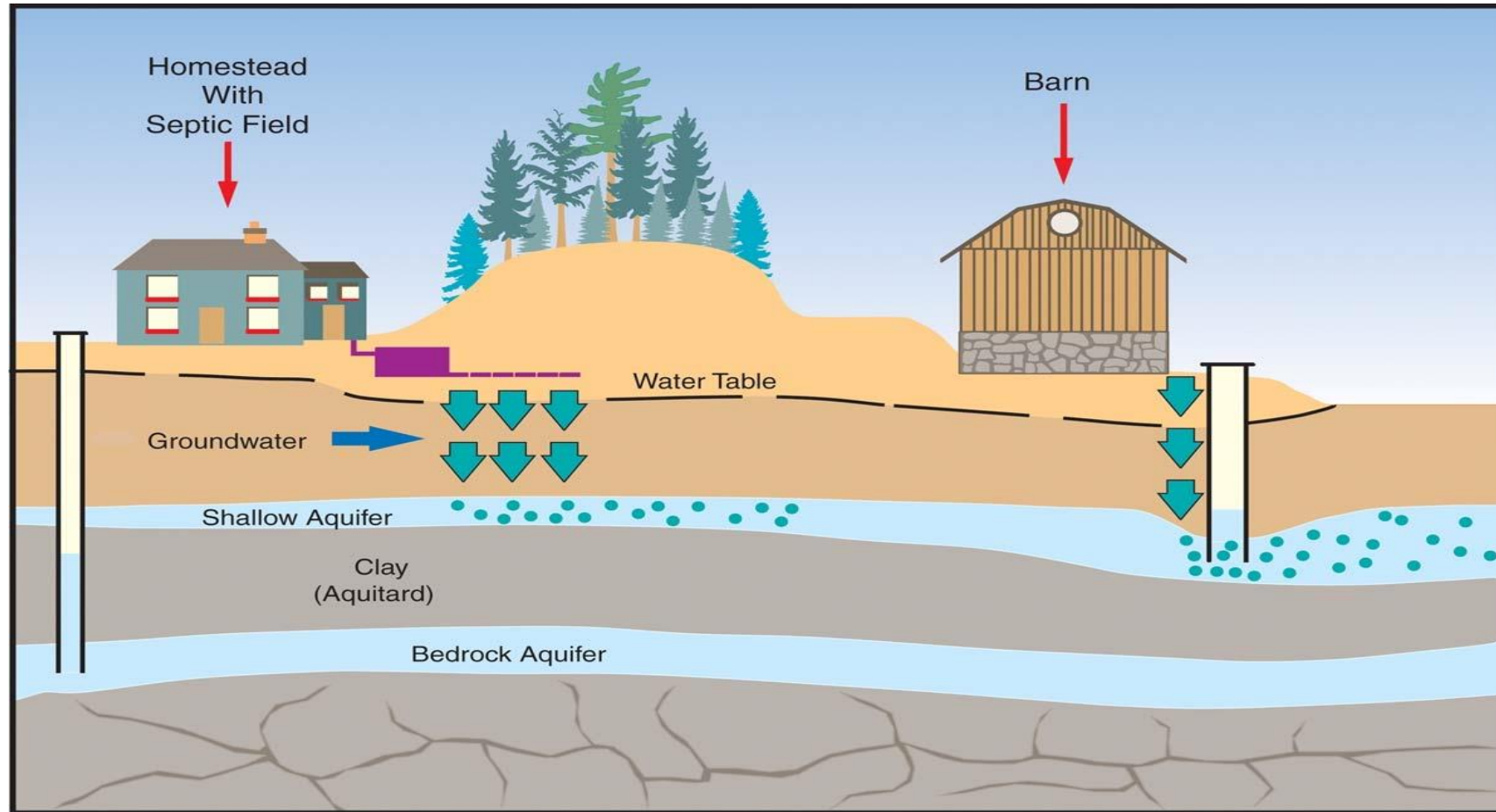
<https://www.ontario.ca/page/protecting-groundwater-protect-health#section-4>

<https://www.ontario.ca/page/tables-drinking-water-threats#section-0>

Approvals to Establish a Cemetery

FBCSA- Section 4, O. Reg. 30/11-Sections 140

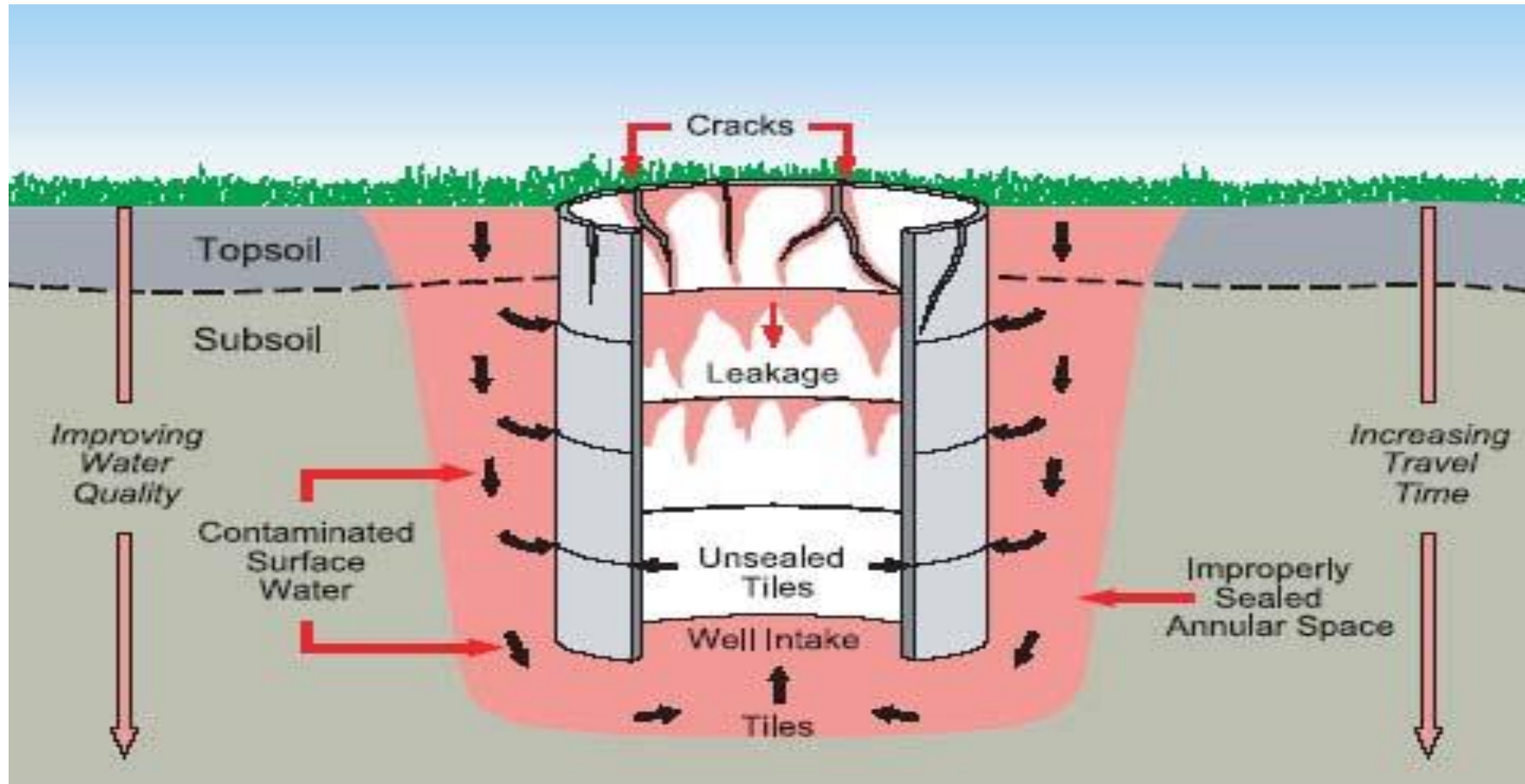
<https://www.ontario.ca/page/protecting-groundwater-protect-health#section-4>



Approvals to Establish a Cemetery

FBCSA- Section 4, O. Reg. 30/11-Sections 140

<https://www.ontario.ca/page/tables-drinking-water-threats#section-0>



World Health Organization (W.H.O.)

Recommendations for Approvals to Establish a Cemetery (continued)

Recommendations to site and design a future well managed cemetery - published in 1998 by the World Health Organization – THE IMPACT OF CEMETERIES ON THE ENVIRONMENT AND PUBLIC HEALTH :

- Human (or animal remains) must not be buried within 250 m of any well, borehole or spring from which potable water supply is drawn. Note: This distance may be greater if the site has a steep hydrogeological gradient or the velocity of the groundwater flow within an aquifer is rapid.
- The place of interment should be at least 30 m away from any other spring or watercourse and at least 10 m from any field drain.
- All burial pits on the site must maintain a minimum of 1 m. of subsoil below the bottom of the burial pit (i.e. the base of the burial must be at least 1 m. above solid rock).
- The base of all burial pits on the site must maintain a minimum of 1 m. clearance above the highest natural water table. (Any variability in the water table should be taken into account).
- Burial excavations should be backfilled as soon as the remains are interred, providing a minimum of 1 m. soil cover at the surface. Note: ss 154.(2) of O. Reg 30/11 requires that human remains are buried at least 0.61m or 2 ft below the natural level of the ground surface.
- The base of all burial pits at cemeteries should be above the highest natural water table to minimize seepage directly into the aquifer during putrefaction of human corpses.
- Should the applicant be required to carry out a hydrogeological assessment of the lands?

World Health Organization (W.H.O.)

Recommendations for Approvals to Establish a Cemetery (continued)

- Cemeteries could also be planted with deep-rooting trees that consume large volumes of groundwater and seepage water passing through the unsaturated zone.
- Most viruses are adsorbed through the depth of soil and some, such as polioviruses, are held near the soil surface. After rainfall these retained viruses may escape from the soil and move into groundwater if the permeability of the soil is high enough.
- The difference in elevation between a cemetery and the surrounding area is another important point. A cemetery should not be located in the lowest part of an area where the rainwater runoff collect and the infiltrated water comes in contact with interred remains. This ultimately, would permit more decomposition products to be carried into groundwater.
- The thickness of the unsaturated zone in the soil is an important factor in determining the impact of cemeteries on the environment. Most of the biodegradation occurs in this zone and it is the most important line of defense against cemetery-derived pollution polluting underlying aquifers.

Approvals to Establish a Cemetery (continued)

FBCSA- Sections 83 - 85, O. Reg. 30/11- Subsection 147. (3)

MEDICAL OFFICE OF HEALTH (MOH) – ONTARIO RECOMMENDATIONS

- Currently, there is no specific regulatory framework and/or guidance documents related to making determinations for siting a cemetery.
- Based on a review of literature (including the WHO's "The impact of cemeteries on the environment and public health"), dialogue with County officials, a review of the preliminary cemetery plan and a visit of the proposed site, the following recommendations were strongly proposed by a Medical Officer of Health:
 - A setback of at least 75 m. from the perimeter of the cemetery for inground graves – where residences with potable water-wells surround the cemetery
 - Require a hydrogeological assessment of the site
 - Commence initial inground burials as far as possible from the known water sources
 - Cemetery layout plans be reviewed after a 10 year period to address any adverse impacts and consider regulatory adjustments of both legislative and municipal regulations.

Process to Licence a Cemetery Operator

FBCSA- Sections 86 - 87, O. Reg. 30/11- Sections 146-149

- Application for Registrar's Consent to Establish and for a Licence to Operate once Municipal Approval received:
- Completed application must also include:
 - In the case of a licence to operate a cemetery, crematorium, funeral establishment or transfer service, the application shall be accompanied by confirmation from the local municipality that the proposed use is a permitted use and is in accordance with applicable municipal by-laws and that the plans have been approved by the local municipality.
 - **A general plan of the cemetery drawn to scale showing compass bearing, lot numbers and the location and dimensions of every lot, scattering ground, walk, fence, road, watercourse, building and adjoining road in the portion of the cemetery to be available for interments or scattering.
 - **A general plan:
 - prepared by an Ontario Land Surveyor or from a deposited reference plan of survey of the cemetery, and
 - certified by the applicable local municipality or Minister of Natural Resources and Forestry as having been approved by the municipality or the Minister.
 - ** Submit in duplicate
 - A copy of any site plan agreement under the *Planning Act*, R.S.O. 1990, CHAPTER P.13 that is relevant to the cemetery.
 - A certificate of the Medical Officer of Health stating that the land is suitable for use as a cemetery.
 - Any designation under the *Ontario Heritage Act*
- Note: The cemetery operator must keep a copy of the general plan available for public inspection during regular business hours.

Process to Licence a Cemetery Operator (Continued)

FBCSA- Sections 86 - 87, O. Reg. 30/11- Sections 146-149

- Completed application must also include:
 - A copy of the cemetery operators proposed by-laws governing the operation, governing rights, entitlement and restrictions etc., for approval by the Registrar
 - Proof of notice in newspaper i.e. actual tear sheet
 - Photos of posted notice
 - A copy of the operator's price list
 - A copy of the contract and certificate of interment rights
 - Proof the establishment of a \$100,000 Care and Maintenance Fund with a trustee or proof of an exemption from this requirement. Note: \$165,000 as of January 1, 2022.
- On submission of the application, required documents and evidence of a Care and Maintenance Fund having been established, a cemetery operator is licensed to operate a cemetery.
- The Certificate of Consent with respect to the cemetery that is issued by the registrar must be registered in the Land Registry Office. Upon registration the lands described become cemetery lands.
- Educational Requirements: Operator expected to ensure staff are appropriately trained to ensure Consumer Protection and FBCSA compliance. On-line and in-person (workshops, seminars) for Sales Representatives and operations staff.

Note: A cemetery operator cannot sell any form of interment or scattering rights to a consumer until such time as the operator receives a licence and until the interment or scattering rights being sold are immediately available for use. Map and lay outs must have been filed and returned stamped "Filed". Pre-sales of interment or scattering rights are prohibited in Ontario!!

What Is A Crematorium? – Flame Based



Approval to Establish a Crematorium

FBCSA- Section 1, 1.1.(2) - Definitions, O. Reg. 30/11-Sections

NOTE: Any person considering establishing a Crematorium is encouraged to contact the BAO first!!

- **Crematorium:**
 - Crematorium means a building that is fitted with appliances for the purpose of cremating human remains and that has been approved as a crematorium or established as a crematorium in accordance with the requirements of this Act or a predecessor of it and includes everything necessarily incidental and ancillary to that purpose;
- **Crematorium locations:**
 - May be located on or off cemetery designated lands.
- **Crematorium services:**
 - crematorium services” means services provided in respect of the cremation of dead human bodies and includes such services as may be prescribed;
- **Alternative dispositions of human remains:**
 - Subject to the regulations, the provisions of this Act dealing with crematoriums, cremation and crematorium services apply, with necessary modifications, to establishments that provide alternative processes or methods of disposing of human remains and to those processes or methods.
- **Crematorium Operator:** “Person” licensed to operate a Crematorium i.e. Offers or Sells interment rights for lots within the cemetery.
- **Prescribed circumstances:** Required by Ontario Regulation 30/11, 184/12 & 306/16

Application of the Legislation for Licensing of Crematoriums & Alternative Disposition Facilities

Application

Section 1.1 and 6. (1),(2) & (3) - FBCSA

1.1 (1) This Act applies to all transactions relating to licensed supplies and services even if the purchaser in the transaction or the person engaging in the transaction with the purchaser is located outside of Ontario when the transaction takes place. 2006, c. 34, Sched. D, s. 2.

Alternative dispositions of human remains

(2) Subject to the regulations, the provisions of this Act dealing with crematoriums, cremation and crematorium services apply, with necessary modifications, to establishments that provide alternative processes or methods of disposing of human remains and to those processes or methods. 2006, c. 34, Sched. D, s. 2.

In addition to burial there are currently 2 licensed methods for disposing of human remains:

Crematoriums (flame-based) using oil, propane or natural gas

And

Alternative Disposition Facilities (Hydrolysis) using alkaline (Sodium or Potassium Hydroxide)

Note: In this presentation references to “Crematoriums” in this presentation apply to Alternative Disposition Facilities (Hydrolysis) as well.

What is a Hydrolysis (Alternative Disposition) Facility?



Approvals To Establish A Crematorium

FBCSA - Sections 83.(3),84.(1.1), 4.(B) - 85, O. Reg. 30/11-sections 146-149, 185

Approval & Public Notice Processes start with the landowner/operator getting Municipal Approval

- Municipal Approval for a crematorium (on or off cemetery lands) is required prior to the Registrar consenting to issue a licence to operate the crematorium
 - Municipality - if the crematorium is to be situated within the local municipality
 - Minister of Natural Resources – if the crematorium is to be situated on Crown land in territory without municipal organization. May be referred to the MNR District office.
- Municipality “shall grant” approval, in a reasonable time, if, in the Municipality’s opinion, it is in the Public Interest.
- When a decision is made (by Municipal Council) to approve or refuse request for approval the Municipality **shall**:
 - Send a copy of the decision, identifying “public interest” reasons, to the Registrar and the applicant making the request. Registrar must be provided reasons in order to decide whether or not to appeal!! NO REASONS IS GROUNDS FOR AN APPEAL!!
 - Publish notice of the decision in a local newspaper (consider website as well)
- Note: Though section 185 of O. Reg 30/11 provides that “A building permit issued by a local municipality for a crematorium is evidence of the approval of the municipality to the establishment of the crematorium”; it does not eliminate the requirement for a public notice”.

Notice Of Municipal Approval

Sample Notice of Municipal Decision to be incorporated/adapted into standard municipal notices
FBCSA subsection 84.(4)(b) and section 85 (See specifics for sample notice on next page)

FUNERAL, BURIAL AND CREMATION SERVICES ACT, 2002 **NOTICE OF MUNICIPAL COUNCIL DECISION**

[Name of Municipality]

TAKE NOTICE that on **[date of approval]** Council of the **[Name of Municipality]** approved the **[establishment of a crematorium at/address]** to permit **[the cremation/disposition of dead human remains]**

AND FURTHER TAKE NOTICE that the applicant, Registrar or any person with an interest therein may, within 15 days after publication of this notice refer the municipality's decision to the Local Planning Appeal Tribunal (previously the Ontario Municipal Board) for a hearing.

Further information may be obtained from **[name of municipality's contact who will provide further information]**

Dated at **[Name of Municipality]** this **[date]** **[day]** of **[month]** **[year]**

Some Criteria for Municipal Approval

FBCSA- Sections 83 - 85, O. Reg. 30/11-Sections 146-149

Criteria which may constitute “Municipal Approval” and satisfy the “Public Interest”?

- Who makes the decision to Approve?
 - Planning department? and/or Building department?
 - By-law department? and/or Sewer use by-law department?
 - Location complies with municipality’s development plan?
 - Proposed use complies with municipal by-laws i.e. Zoning bylaws
 - Amendments to the zoning by-law to allow establishment – i.e. non-confirming use – **Usually an issue.**
- Criteria to consider re: Compliance with Zoning by-laws:
 - Does the proposed establishment fit the definitions within the by-law or does the zoning by-law need to be amended to include the establishment? E.g. Most municipalities in Ontario do not define a Crematorium in their zoning by-law
 - Does an establishment meet the zoning requirement if that particular establishment is not specifically identified in the by-law?
 - Can a “Flame-based” crematorium be considered an ancillary use to a Funeral Home?
 - Can a standard car garage be retro-fitted as a crematorium?
 - Consider the various developments and structures to be located within the crematorium
 - Will the crematorium impact or be impacted by the surrounding residences, establishments?
 - Vehicular traffic access and sight lines to the crematorium.

Crematorium—Risks & Fire Code

Recent Concerns & Need to Reduce Risks

- **Risks that should be considered:**
 - Identification of deceased prior to cremation i.e. human remains at point of pick-up
 - Correct identification of cremated remains and verification of after cremation and prior to release of cremated remains to family
- **Fire Safety:** In the last 5 years, 3 large crematoriums experienced large destructive fires
- **Concerns raised by these 2 recent occurrences relate to:**
 - Injury to persons – Employees, Witnesses to cremations, Fire Department personnel etc.
 - Loss of deceased's remains
 - Loss of, and damage to records
 - Damage to small columbaria located in close proximity to cremator/retorts can result in upset to families, replacement cost of sentimental objects placed in niche and more importantly loss of remains and cost of temporary storage and replacement.

Requirements For Licensing – Operator & Sales Reps

Section 1.1 and 6. (1),(2) & (3) - FBCSA

Operating crematoriums (and Alternative Disposition Facilities (Hydrolysis))

6 (1) No person shall operate a crematorium, or hold themselves out as the operator of a crematorium, unless the person is licensed to do so. 2002, c. 33, s. 6 (1).

Selling services

(2) No person shall sell or offer to sell crematorium services to the public, or hold themselves out as available to sell crematorium services to the public, unless,

(a) the person holds a prescribed licence and is acting on behalf of a crematorium operator; or

(b) the person is licensed as a crematorium operator. 2002, c. 33, s. 6 (2); 2006, c. 34, Sched. D, s. 5.

Cremating remains (Locations)

(3) No person shall cremate a human body at a place other than a crematorium operated by a person licensed under subsection (1).

Educational requirements for all licensees - Cemetery, Crematorium & Alternative Disposition Facilities (Hydrolysis), Funeral Establishment and Transfer Service Operators, Pre-planners and Sales Representative licences.

Process To Licence A Crematorium Operator

FBCSA- Sections 86 - 87, O. Reg. 30/11- Sections 146-149

- Must apply for a **licence to operate** a crematorium & for Registrar's **Consent** if the crematorium is to be established on a cemetery
- The application for a licence to operate a crematorium must include:
 - a complete Bereavement Authority of Ontario application form and fee of \$500
 - confirmation from the local municipality that:
 - the proposed use is a permitted use and is in accordance with applicable municipal by-laws
 - the plans have been approved by the local municipality.
 - a copy of the Environmental Compliance Approval ("ECA"), from the Ministry of Environment and Climate Change (MOECC), required under section 9 of the *Environmental Protection Act*, for the discharge of contaminants (including noise) to the air outside of the facility.
 - Two (2) copies of plans or drawings (architectural drawings with an engineer's/architect's seal) of the site, building, location of cremation chambers, processing area, and body storage areas.
 - Two (2) copies of the proposed crematorium by-laws
 - Copy of published notice from newspaper i.e. tear sheet
 - Photo of posted sign.
- Evidence of educational requirements: Operator of equipment and all staff handling cremation must attend the Crematorium Operator's Certification Training (2-day in class + 50 Cremations) offered once a year by the Ontario Association of Cemetery and Funeral Professionals.

Recommendations For Crematorium Operators

FBCSA- Sections 86 - 87, O. Reg. 30/11- Sections 146-149

- Recommendations to ensure public safety when licensing technologies for the disposition of human remains in a flame-based Crematorium.
- Submissions/details to be provided or indicated in the application for a Crematorium Operator's Licence:
- Description and design of the equipment – cremation chamber, stack etc. and materials used:
 - Refractory lined stack – Insulating fire brick or castable (like concrete) material to insulate to 1000 degrees Celsius
 - Stainless steel stack – Insulate from 800 to 1000 degrees Celsius
 - Details of stack clearances – proper set back from stack; usually required by the manufacturer of the equipment
 - Recommend non-combustible materials lined with cement board with necessary clearances from the stack. E.g. Steel walls, roof trusses etc.
 - Fire rated glass for any windows and doors in close proximity of cremation chamber
 - Prohibit family members from coming into immediate area of Unit
 - Prohibit access to the front of viewing window on unit as radiant heat may be a concern.

Recommendations For Crematorium Operators

Continued

FBCSA- Sections 86 - 87, O. Reg. 30/11- Sections 146-149

- Mandatory use of Personal Protective Equipment per Ministry of Labour guidelines
- Ensure loading doors have safety device
- Use of remote starters
- Description and design of the Viewing Room:
 - Glass – Fire rated glass with automatic steel shutters
 - Concrete non-combustible flooring.
- Description and design of any elevating/lift devices used as part of the operations and requirement for regular inspections.
- Description and design of the Holding Room:
 - Cooler should be fire rated
 - Non-combustible and fire proof - Masonry block, metal, cement board.
 - Inspected and approved by Technical Standards and Safety Authority
- MOL review and inspections re: Safety and working conditions of staff
- TSSA approvals for fuels and their supply and storage
- ESSA &/or CSA approval for electrical equipment
- MOE approvals for emissions.

Identification & Prohibitions - Continued

O. Reg 30/11, Sections 31

An operator shall not, without the written and signed consent of the purchaser of the cremation/alternative disposition services,

- (a) Cremate or dispose of the remains of more than one person at once;
- (b) cremate/alternatively dispose human remains together with animal remains; or
- (c) co-mingle cremated/alternatively disposed of remains

An operator shall ensure that a metal identification tag accompanies a dead human body and is placed in the container that contains the resulting reduced remains until the remains are released to the purchaser or the purchaser's representative.

The metal identification tag shall contain a personal identifier for the body and the name of the crematorium operator.

NOTE: A crematorium operator cannot provide - offer or sell transfer services i.e. pick up a deceased body and transfer it to the crematorium unless the crematorium operator is also licensed as a Transfer Service Operator.

Operator's & Employee's Duties - Flame based

FBCSA - Section 7. (1)(2) , O. Reg. 6. (4)

Operator's duties

7 (1) A crematorium operator shall ensure that the crematorium is operated in accordance with this Act and the regulations and shall ensure that all cremations in the crematorium are carried out in a decent and orderly manner and that quiet and good order are maintained in the crematorium at all times.

Employee's duties

(2) A crematorium operator shall ensure that,

(a) every licensee that the operator employs carries out his or her duties in compliance with this Act and the regulations; and

(b) every other person to whom the operator delegates responsibility carries out that responsibility in compliance with this Act and the regulations.

Operators are responsible to ensure that they and their staff have been adequately trained to handle human remains and related equipment when providing these services.

Who else can sell or offer to sell cremations ?

(4) The licence of a funeral director is a prescribed licence for the purposes of clause 6 (2) (a) of the Act if the funeral director has received written authorization to act as a sales representative on behalf of a crematorium operator.

Operator's & Employee's Duties - Alkaline Hydrolysis

FBCSA - Section 7. (1)(2) , O. Reg. 6. (4)

Operator's duties

An Alternative Disposition Facilities (Hydrolysis) Operator shall ensure that the facility is operated in accordance with this Act and the regulations and shall ensure that all alkaline hydrolysis dispositions are carried out in a decent and orderly manner and that quiet and good order are maintained in the facility at all times. Must employ a licensed Funeral Director to handle the deceased human remains.

Employee's duties

(2) A Alternative Disposition Facilities (Hydrolysis) operator shall ensure that,
(a) every licensee that the operator employs carries out his or her duties in compliance with this Act and the regulations; and
(b) every other person to whom the operator delegates responsibility carries out that responsibility in compliance with this Act and the regulations.

Operators are responsible to ensure that they and their staff have been adequately trained to handle human remains and related equipment when providing these services.

Who must handle human remains in order to initiate and carry out a Alternative Disposition (Hydrolysis) ?

- Only a licensed Funeral Director (Class 1 or 2) can have contact with the dead human remains before and during the Hydrolysis disposition.

Prohibitions & Concerns related to Cremation

O. Reg 30/11, Sections 31 (2)(2.1)(3), O. Reg. 412/19 Section 1

31. (2) An operator shall not permit the cremation of a dead human body if:

a) the operator has not received a certificate issued by the coroner authorizing the cremation

Note: As of October 2016 the Office of the Chief Coroner has implemented an on-line cremation certificate application for the issuance of:

1. The Coroner's Certificate to Cremate &

2. Coroner's Certificate to Transport a dead human body out of the Province.

b) the body has a pacemaker or radioactive implant, is in a casket that consists of or has on or in it material made of or containing non-flammable or hazardous material or chlorinated or fibre-reinforced plastic, other than incidental metal used in the construction of the casket or accompanying material. O. Reg. 30/11, s. 31 (2).

(2.1) The condition in clause (2) (b) that a crematorium operator shall not permit the cremation of a dead human body if the body has a radioactive implant does not apply if,

(a) it is at least two years after the day the body received the implant; or

(b) a lesser time has passed since the body received the implant, and it is safe to cremate the body. O. Reg. 412/19, s. 1. (See proposed guidance in next slide)

(3) The crematorium operator may contract out or arrange for the removal of a pacemaker or radioactive implant from a dead human body if the person carrying out the removal is a person described in section 52. O. Reg. 30/11, s. 31 (3).

Prohibitions & Concerns - Radioactive Implants

O. Reg 30/11, Sections 31 (1). Continued

Cremation of dead human bodies with Microscopic Radio Active Implants – Maybe?

- As of the early 2000's approximately 4000 breast and prostate cancer patients have been treated with Brachytherapy
- Brachytherapy involves the implanting of about 100 microscopic radioactive "seeds" in close proximity to the area of the body to be treated
- The treatment is usually provided when the patient has at least a 7 -10 year life expectancy
- The seeds cannot be easily removed by surgery

Note: Not all Seed or microscopic Implants are Radioactive Implants

On some occasions gold seeds are implanted as markers around an area where infected tissues are to be treated by other means. These are NOT radioactive implants.

Also, an individual who has had Radiation treatment may NOT be radioactive at the time of death and may be cremated.

1. Ask the authorized person making the application for cremation if the deceased has had any medical treatment that included the implanting of "RADIOACTIVE" implants.
2. Document the response.

The cremation of a dead human body with these radioactive seed implants (or any other radioactive implants) IS NOT PROHIBITED under certain conditions.

PROCESS FOR A HYDROLYSIS LICENCE

FBCSA- Sections 1.1(2), 86 - 87, O. Reg. 30/11- Sections 146-149



<https://youtu.be/hfZOnvcwew4>

Alternative dispositions of human remains

1.1.(2) Subject to the regulations, the provisions of this Act dealing with crematoriums, cremation and crematorium services apply, with necessary modifications, to establishments that provide alternative processes or methods of disposing of human remains and to those processes or methods.

Hydrolysis (also called Alkaline Hydrolysis, aquamation, biocremation, resomation, flameless cremation, or water cremation) is a process for the disposal of human remains using lye – either potassium hydroxide or sodium hydroxide, water and heat. The process is being marketed as an alternative to the traditional options of burial or cremation

Recommendations to ensure public safety when licensing technologies for the disposition of human remains by alkaline hydrolysis liquification:

- Submissions/details to be provided or indicated in the application for a Crematorium Operator Licence:

Contact Information

**Michael D'Mello, Deputy Registrar
Bereavement Authority of Ontario
100 Sheppard Ave. East. Suite 505
Toronto, ON M2N 6N5
(647) 483-2645 Ext 205**

- E-mail: Michael.DMello@thebao.ca

Bereavement Authority of Ontario website: www.thebao.ca