

Information Update on Eternal Hills Memorial Gardens (Cemetery)

This document has been prepared to assist the community and address the questions OMCB has received to date.

If you have additional questions or concerns, please contact us at **(971) 673-1504** or via email at mortuary.board@state.or.us. We will update this document as additional information becomes available.

Background:

Effective March 30, 2016, the license for Eternal Hills Memorial Gardens was revoked by the Oregon Mortuary & Cemetery Board (OMCB), along with the on-site funeral home and crematory's licenses. Without a license, the cemetery is not able to legally operate. However, revocation of a license does not change the cemetery ownership. On April 4, 2018, the Oregon Court of Appeals upheld the revocation and other sanctions against the parties.

In 2017, the State of Oregon filed involuntary bankruptcy against Eternal Hills Memorial Gardens & Funeral Home, Inc. in the U.S. Bankruptcy Court in Eugene. The Oregon Mortuary & Cemetery Board (OMCB) is listed as the petitioning creditor in the bankruptcy.

Eternal Hills's current ownership

- The filing of the bankruptcy transferred the ownership of the business of the cemetery to the bankruptcy trustee (Candace Amborn). Before the bankruptcy was filed, the former licensee transferred ownership of the real property and many of the unsold plots (the right to be interred in the cemetery) to several LLCs he controlled. Before the bankruptcy trustee can sell the cemetery, the real property and plots must be recovered so a buyer will have a complete cemetery: a business, real property, and plots. Lawsuits have been filed within the bankruptcy; the State, the bankruptcy trustee, and the former licensee have been working toward a settlement that will allow the bankruptcy trustee to sell the cemetery. The State has not seized any of the cemetery's assets.

Key Points:

Eternal Hills's current physical condition & social media response

- While OMCB is aware of certain conditions at the cemetery needing remediation, it is our understanding - from information provided by stakeholders who have recently visited the cemetery and observed its condition - that Eternal Hills's property has not encountered any recent vandalism. It appears there have been recent re-postings of photos illustrating vandalism on social media that occurred months, if not years ago. This has led some members of the community to mistakenly believe that the photos are new.
- The mausoleum appears to have been cleaned, and although it has suffered from water damage, there isn't any trash or broken glass, which is an improvement from conditions present about 3 months ago.
- There were recent postings on social media that illustrated poor conditions of plots located in the cemetery. One particular photo showing a plot that appeared to have caved-in was posted on Facebook and received a number of comments from concerned parties.

- An OMCB licensee who is located in Klamath Falls visited this plot location and shared that a double liner was installed without a “middle lid”, so it was a very deep hole. The licensee probed the open space, and determined that no one was buried in that location.
- Generally, it is important to consider that, although it is disturbing to see a photo of a plot that has caved-in, there is most likely a reasonable explanation. There are many possible reasons including, but not limited to, manufacturing defect, the cemetery’s tractor driving over a plot, a lack of cemetery maintenance, the elements (rain & snow) causing the lid to deteriorate, etc.

Eternal Hills remains open and accessible to the public

- There seems to be a misconception in the community that Eternal Hills is closed and not accessible to the public.
- It is our understanding that Eternal Hills remains open and accessible to the public.

Eternal Hills Memorial Gardens continues to be a dedicated cemetery

- Eternal Hills is still dedicated and has not ceased being a cemetery. A dedicated cemetery cannot be permanently closed without going through a formal legal process to remove the dedication. The Board has no knowledge of said process being initiated. The specific requirements to remove a cemetery dedication are governed by ORS 97.440.

All existing interment rights and preneed arrangements are not affected

- Existing interment rights (ownership of unused burial plots or spaces) and all insurance and trust funded preneed cemetery and funeral arrangements have not been affected by the license revocation or the bankruptcy.

At-need burials can still happen

- An interment (burial) can take place at the cemetery if the decedent or customer has a pre-existing interment right and/or a fully-funded preneed arrangement with the cemetery. Any licensed Oregon funeral home may assist with this process, which includes submitting a Temporary Burial Permit Application.

Eternal Hills’s cemetery and funeral home records have been moved to OMCB’s office

- In 2017, Eternal Hills’s previous owners voluntarily released the consumer paper records for the cemetery and funeral home to OMCB. We also have electronic records of the cemetery, but are unsure of its completeness. You may contact any licensed funeral home and ask to have your arrangements transferred. The funeral home will work with OMCB to acquire your records, then work with you to facilitate the transfer. You may also contact OMCB’s office directly to request a copy.

Eternal Hills’s endowment care fund

- Eternal Hills’s endowment care fund continues to be administered by a trustee. It is important to note that the endowment care trustee is not the same as the trustee for the bankruptcy, and neither of these trustees are the State of Oregon.

Eternal Hills Memorial Gardens is an endowment care cemetery whose fund is regulated by the Oregon Department of Consumer & Business Services (DCBS). DCBS has not frozen the cemetery's endowment care fund. (Information provided by DCBS.)

- Eternal Hills Cemetery is an Endowment Care Cemetery, which means that a percentage of the purchase price of each cemetery plot sold is deposited into a trust fund that is managed by a trustee to generate interest on the principal. As an Endowment Care Cemetery, Eternal Hills Cemetery has an irrevocable trust fund in place for continued endowment care. The interest earned on the trusted funds can be used to help pay for the cost of maintenance at the cemetery, although the payout is often not sufficient to cover all of the expenses, serves to help pay costs for maintaining the grounds.
- As a matter of historical context, the previous owner and the company lost their cemetery licenses in March 2016 and were no longer authorized to manage or control the cemetery. Since the previous owner of the grounds no longer had a cemetery license, he was prohibited from unilaterally requesting a quarterly payout of the available interest.
- However, in an effort to continue the maintenance of the cemetery grounds, the Division of Financial Regulation (DFR) within the Department of Consumer & Business Services agreed with the trustee that if the previous owner submitted a detailed invoice that showed specific maintenance expenses, DFR would review the request and authorize the trustee to release the funds to the previous owner or his payee. Although the previous owner had the opportunity to request reimbursement since the cemetery license was revoked in March 2016, funds from the endowment care trust were not requested until August 2017. At that time, DFR released the funds that were then available under Oregon Revised Statute 97.830 for the maintenance of the property.
- For further information about the endowment care trust, please call DFR at **1 (888) 877-4897**.

If you want to move the body or cremated remains (ashes) of a person buried at Eternal Hills Memorial Gardens, you are required to get permission from the cemetery owner or get a court order.

- Oregon Revised Statute 97.220 outlines what is required in order to remove a body or cremated remains from a cemetery - also called disinterment.
 - To disinter a body, you will need the written permission of the decedent's spouse, children, or parents **AND** the permission of the cemetery authority **AND** a disposition permit from vital records.
 - To disinter cremated remains, you will need the permission of the person who had possession and authorized the interment of the cremated remains **AND** the permission of the cemetery authority.

If you are unable to get the required permissions, either from the decedent's family, the person who authorized interment of cremated remains, or the cemetery authority, you can get a court order from the county court. Even though the cemetery is currently unlicensed, the previous owner of the cemetery is still the cemetery authority and disinterment still requires their permission. **Disinterring remains without the permission of the cemetery authority or without a court order is against the law.**

If you believe that you have paid for goods and/or services from Eternal Hills that were never provided, you might be a creditor in the ongoing bankruptcy case.

- The deadline for consumers to file claims has been indefinitely extended, but potential creditors are encouraged to submit a claim as soon as possible.
- The Oregon Mortuary & Cemetery Board (OMCB) has some of the facility's records and may be able to help you determine if you have a claim. For information, please contact the Board. You can view the official notice from the bankruptcy court here:
www.oregon.gov/MortCem/docs/EH-Claim-Notice.pdf

TO FILE A CLAIM:

- a) File a proof of claim at www.orb.uscourts.gov. Select ***Proof of Claim (ePOC)*** and follow the steps to create and electronically file a proof of claim on the required form. No login or password is required. You will need the following case number: **17-62784**.
- b) If you have already filed a claim in this case, do not file it again.
- c) If you do not have internet access, please call the court at **(503) 326-1500** or **(541) 431-4000** to request a claim form.

Updated April 29, 2019