

Cemetery Bulletin

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NYS Cemetery Board Directive 201.6 Sale of outer containers - Addresses the issue of when a burial vault or grave liner can be required and provides specs on this requirement. It also provides that an approved fee can be charged if a family refuses a grave liner due to religious beliefs. It prohibits the cemetery from selling burial vaults but does allow for the sale of grave liners.

The requirement for a burial vault or grave liner applies to graves purchased after January 1, 1985 and must be in a written statement given to a customer in advance of the purchase of a grave or lot. If a cemetery did not have this requirement but decides to include it in their rules and regulations at a later date, the requirement would apply to all graves purchased after the date the new rule is approved by the Division of Cemeteries.

It is the decision of your cemetery board whether your cemetery will require the use of burial vaults or grave liners; however, a cemetery may not require the use of any particular outer enclosure except for concrete burial vaults or concrete grave liners. In recent years new materials (ex: reinforced polyethylene) are being used to produce burial vaults. Current regulation does not allow for reinforced polyethylene vaults to be required or used to fulfill the requirement of a concrete vault or grave liner. This regulation is being reviewed and changes may be forthcoming.

Whatever your board decides, you must include this in your rules and regulations, which shall not become effective until approved by the Division of Cemeteries. It is a good practice to provide the area funeral directors with a copy of your most recent rules and regulations and a list of your current charges.

How many interments (bodies and cremated remains) can we allow per grave? Your cemetery board decides how many interments you will allow per grave. (Ex: 1. One full body; 2. One full body and one cremated remains; 3. Two cremated remains). Again, whatever your board decides, must be included in your rules and regulations, which shall not become effective until approved by the Division of Cemeteries.

We have been asked to inter a companion urn, what do we charge? The interment fee is based per individual set of cremated remains. Therefore, if the companion urn holds 2 sets of cremated remains, you are allowed to charge for 2 sets of cremated remains regardless of the number of containers or urns. The same charges apply if there are two containers but you are digging one grave.

What do we charge for an above ground "Cremorial" housing 2 or more niche spaces? If you do not have an approved inurnment fee, it is acceptable to charge the same as the fee for interment of cremated remains

Cremated remains have been scattered on a lot illegally. We have rules against scattering of cremated remains in the cemetery. What can we do? With good evidence, your board may write a letter to the lot owner with a copy of your rules and regulations and a "bill" charging the approved fee for the interment of cremated remains. You may refuse to allow further interments or the placement of the name on a memorial until the interment charge is paid. This also applies when you find someone has interred interment of cremated remains on their own.

Winter Burials - Winter burial fees are not "set fees," since each interment may require more or less time and equipment. You may only charge the actual additional amount you are charged by a third party or the actual additional amount you pay your staff for the additional time it may take to open a grave. You should have a back up person who can lay out graves and a back up contractor that can plow and open graves.

When you are contacted for an interment that will require extra time or equipment and you must estimate, it is best to estimate on the high side and give a refund rather than ask for more money after the arrangements have been made. If the *authorizing agent* or person making funeral arrangements is not willing or cannot to pay the extra fees at the time of interment, the interment must be postponed. You must save all receipts for review by our accountants for all interments requiring extra fees.

There is no requirement to provide for a procession into the cemetery. You may ask the funeral director to make arrangements to have the committal service at the funeral home or church. Some cemeteries have an area that can safely use a false set up to accommodate a committal service.

Interments that cannot be accomplished do not automatically become "spring burials." It may be just until severe weather conditions have abated. We do ask that if you can locate the grave and safely perform the interment that you do so in as timely manner as possible.

If you have questions or need assistance do not hesitate to contact your regional office.

Vandalism Fees for Cremated Remains - When the vandalism law was passed on November 30, 1988, vandalism fees were collected on all interments including the burial of cremated remains. On July 25, 1990, the law was amended requiring crematories to collect and submit \$5.00 to the vandalism fund for every cremation they conducted. On June 24, 1991, the Cemetery Board ruled that the double collection of the vandalism fee on cremations should be eliminated. Crematories were advised at that time to stamp or label all receipts for cremation with the notation "VANDALISM FEE COLLECTED." These receipts are supposed to be shown at the cemetery at the time of a burial and the cemetery is not supposed to charge the family a second time, nor are they required to submit a fee for the burial of cremated remains that were cremated in New York State. If a cemetery buries cremated remains that have been shipped in from another state, then they are to collect the \$5.00 and remit it with the regular payment of vandalism fees. It appears that cemeteries do not always receive or see a copy of the receipt showing that the fee was paid and therefore are not aware of this. A cemetery should ask for this information when burying cremated remains and mark its records accordingly.

Public Health Law 4145 2(b) - Body Delivery Receipts This section of the Public Health law states that: "Any person or other entity owning, operating, managing, or in charge of a place of burial, cremation, or other final disposition in this state, who receives the body of a deceased person, shall provide a receipt for the body to the funeral director or undertaker who delivered such body." Please refer to your "Relevant Laws, Administrative Rules & Regulations and Rules of Procedure of the State Cemetery Board (Law Manual)" for a complete copy of this law.

There has been some confusion over the procedure for the issuance of these documents.

It is the duty of the person in charge of the place of disposition (cemetery, crematory or other place of disposition) to issue the receipt, it is **not** the responsibility of the funeral director to provide this receipt but many do it as a courtesy. The copy of the receipt must be maintained by the place of disposition (cemetery, crematory or other place of disposition) in its permanent records and the original of the receipt must be maintained by the licensed funeral firm for a 4 year period.

Every cemetery, crematory, or other place of disposition located in New York State outside of New York City must issue a receipt and follow this section of the law.

Effective October 25, 2009, N-PCL was amended by adding Section 1506-c Abandoned cemetery maintenance by cemetery corporations. Upon application and approval by the cemetery board, a cemetery corporation may assume management and maintenance of an abandoned cemetery. The cemetery that assumes this management and maintenance may apply to the Vandalism Fund in the same manner that a town applies for funds for the care of an abandoned cemetery.

Many thanks go to writer Cindi Craig who contributed the majority of the articles for this newsletter.