



New York State
DEPARTMENT OF STATE

DIVISION OF CEMETERIES
41 State Street, Suite 1110
Albany, NY 12231-0001

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CEMETERY BULLETIN

Director's Notes —

*"They also serve who
only stand and wait."*

(J. Milton)

Our central office is a mere three blocks from the site of the World Trade Center Tragedy of September 11th. We experienced major disruptions, but we emerged unscathed. In the scheme of things we were very fortunate.

We were prepared to provide assistance to our cemeteries which were expecting an overwhelming number of interments. The Governor placed the state's National Guard on notice to help with grave preparations. We worked with the Crime Victims Board and other authorities to offer whatever help we could.

As triage facilities at area hospitals were disappointed that they had few people to save, so too were our cemeterians who had few human remains to lay to rest in the traditional manner. Nonetheless, they were ready and willing to accept the responsibility and take on the enormous work and time which would have been required had victims' remains been recovered.

Our police, firefighters and emergency workers are deservedly regarded as true American heroes. Those who stood willing to go above and beyond their duties should be no less recognized simply because circumstances precluded normal ceremony.

— By Richard D. Fishman
Director

New ECI = 4.1%
(Employee Cost Index)

The Bad News, The Good News And The Better News

For those of you new to the cemetery business, here in New York state, Not-for-Profit Cemetery Corporations are prohibited from engaging in the sale of monuments,¹ defined as "...*memorial(s) erected in a cemetery on a lot, plot or part thereof...*".² That's the bad news.

The sale, by cemeteries, of bases resembling upright monuments upon which bronze markers are attached is a circumvention of law and is prohibited. More bad news. However, cemeteries *are* permitted to sell bronze markers, designed to sit on bases flush with the earth. That's the good news.

With the relatively recent revision of §1502, *private mausoleums* are excluded from the definition of memorials and some cemeteries have elected to make private mausoleums available to their lot owners. In this, there are no prohibitions in law. That's the better news!

Cemeteries must simply ensure that a minimum of 10 percent of the gross lot sale is placed into the Permanent Maintenance Fund. Perpetual Care is recommended, but its requirement must be disclosed at the sale. Cemeteries' rules and regulations may need to be revised.

THE AMERICAN FLAG

Grave Decorating Flags in Cemeteries: A Discussion of Protocol

Several times a year, just prior to national holidays, civic, military or veteran's groups place inexpensive, cotton flags on the graves of veterans and patriots. Rarely do these groups return to remove them. Asking them to do so could imperil the decoration of graves in future years.

On these holidays it is moving to see our symbols of freedom fluttering in unison. However, several days later it is not uncommon to observe these flags wet, tattered or scattered throughout the cemetery, laying on the earth and mud.

Common protocol requires that the American flag be displayed only during daylight hours unless illuminated. Common protocol requires that the American flag be displayed during inclement weather only if it is constructed of a weather-proof material. Common protocol requires that the flag never touch the earth. Yet, these etiquettes are inadvertently violated in most cemeteries throughout the nation.

(Continued, see *FLAGS*)

¹Not-for-Profit Corporation Law §1516(a)

²Not-for-Profit Corporation Law §1502(f)

Veterans' Markers

In accordance with the Department of Veterans Affairs, VA's Headstone and Marker Placement Policy (November 1995) and further reinforced by 38 U.S.C., Chap. 23, §2306(a), veterans' markers are provided by the Veterans Administration Marker Program for the *unmarked graves of veterans only*.

Some cemeteries permit the installation of bronze veterans' markers upon the front or rear surface of existing, engraved upright monuments. This practice constitutes *double marking*, which is prohibited by federal statute, but not well enforced. We are advised that Congress has been addressing this issue since 1999.

If a grave is already marked with the name and dates of birth and death of a deceased veteran, a cemetery should not sign an application for a veteran's marker.

FLAGS . . .

Cemeteries have the dilemma of satisfying well-intentioned, but poorly informed, lot owners by allowing the American flags to be improperly exhibited, or removing them within an appropriate period to avoid desecration, risking the wrath of zealous and emotional Americans.

National Cemeteries allow for grave decorating flags only on Memorial Day.

National Cemetery Administration Directive 3220 prescribes policy related to displaying, handling, storage and disposition of flags in Veteran Administration National Cemeteries. This directive says, in part, that “. . . ***graves may be decorated the weekend before Memorial Day and the flags should be removed shortly after Memorial Day. This will result in unilluminated flags in place during non-daylight hours; however, this is an authorized deviation from the flag code made necessary by logistics.***” (Emphasis ours.)

The directive reminds that flags be treated with dignity and respect, and requires that unserviceable flags be disposed of appropriately (“*...in a dignified way, preferably by burning*”) and that serviceable flags be stored in a dignified manner out of public view.

As cemeterians, you must walk the fine line between absolute American flag protocol and emotionalism. Written and conspicuously displayed rules regarding your flag policy would go a long way to educate your lot owners and help them understand that the protracted exhibition of the United States of America flag could result in its own desecration.