



**Division of
Cemeteries**

Cemetery Basics

First Steps

A Division of New York Department of State

May 19, 2023

Cemetery Maps

First Steps

Ideally, a new board should appoint the person(s) who will be selling, locating and arranging for opening of graves.

If possible, have the previous person(s) orient you to the map. Sections can be laid out differently.

Many interment errors happen because the maps get read upside- down causing interment on another person's lot or on the wrong side of a spouse or opposite position that the grave is marked.

Keep accurate records of lots sold and interments by updating all maps and lot cards simultaneously.

One of the most frequent map and record-related complaints we receive deals with lots being sold twice or interment in the wrong grave.

The overall cemetery map must be on file with our Division.

Documents and Procedures

Before Arrival and interment

- Verify lot ownership and rights of interment for the deceased.
- Verify the location of the interment on the lot.
- Confirm the outer container size and ensure the material complies with your rules and regulations.
- Discuss the date, time, and charges.
- If remains come from out of state, confirm the permit contains acceptable NYS information. Otherwise, the Funeral Director should exchange it for an acceptable one in the Vital Records district office.

Upon Arrival

- Check the pocket card of the delivering funeral director. Out-of-state funeral directors must have a NYS Licensed and Registered FD, or Registered Resident deliver remains.
- Confirm payment is correct and in acceptable form.
- Review Burial Transit Permit for accuracy.
- Issue the Body Tracking Receipt and keep a copy for your records.
- Complete and sign the Burial Transit Permit and file it with the Vital Records Registrar in your district within seven days.

CEMETERY SIGN

Every Cemetery must display a sign:

19 NYCRR 201.7 states that a sign must be posted in the office of the cemetery (20-point type), and if there is no office, it must be posted at the main entrance in 40-point type and must contain the following information:

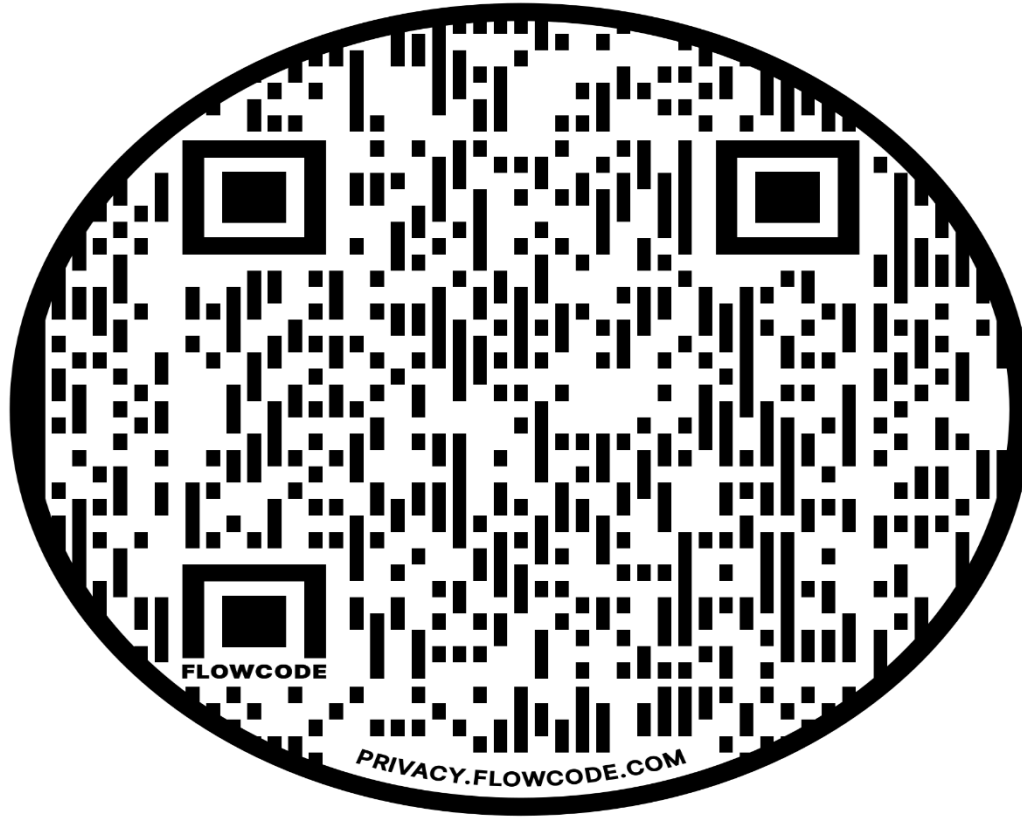
Cemetery Name as regulated by the New York State Cemetery Board. Phone number of the nearest Div. of Cemeteries office. Name, title, and phone number of the person in primarily in charge of the cemetery.

Cemetery Disclosures

NPCL 1510(O)

Copies of such forms shall be suitably printed by the cemetery corporation and conspicuously displayed in each of its offices, if any, so that all persons visiting such place may readily see the form and inspect its contents.

Physical copies of the forms shall be made available to any person inquiring about cemetery lots, goods, or services. A corporation may offer a customer the option of receiving the forms using a quick response (QR) code in lieu of receiving a paper copy.



Burial Arrangements and Memorialization

PBH §4201 sets the order of people who have the legal right to arrange for the final disposition of the decedent, provided that if there are more than two members of a class listed in subparagraph (iii), (v), or (vii) of the paragraph entitled to control the disposition of remains of a decedent, the disposition shall be determined by a majority of the reasonably available members of the class:

(i) the person chosen in writing by the deceased through a will or through a form created by the New York State Department of Health for this purpose, which can be found here: <https://www.health.ny.gov/forms/doh-5211.pdf>;

(ii) the spouse;

(ii-a) the domestic partner;

(iii) any child who is at least 18 years old;

(iv) either parent;

(v) any sibling who is at least 18 years old;

(vi) a legal guardian appointed under certain laws;

- (vii) any person who is at least 18 years old who would be entitled to share in the deceased person's estate as specified in section 4-1.1 of the New York Estates, Powers and Trusts Law (<https://www.nysenate.gov/legislation/laws/EPT/4-1.1>), with the person closest in relationship having the highest priority;
- (viii) a fiduciary of the estate;
- (ix) a close friend or relative who is reasonably familiar with the deceased's wishes, including religious or moral beliefs, when no one higher on this list is reasonably available, willing, or competent to act; to handle final disposition, this person must complete a written statement; or
- (x) a chief fiscal officer of a county or a public administrator appointed under certain circumstances or any other person acting on behalf of the deceased, provided that such person gives a written statement

This section also governs who has the right of memorialization. Other consents may be necessary when there are multiple lot owners.

Buying a Final Resting Place

There are different types of final resting places:

Ground Burial

Entombment in a mausoleum in a crypt

Inurnment in a niche in a columbarium

Scattering in a scattering garden or ossuary. This disclosure does not address this option.

When a final resting place is purchased, it is a right of interment only, not real property.

A public cemetery must make its price list available and be filed with the Division.

Each cemetery decides its final resting space price, how many interments per lot, and the type of memorials and decorations it allows.

Upon purchase, the customer shall receive a deed or receipt and a copy of the cemetery rules and regulations.

A deed or receipt must be provided when payment in full is tendered.

The deed or receipt must contain the date of purchase, the lot owner's name, the amount paid, the location (the section, lot, and grave number(s) and the dimensions of the lot.

A cemetery must sell a final resting place to a person wishing to purchase one; however, they are not required to sell more than one grave to any person.

Certain public cemeteries restrict burial to persons of a particular religious belief. A cemetery can also have restricted sections within the cemetery.

The person who pays for a final resting place does not have to be the lot owner. This lot owner name(s) need to be discussed at the time of purchase. There may be more than one lot owner.

The lot owner may designate who can be interred in the final resting place. However, some people, such as spouses, children, and parents, often have the right of interment regardless of whether they are mentioned in such a designation. This document must be filed with the cemetery or included with the lot owner's will. An attorney or the cemetery should be consulted to ensure the legal requirements for such designations are met.

When multiple people own the lot, they may file an affidavit listing the names and addresses of all owners.

All lot owners must sign the affidavit.

If a group inherits a lot, the listing is called an Affidavit of Heirship.

This should be filed with the cemetery.

This group can also make a written designation of a person who can make decisions regarding the lot. If none is filed, the cemetery can make such decisions as the location of interments on the lot.

The lot owners can also designate who is interred in particular graves.

Questions about rights of interment and lot owners' rights can be complex. The cemeterian should contact the Division for assistance.

Cemetery Prices, Charges Rules, and Regulations

The cemetery rules and regulations must be up to date. The original rules and regulations, as well as any changes, must have the approval of the Division before they can become effective.

The customer must be provided with a copy of the rules and regulations before purchase.

Rules must be posted in the cemetery office, and they are highly recommended on the cemetery premises.

Each cemetery develops rules and Regulations to govern:

- Behavior on the cemetery premises.
- Hours of operation
- Monument style, color, and size.
- Decorations
- Number of interments per grave
- Disinterment

Our Division can provide guidelines for some basic rules; contact your investigator for a copy.

Cemetery Prices and Charges

The price list must be on file with the Division of Cemeteries.

The Division does not approve prices for the final resting place. A cemetery may have different requirements and prices for how many remains and types of remains are allowed per grave.

Cemetery Service Charges such as grave openings, foundations, and cremation must be approved by the Division of Cemeteries, working for the NYS Cemetery Board.

Endowed or Perpetual Care

The cemetery must maintain the premises, grass mowing, and trimming.

A special contract can be set up between the cemetery and the lot owner(s) for more specific care with monies set aside for that purpose, Endowed Care, or Perpetual Care.

The interest can be used for the contracted service, and the principal is maintained. If the interest is insufficient to provide the care, the cemetery can ask to increase the money or not give the agreed-upon care until the interest is sufficient.

Final Disposition

Cemeteries can provide different types of final resting places: Graves, mausoleum crypts, and niches in a columbarium. Some may have a scattering garden or ossuary.

A final resting place is not real property but a right of interment. It is essential to read the rules and regulations, contract of sale, deed, or receipt. It will describe what types of remains and how many can be placed in each final resting place.

IMPORTANT INFORMATION

Cemeteries must be open to receive interments six days per week unless there is severe weather. If there is severe weather, the burial will occur once the severe condition clears.

The cemetery may charge an extra fee for the cost of interment when warranted, such as removing frost or snow. The charge is no more than the actual cost of the service provided.

Every effort must be made to perform an interment when a request for burial is received by 9 AM on a Holiday recognized by that cemetery. An approved Holiday fee may be charged.

The cremated remains of a pet may be allowed to be interred along with the human remains of the pet owner. If allowed, this must be in the cemetery rules and regulations, and the approved charges must be listed in the cemetery price list.

Interment can be refused if any part of the purchase price or interment charge is unpaid.

An approved fee will be assessed for the disinterment of remains. The cemetery will have specific rules about when a disinterment will be allowed. Lot owners and certain family members must consent in writing. The cemetery may require a court order. The person requesting the disinterment must seek a court order.

Outer Enclosures

A cemetery can have rules that require a cement vault or grave liner unless:

- The grave was purchased before January 1, 1985.
- The cemetery did not require a vault or grave liner when the grave was purchased.
- If there is a religious objection. In this case, an extra fee may be charged for refilling the grave over time.

Cemeteries cannot sell vaults, but a cemetery may sell grave liners.

A grave liner differs from a vault in that the cover does not seal, and they have two holes in the bottom.

A cemetery may also have Lawn Crypts, where a unit like a vault structure is preinstalled as a cemetery project.

Rights of Cemetery Lot Owners

A final resting place is not “Real Estate”; you purchase the right of interment and the right to memorialize.

As a lot owner, whether by inheritance or purchase, a lot owner becomes a corporation member and has certain rights in connection with the final resting place.

A cemetery must have an annual meeting of lot owners. The notice is usually published in a newspaper and must publish on their website if they have one.

Lot owners have one vote per deed at the annual meeting.

Lot owners vote to fill board positions and changes to By-Laws or other important decisions.

If there is more than one lot owner, only one can vote; lot owner(s) may also designate a person to vote by filing a valid proxy with the cemetery.

The presence of five lot owners at an annual meeting to have a quorum for business to be conducted.

A lot owner may hold an office.

In addition to holding the election, the board of directors must provide a report on finances and membership.

A Cemetery Board can call a Special Lot owner's meeting when a matter of business cannot wait until the annual meeting.

10% of the lot owners having the right to vote can call a Special Meeting.

A lot owner who has been a member for at least six months can request to examine certain records and copy information from them, such as:

The cemetery's minutes of lot owner meetings.

The list or the record of lot owners.

The balance sheet, P & L, or financial statement for the previous fiscal year.

If the lot owner purchases perpetual care or has provided trust funds to the cemetery, the records pertaining to that account may be examined.

Transferring a Final Resting Place

Upon the death of the lot owner, rights will transfer to one of the following:

A person named explicitly in the lot owner's will. There is no transfer by a general clause in a will.

The lot owner's descendants (children, grandchildren, etc.)

The lot owner's spouse if no descendants.

Other relatives designated by law if there are no descendants or spouses.

A final resting place cannot be purchased for resale.

A cemetery lot may be sold if there are no burials on the lot and the following requirements are met:

It must be first offered to the cemetery, in writing, by registered or certified mail.

The cemetery must respond in writing by agreeing to buy it back for at least the original purchase price plus 4% simple interest. The lot owner cannot sell the lot to anyone else if the cemetery offers this. The lot owner can decide not to sell the lot at all.

A cemetery is not required to repurchase a cemetery lot.

A final resting place cannot be sold through a broker.

A final resting place cannot be sold to a funeral director.

Always speak with the cemetery, if you choose, or an attorney before transferring your final resting place. or

What is new?

The Natural Organic Reduction Bill was passed. It will take some time before it can be implemented.

Regulations need to be drafted, and before offering this service, a cemetery must make an application and receive approval from the NYS Cemetery Board.

Thank You!

NYS Department of State

Division of Cemeteries

www.dos.ny.gov/cemeteries

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