



Pet Cremated Remains FAQ's

Frequently Asked Questions

On September 26, 2016, Governor Andrew M. Cuomo signed a bill permitting the interment of pet cremated remains in not-for-profit cemeteries. This FAQ discusses the new law and its implementation.

If you have questions unanswered by this FAQ, then please contact the investigator assigned to your cemetery or call the Division at 212-417-5713 or 518-474-6226.

Q: WHAT ARE PET CREMATED REMAINS?

A: Pet cremated remains are "ashes and/or other residue recovered after the completion of cremation of any domestic animal that has been adapted or tamed to live in intimate association with people where such cremation has occurred at a pet crematorium as defined in section seven hundred fifty-A of the general business law."

Q: HOW DO WE KNOW IF THE PET CREMATED REMAINS ARE ACCEPTABLE FOR INTERMENT?

A: It is the responsibility of the cemetery to determine whether the remains are "pet cremated remains" (see above) and whether the remains were cremated at a "[pet crematorium](#)" as those terms are defined in the statute. Remains cremated in New York must be cremated at a pet crematorium licensed by the Department of State Division of Licensing Services. By verifying that the remains came from a licensed New York facility, the cemetery will have fulfilled its obligations under the law.

For remains cremated outside of New York State, the cemetery must verify both that the remains meet the definition of "pet cremated remains" and that the crematory where they were processed meets the definition of "pet crematorium". **Any failure to perform such verification for remains coming from outside New York State could lead to unacceptable remains or foreign matter being interred at the cemetery.**

Q: MUST CEMETERIES ALLOW INTERMENT OF PET CREMATED REMAINS?

A: No. A cemetery may choose to offer this service. In addition to board approval, the cemetery should consider giving lot owners an opportunity to vote on whether a cemetery should begin to accept pet cremated remains for interment at a lot owners meeting.

If a cemetery decides to offer this service, it must amend its rules and regulations to explicitly allow for the interment of pet cremated remains. The amendment should make it clear pet cremated remains will be accepted for interment only where the interment is incidental to the interment of human remains. The Division must review any revisions to a cemetery's rules and regulations and those changes do not take effect until they are approved.

We recommend cemeteries that do not wish to offer this service also amend their rules and regulations to make clear that interment of pet remains is prohibited.

Q: WHEN MAY PET CREMATED REMAINS BE INTERRED AND MEMORIALIZED IN A CEMETERY?

A: The interment of pet cremated remains "shall be available to a lot owner only . . . where the interment is incidental to the burial of human remains." At the very least, this means the purpose for every grave, crypt or niche is for the interment of human remains; the interment of pet cremated remains can only be secondary to that purpose, and it must not appear to lot owners or visitors that the primary purpose of any grave, crypt or niche is for the interment of pet cremated remains. **To ensure compliance with this legislative intent, cemeteries should adopt rules and regulations addressing when pet cremated remains will be accepted for interment and how and when the interment of such remains will be memorialized.**

Q: WHERE MAY PET CREMATED REMAINS BE INTERRED?

A: Pet cremated remains must be interred in a grave, crypt, or niche that contains or will contain human remains. This means that a cemetery may not create a section, mausoleum or columbarium that will contain only pet cremated remains. A cemetery may limit the right of incidental interment of pet cremated remains to a specific section, mausoleum or columbarium (for example, by establishing a "people plus pets" section), and may also limit the number of pets that may be interred in a single lot. **However, such limitations must be explicitly stated in the cemetery's rules and regulations.**

The law does not permit scattering of pet cremated remains.

The pet cremated remains should be in their own sealed urn and should not be commingled with human remains. For in-ground burials, the urn may either be placed in the casket containing the human remains or outside the casket in the same lot, similar to the way human cremated remains are placed in a lot already containing the remains of a human body.

Q: WHAT MAY A CEMETERY CHARGE FOR INTERMENT OF PET CREMATED REMAINS?

A: As with any service, the cemetery must seek the Division's approval of the price. When reviewing the proposed charge, the Division will consider the "fair and reasonable cost and expense of rendering the services or performing the work for which such charges are made." By law, the **entire** interment charge must go into the cemetery's permanent maintenance fund.

A cemetery's lot prices may include an additional fee for the right to inter pet cremated remains in a lot, provided the cemetery includes such a charge in its list of lot prices. If a lot is initially sold without a right to inter pet cremated remains and such right is added later, the cemetery may impose an additional charge for that right. Because any fee for a right of interment of pet cremated remains would be part of the lot price, ten percent of it must be deposited into the cemetery's permanent maintenance fund with the balance deposited into the cemetery's general or current maintenance fund.

In addition, any charges for memorialization of interred pet cremated remains must be consistent with charges for memorialization of interred human remains. The entire fee for memorialization may be deposited into the cemetery's general or current maintenance fund.

Q: WHAT SHOULD OUR RULES AND REGULATIONS SAY ABOUT INTERMENT OF PET CREMATED REMAINS?

A: The Division does not have a template for rules and regulations for the interment of pet cremated remains. Questions you may want to consider:

1. Will such interments be allowed in all graves, crypts and niches, only in newly-purchased ones, or only in a designated section or sections?
2. What restrictions will you have for memorialization of interred pet cremated remains (for example, whether images would be acceptable)?
3. Do you want to charge for an additional right of interment in existing graves, crypts and niches? This charge may be imposed in addition to the charge for the interment itself and would be part of the price of the grave, crypt or niche.
4. How many interments of human remains and pet cremated remains are permitted in each grave, crypt or niche?
5. If there are multiple lot owners, who may request a right to inter pet cremated remains, who may exercise the right, and who may object? Will you require the consent of all lot owners for the purchase of the right and the exercise of the right?
6. If there are multiple lot owners, who will exercise the right of memorialization? (The rule for human remains that the right of memorialization belongs to the person having the right to possession of the body would not apply.)
7. What procedures will apply if there is a request to disinter pet cremated remains? (The procedures for removal of human remains would not apply.)

Q: WHAT DOCUMENTATION DO WE NEED IN CONNECTION WITH INTERMENT OF PET CREMATED REMAINS?

A: The law requires authorization in a written statement from the cemetery before pet cremated remains may be interred. There actually will have to be two written authorizations; one giving the lot owner the right to inter pet cremated remains generally, and one when the lot owner exercises the right and actually inters pet cremated

remains. The cemetery must preserve and retain these written authorizations. If the interment of pet cremated remains occurs at the same time that the right to inter is acquired, the two authorizations may be executed at the same time and may be contained in one form. If the deed to a grave, crypt or niche itself authorizes the lot owner to inter pet cremated remains and if it is specific about what is included in that right and it is signed by the lot owner and a cemetery representative, then the deed may satisfy the first requirement described above. The Division has not prescribed forms for these authorizations.

The cemetery must also preserve and retain records of sales and interments. The cemetery's records must include:

1. proof of the sale of the burial rights, number of burial rights and prices charged;
2. the name and signature of the individual authorizing the interment of the pet;
3. the name of the pet and type of animal;
4. the date of interment of the pet;
5. the location of the interment; and
6. whether the container for the pet's cremated remains was placed in the casket or buried separately.

In addition, it is good practice to retain copies of the pet disposal form or receipt or other documentation evidencing the cremation of the pet.

Q: WE ARE A NOT-FOR-PROFIT CEMETERY THAT ONLY ALLOWS THE INTERMENT OF MEMBERS OF THE JEWISH (OR OTHER) FAITH. DOES THIS LAW APPLY TO US?

A: Yes. While the law has a provision exempting religious cemeteries from its application, that exemption only applies to cemeteries "operated, supervised or controlled by a religious corporation." So the law does apply to cemeteries under our jurisdiction that primarily serve one religion. However, as mentioned above, not-for-profit cemeteries wishing to prohibit the interment of pet cremated remains would be best protected by amending their bylaws or regulations to include such prohibition.

Note that the law also has a provision exempting cemetery lots "whose record owner is an incorporated or unincorporated religious association or society." This means that a cemetery may not permit interment of pet cremated remains in "society sections" where the society is itself associated with a religion.

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