

Operation of Pet Cemeteries and Pet Crematoriums

(June 2016)

New York State
DEPARTMENT OF STATE
Division of Licensing Services
<https://dos.ny.gov>

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Operation of Pet Cemeteries and Pet Crematoriums

Article 35-C, General Business Law

Section

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Operation of Pet Cemeteries and Pet Crematoriums

§750. Declaration of policy

The legislature hereby finds and declares that the relationships that humans develop with other members of the animal kingdom that are taken into our homes and kept as pets are unique and special. These relationships can enrich our lives and increase our happiness. Even after the death of a pet, human attachment to the memory of the pet often remains very strong and many people feel the need to memorialize their love for their animal by burying their pet in a pet cemetery. Pet cemeteries, their managers and owners have a special responsibility to their customers who have entrusted their pets' remains with them. These pet cemeteries have a duty to act in an ethical and lawful manner to prevent grieving pet owners from experiencing further any emotional pain or financial manipulation. Perpetrations of fraud against grieving pet owners are unconscionable. The legislature further finds and declares that the people of this State have a vital interest in the establishment, maintenance and preservation of pet cemeteries and pet crematoriums and the proper operation of the businesses and individuals which own and manage the same. This article is determined an exercise of the police powers of this State to protect the well-being of our citizens, to promote the public welfare, to promote the health of the public and to prevent pet cemeteries and pet crematoriums from falling into disrepair and dilapidation and becoming a burden upon the community.

§750-a. Definitions

As used in this article, unless the context requires otherwise:

1. "Person" means an individual, corporation, company, partnership, municipality, not-for-profit corporation or any other entity whatsoever.

2. "Licensee" means a person as herein defined licensed to engage in the business of operating a pet cemetery or pet crematorium under this article.

3. "To engage for a fee in the business of operating a pet cemetery or pet crematorium" means and refers to a person who holds himself or herself out directly or indirectly, as being able, or who offers or undertakes, by any means or method, to dispose of pet remains by earth burial, entombment, inurnment, cremation or other means.

4. "License fee" and "renewal fee" mean the fees required to accompany an application for issuance of any license, including any temporary, apprentice or renewal license, pursuant to this article. Such fee shall be non-refundable.

5. "Pet cemetery" means any land, place, structure, facility or building provided by any person for a fee, whether or not for profit, to veterinarians or members of the general public for use, or reservation for use, for the permanent interment or inurnment above or below ground of pet remains. Provided, however, this definition shall not apply to:

- (a) rendering plants licensed pursuant to article five-C of the Agriculture and Markets Law, or
- (b) a landfill or other disposal facility at which solid waste, or its residue after treatment, is intentionally placed and at which, solid waste shall remain indefinitely.

6. "Pet crematorium" means any land, place, structure, facility or building provided by any person for a fee, whether or not for profit, to veterinarians or members of the general public for the cremation of pets. However, a pet crematorium shall not provide for permanent interment or inurnment of pet remains. Provided, however, this definition shall not apply to facilities designed for resource recovery as defined in §27-0701 of the Environmental Conservation Law. Provided further, that it shall not
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include any disposal facility regulated under title 15 of article 27 of the Environmental Conservation Law that is primarily engaged in incineration of medical waste.

7. "Pet" means any domestic animal that has been adapted or tamed to live in intimate association with people but is not limited to, dogs, cats, rodents, fish, birds, snakes, turtles, lizards, frogs and rabbits.

8. "Pet owner" means the person who is listed as the owner of the pet in veterinary records or pet cemetery or crematorium records or his or her agent or employee. In the event that such pet owner is a minor then a parent or legal guardian or his or her agent or employee shall be deemed the pet owner for the purposes of the pet disposal form required in §750-s of this article.

9. "Individual burial" means the interment of a single pet's remains in a separate grave. However, nothing in this section shall prevent the interment of more than one pet in a grave with the written consent of the pet owner.

10. "Mass burial" means the interment of pet remains communally in a grave containing more than one pet.

11. "Individual cremation" means the cremation of a single pet's remains in a separate receptacle that allows the pet's remains to remain separate from the remains of other pets.

12. "Mass cremation" means the cremation of pets communally in a receptacle containing more than one pet.

13. "Veterinarian" means a person licensed to practice the profession of veterinary medicine as defined by §6701 of the Education Law.

14. "Entombment" means the placement of a pet in a grave or tomb.

15. "Inurnment" means the placement of pet remains in a grave, urn or tomb.

16. "Land used in agricultural production" means such lands as defined in subdivision four of section three hundred one of the Agriculture and Markets Law.

§750-b. License required

On and after July 31, 1993, no person shall engage for a fee in the business of operating a pet cemetery or pet crematorium or hold himself or herself out as being able so to do unless he or she is licensed therefor pursuant to this article. Nothing herein shall prohibit a person licensed in accordance with the provisions of this article from employing individuals to assist in the operation of a pet cemetery or pet crematorium.

§750-c. Powers of the Secretary of State

The Secretary of State shall inspect periodically all licensed pet cemeteries and pet crematoriums. The cost of such inspection shall not be charged to the pet cemeteries or crematoriums. In addition to the powers and duties elsewhere prescribed in this article, the Secretary of State shall have power:

1. To appoint an adequate number of assistants, inspectors and other employees as may be necessary to carry out the provisions of this article, to prescribe their duties, and to fix their compensation within the amount appropriated therefor.

2. To investigate applicants for licenses under this article.

3. To keep records of all licenses issued, suspended or revoked.

4. To conduct a physical inspection of all grounds and buildings of any pet cemetery or pet crematorium periodically or upon receiving a complaint.

5. To conduct a financial audit of all business records, trust fund records and pet disposal forms for any pet cemetery or pet crematorium.

6. To issue a subpoena for persons or records deemed appropriate to an investigation or any other action taken pursuant to this article.

§750-d. Rules and regulations

1. With respect to pet cemeteries and pet crematoriums, the Department of State shall have power to adopt such rules and regulations not inconsistent with the provisions of this article, as may be necessary with respect to the form and content of applications for licenses, the reception thereof, the investigation of applicants and their qualifications, the operation of pet cemeteries and pet crematoriums whose licenses to operate such enterprises are suspended, revoked or not renewed, and the other matters incidental or appropriate to his powers and duties as prescribed by this article and for the proper administration and enforcement of the provisions of this article, and to amend or repeal any of such rules and regulations.

2. With respect to pet disposal for a fee, whether by earth burial, entombment, inurnment, cremation, or otherwise, by a veterinarian, pet cemetery or pet crematorium, the Department of State shall have the power to adopt such rules and regulations not inconsistent with the provisions of this article, as may be necessary with respect to the form and content of pet disposal forms, registration of disposals by pet cemeteries or pet crematoriums, and the other matters incidental or appropriate to his powers and duties as prescribed by this article and for the proper administration and enforcement of the provisions of this article, and to amend or repeal any of such rules and regulations.

§750-e. License; application

1. Any person desiring a license to engage in the business of operating a pet cemetery or pet crematorium under this article may make application to the Secretary of State therefor. The application shall be subscribed by the applicant and affirmed by him or her as true under the penalties of perjury. Such application shall be in a form as the Secretary of State shall prescribe setting forth:

- (a) The name and address of the applicant: if an individual, the name under which he or she intends to conduct business; if a partnership, the name and business address of each member thereof, and the name under which business is to be conducted; if a corporation; the name of the corporation and the name and business address of each stockholder of the corporation holding stock interest of more than 10 per centum.
- (b) The place or places, including the complete address or addresses where the business is to be conducted.
- (c) A summary of all relevant experience of all persons listed in paragraph (a) of this subdivision in the operation of a cemetery, pet cemetery, crematorium, pet crematorium and/or the management of funds.
- (d) Satisfactory evidence of good moral character.
- (e) Such further information as the Secretary of State may prescribe by rule or regulation.

2. The Secretary of State shall not issue a license to any person who:

- (a) has had their license to operate a pet cemetery or pet crematorium suspended or revoked by the Secretary of State; or
- (b) has been convicted within the last five years of a felony under the laws of this State involving fraud, bribery, perjury, or theft or has been convicted under the laws of any other state or of the United States of a criminal offense which, if committed and prosecuted in this State, would constitute a similar felony under such laws of this State.

3. Any person who has had an application for a license rejected by the Secretary of State may appeal such determination pursuant to §750-i of this article.

§750-f. Licenses; display; renewal; duplicates

1. All licenses shall be for a period of two years.

2. No license shall be assignable or transferable except as hereinafter provided.

3. A license to conduct the business of operating a pet cemetery or pet crematorium issued to an individual may be assigned or transferred for the remainder of the license period to a partnership or corporation if such individual is a member of such partnership or an officer of such corporation at the time of such assignment or transfer. A license issued to a partnership may be assigned or transferred for the remainder of the license period to any one member of such partnership, provided he obtains the consent of all of the other members of such partnership. A license issued to a corporation may be assigned or transferred for the remainder of the license period to any officer of the corporation, provided he obtains the consent of all of the other officers of such corporation. The application for such transfer or assignment must be accompanied by the requirements of §750-e of this article and by proof satisfactory to the department that the requirements herein provided have been complied with. No assignment or transfer shall become effective unless and until the endorsement has been made on the face of the license by the department and such license, so endorsed, has been returned to the assignee or transferee. All such endorsements shall be made without payment of any fee. A bona fide purchaser of such business from the holder of the license thereof may continue to use the license of the seller from the date of the sale, provided there is endorsed on the face thereof the name of the purchaser, the date of the sale, and the signature of the seller and the purchaser; and provided further within five days from the date of the sale, an application, in accordance with the provisions of this article, shall be presented by the purchaser to the Secretary of State for a license to conduct the business of operating a pet cemetery or pet crematorium. Such license shall be valid until the purchaser's license application is either granted or denied by the Secretary of State.

4. A license to conduct the business of operating a pet cemetery or pet crematorium issued to an individual or to a partnership may be used after the death of the licensed individual or co-partner by his next of kin or duly appointed administrator or executor in the name of the estate from the date of death of such individual or co-partner, provided that there is endorsed upon the face of the license after the name of the decedent the word "deceased", the date of death and the name of the next of kin, administrator or executor under whose authority the license is being used, provided that within 30 days from the date of death of the licensee, an application, in accordance with the provisions of this article, shall be presented by the next of kin, administrator or executor to the Secretary of State for a license to conduct the business of operating a pet cemetery or pet crematorium. Such license shall be valid until the next of kin's, administrator's or executor's license application is either granted or denied by the Secretary of State.

5. A license to conduct the business of operating a pet cemetery or pet crematorium shall be conspicuously posted upon the premises where the licensee is engaged in the business of operating a pet cemetery or pet crematorium.

6. Any license which has not been suspended or revoked, may, upon the payment of the renewal fee prescribed by this article, be renewed for additional periods of two years from its expiration, upon the filing of an application for such renewal, on a form to be prescribed by the Secretary of State.

7. Any person failing to file application and fee for renewal of a license to conduct the business of operating a pet cemetery or pet crematorium within 45 days immediately following the expiration of his or her last license shall pay an additional fee of \$60, and if he or she fails to file application and fee for renewal within 90 days he or she shall be ineligible for such license until he or she shall have again met the requirements set forth in this article.

8. A duplicate license may be issued for one lost, destroyed or mutilated upon application therefor on a form prescribed by the Secretary of State and the payment of the fee prescribed therefor by this article. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

9. Notice in writing shall be given the Secretary of State within 30 days at his or her office in Albany by the holder of a license to conduct the business of operating a pet cemetery or pet crematorium of any change in address of the business or residence of the person engaged in the business of operating a pet cemetery or pet crematorium together with the return of license, whereupon a properly signed endorsement will be made on the face of the license as to such change and the license then returned to the licensee. A change of address by a licensee without such notice and endorsement of license shall operate to cancel the license.

§750-g. Fees

1. The fee for a license to engage in the business of operating a pet cemetery or pet crematorium shall be \$150. For each renewal thereof, the fee shall be \$150.

2. The fee for issuing a duplicate license in substitution for one lost, destroyed or mutilated shall be \$25.

3. The fee for changing a name or address shall be \$10.

4. The fees hereinabove set forth shall be those for licenses issued for the license period of two years or fraction of such period.

5. No fees listed in subdivisions one, two, three or four of this section shall be charged to any municipality seeking a license to operate a pet cemetery or pet crematorium.

§750-h. Denial of license application and suspension and revocation of licenses

1. An application for a license under this article may be denied or a license to engage in the business of operating a pet cemetery or pet crematorium may be suspended or revoked, by the Secretary of State, for any one or more of the following causes:

- (a) Fraud or bribery in securing a license;
- (b) The making of any false statement as to a material matter in any application or other statement or certificate required by or pursuant to this article;
- (c) Incompetency in the operation of a pet cemetery or pet crematorium;
- (d) Failure to display the license as provided in this article;
- (e) Violation of any provision of this article, or of any rule or regulation adopted hereunder;
- (f) Conviction of a crime involving fraud, theft, perjury or bribery or other cause which would permit disqualifications from receiving a license upon the original application;
- (g) Failure to retain all pet disposal forms for a period of two years following receipt;
- (h) Failure to comply with the duties of a pet cemetery owner or operator as set forth in §750-v of this article; and

- (i) Conviction of a violation of article 26 of the Agriculture and Markets Law involving cruelty to animals.

2. Whenever the license to engage in the business of operating a pet cemetery or pet crematorium is revoked, such license shall not be reinstated or reissued until after the expiration of a period of five years from the date of such revocation and the Secretary of State approves the license application pursuant to §750-e of this article.

§750-i. Hearing on charges; decision

1. No license shall be suspended or revoked nor shall any fine or reprimand be imposed until after a hearing had before an officer or employee of the Department of State designated for such purpose by the Secretary of State, upon notice to the licensee of at least 10 days. The notice shall be served either personally or by certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the licensee. The licensee shall have the opportunity to be heard in his defense either in person or by counsel and may produce witnesses and testify in his behalf. A stenographic record of the hearing shall be taken and preserved. Within 10 days after a hearing a licensee shall receive a stenographic record of the hearing upon payment of 50 percent of the cost of preparation of such record. The hearing may be adjourned upon a showing of good cause at least five days before the hearing, in writing, to a hearing officer. The person conducting the hearing shall make a written report of his findings and a recommendation to the Secretary of State for decision. The Secretary of State shall review such findings and the recommendation and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation and dismissing the charges or suspending or revoking the license or in lieu thereof imposing a fine or reprimand upon the licensee.

2. Any person who has had their application for a license rejected shall be entitled to a hearing before an officer or employee of the Department of State designated for such purpose by the Secretary of State, upon notice to such person of at least 10 days. Notice shall be served either personally or by certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the rejection of such application for license. The applicant shall have the opportunity to be heard in his or her defense either in person or by counsel and may produce witnesses and testify on his or her own behalf. A stenographic record of the hearing shall be taken and preserved. Within 10 days after a hearing an applicant shall receive a stenographic record of the hearing upon payment of 50 percent of the cost of the preparation of such record. The hearing may be adjourned upon a showing of good cause at least five days before the hearing, in writing, to a hearing officer. The person conducting the hearing shall make a written report of his or her findings and a recommendation to the Secretary of State for decision. The Secretary of State shall review such findings and the recommendation and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation and either grant a license or reject the license application.

3. For the purpose of this article, the Secretary of State or any officer or employee of the Department of State designated by him or her, may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of investigation.

4. Strict rules of evidence do not apply to hearings held pursuant to this article.

§750-j. Judicial review

The action of the Secretary of State in suspending, revoking or refusing to issue or renew a license, or imposing a fine or reprimand on the holder thereof may be reviewed by a proceeding brought under and pursuant to article 78 of the Civil Practice Law and Rules.

§750-k. Violations and penalties

Any person not licensed pursuant to this article who shall directly or indirectly engage in the business of operating a pet cemetery or pet crematorium or hold himself or herself out to the public as being able so to do, or who shall violate any of the provisions of this article, or having had his license suspended or revoked, shall continue to engage in the business of operating a pet cemetery or pet crematorium or who, without a license to engage in the business of operating a pet cemetery or pet crematorium, directly or indirectly employs, permits or authorizes an unlicensed person to engage in the business of operating a pet cemetery or pet crematorium, shall for the first offense be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not more than \$500 or by imprisonment for a term of not more than 15 days, or by both such fine and imprisonment. If the conviction is for an offense committed after the first conviction of such person under this article, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. Each violation of this article shall be deemed a separate offense.

§750-l. Official acts used as evidence

The official acts of the Secretary of State, Department of State and Department of Environmental Conservation shall be prima facie evidence of the facts therein and shall be entitled to be received in evidence in all actions at law and other legal proceedings in any court or before any board, body or officer.

§750-m. Dedication of moneys derived from operation of article

All moneys derived from the operation of this article shall on or before the 10th day of each month be paid into the pet cemetery and pet crematorium inspection and licensing fund established by §97-nn of the State Finance Law.

§750-n. Dedication of real property for pet cemetery purposes

1. The owner of any real property used or to be used for a pet cemetery shall file, or cause to be filed, in the office of the clerk or recorder of the county in which the real property is located, a dedication restricting the real property to be used only for such purposes as are usual and customary for the operation of a pet cemetery. Such person shall additionally file a certified copy of such dedication, together with notation of the date, time, book and page of filing by the clerk or recorder of said county, with the Secretary of State. Such filing with the Secretary of State shall additionally include a copy of a survey map and appropriate zoning approvals as may be reasonably required by the Secretary of State.

2. The owner or operator of every pet cemetery shall keep adequate records of all purchasers of space for pet remains within the grounds of such pet cemetery.

§750-o. Removal of dedication

Upon the filing of a dedication restricting real property for the operation of a pet cemetery, such dedication may only be amended or removed by order of the supreme court of the county where the pet cemetery is located. Such petition for amendment or removal of dedication shall include written consent by all persons who purchased or otherwise are entitled to rights of disposal or rights to continuing care of a pet grave in that portion of the pet cemetery for which the dedication is sought to be amended or removed. If the portion of the pet cemetery for which the dedication is

sought to be amended or removed includes pet remains, such pet remains must be removed, upon the written consent of all persons who purchased or are otherwise entitled to rights of disposal or rights to continuing care of a pet grave, their heirs or assigns, with the removal to be entirely at the cost of the owner of the pet cemetery. The court, upon proof of diligent efforts and as determined by the court, may dispense with the written consent of any person who purchased or is otherwise entitled to rights of disposal whose whereabouts, identity or heirs or assigns are unknown. In the event that the court has dispensed with any person's written consent under this section, the court may make a determination as to the consideration appropriate for such consent and order that such monies be deposited with the court, which shall then be paid to such person upon appropriate proof of claim. If the premises are a pet cemetery, such petition may additionally include an environmental audit if required by the court, which audit shall identify any environmental problems caused by the pet cemetery activity, including an identification of pet disposal sites. If the environmental audit identifies any environmental problem, it shall additionally include a plan for the correction or remediation of such problems, including financial, human and other resources estimates, projected time schedules for the completion of the corrective and remedial actions, with the court to make any order on the petition conditional upon the completion of such corrective and remedial action or upon the deposit with the court with such money as determined necessary for such remediation or correction.

§750-p. Area requirements for pet cemeteries

A pet cemetery which commences operations on or after the effective date of this article and which provides for the permanent interment of pets shall consist of not less than five contiguous acres of real property in total area, inclusive of any structures, facilities, or buildings situated thereon and used for the business purposes of the pet cemetery. The Secretary of State may grant a waiver of the minimum size limit based on factors including the number of above-ground entombments, the number of remains buried and the nature of the surrounding community. Nothing contained in this section shall restrict any town, village or city from enacting any local law which provides for an area requirement greater than as set forth herein.

§750-q. Maintenance fees for pet cemeteries

1. A pet cemetery owner may charge a permanent maintenance endowment fee for the care of the pet cemetery, which if charged, shall be placed by the pet cemetery owner into a permanent maintenance endowment care or similar trust fund.

2. In lieu of a permanent maintenance endowment fee, the operator of a pet cemetery and a pet owner may enter into a contract for care of the pet cemetery on an annual basis. The pet owner then shall be charged an annual maintenance fee which shall be paid in the manner described below. However, only one contract for annual maintenance shall be entered into per gravesite and shall state specifically the amount of the annual maintenance fee to be paid each year. The contract shall also state that failure to pay these annual fees can result in the disinterment of the pet.

- (a) The annual maintenance fee, billed each calendar year shall be placed by the pet cemetery owner in the general account of the pet cemetery to be used for pet cemetery operation and maintenance during the succeeding years. For the purposes of this section and §750-r of this article, the term pet cemetery operation and maintenance shall mean all costs incurred to operate and maintain a pet cemetery including salaries and bonuses for employees, officers and directors, but shall not include any fines or penalties imposed by the Secretary of State or other agency or court.
- (b) If the annual maintenance fee is not paid within 90 days of the date of which it is due, the pet cemetery owner shall notify the

pet owner in writing that such fee is due and payable. If such annual maintenance fee is not paid within 90 days of such writing, the disposal rights or rights to continuing care of a pet grave of the pet owner shall terminate.

- (c) If the annual maintenance fee is not paid within 180 days of the date of which it is due, the disposal rights of a pet owner shall then terminate and the pet cemetery owner may at anytime thereafter remove such pet and if removed dispose of remains by mass cremation or mass burial.
- (d) Nothing in this section shall prevent a pet owner from prepaying annual maintenance fees for any number of years in advance.

§750-r. Endowment care or similar trust funds

1. A pet cemetery which commenced operations prior to the effective date of this article shall establish an endowment care or similar trust fund, the balance of which shall not be less than \$12,000, by January 1, 1995. The Secretary of State may grant a waiver to the provisions of this subdivision if an endowment care or similar trust fund is established and \$12,000 is placed in such fund within a reasonable amount of time not to exceed 10 years from the effective date of this article and the provisions of this section will present a significant financial hardship to the pet cemetery owner or operator.

2. A pet cemetery which commences operations on or after the effective date of this article, shall, prior to the acceptance of any moneys as annual maintenance fees, establish an endowment care or similar trust fund for the permanent operation and maintenance of the pet cemetery, in an amount of not less than \$12,000.

3. The fiduciary holding such endowment care or similar trust fund shall have such power to invest such fund as set forth in section 11-2.2 of the Estates, Powers and Trusts Law. The interest earnings of such trust fund shall be used exclusively for the operation and maintenance of such pet cemetery. Any distribution of principal of such option and trust fund shall only be upon order of the supreme court of the county where the pet cemetery is located, for good cause and exclusively for the operation and benefit of such pet cemetery. Unless such distribution of principal shall be as part of a removal of dedication for such pet cemetery, such order shall additionally make adequate provision for the permanent maintenance of the pet cemetery.

4. A pet cemetery, owned and operated by a not-for-profit corporation that has in excess of \$1,000,000 in its endowment care or similar trust fund, may use any surplus income in such trust fund above and beyond its costs for pet cemetery operation and maintenance in any manner allowed by the not-for-profit corporation's charter or by-laws, provided that the use of such surplus does not endanger the integrity of such trust fund.

5. A pet cemetery, owned and operated by a not-for-profit corporation that is a humane society may be granted a waiver of the provisions of this section by the Secretary of State if the secretary determines that the interests of the pet owners will be adequately protected and the provisions of this section present a significant financial hardship to the pet cemetery owner.

6. Such trust funds are not invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries, nor shall they be invalid as violating any existing rule against perpetuities.

§750-s. Pet disposal forms

1. Each person who gives to a veterinarian or a pet cemetery owner or pet crematorium owner a pet for disposal shall be provided by such veterinarian or pet cemetery owner or pet crematorium owner with a pet disposal disclosure document, in form approved by the Secretary of State, which shall set forth the alternative methods of pet disposal, the cost of each such

method of pet disposal, if available, and the nature of or place in which each method of disposal will be carried out. The veterinarian or the pet cemetery owner or the pet crematorium owner, as the case may be, shall give to the person who completes the form a copy of the form and retain a copy of said form. If the person completing the form chooses to have the pet disposed of by a pet cemetery or pet crematorium and makes the arrangements therefor through a veterinarian, the veterinarian shall provide the person with the name, location and telephone number of the pet cemetery or pet crematorium so that the person may obtain information about the pet cemetery or pet crematorium. The veterinarian shall also ensure that a copy of the pet disposal form accompanies the pet when it is removed from the veterinarian's office.

2. A veterinarian or pet cemetery operator may complete a pet disposal form with the oral consent of the pet owner. Such oral consent shall be witnessed and a record of such consent and the completed pet disposal form shall be retained in the veterinarian's records. A copy of such completed pet disposal form shall be sent to the pet owner if requested.

3. If a pet owner is unwilling or unable to complete a pet disposal form then a veterinarian may complete the pet disposal form if two attempts are made to contact the pet owner. However, at least one attempt shall be made in writing and sent by first class mail. If the veterinarian does complete the pet disposal form without the consent of the pet owner then a copy of the completed pet disposal form shall be retained by the veterinarian along with the records of the attempts to contact the pet owner.

4. No pet disposal form shall be required if:

- (a) no pet owner can be identified;
- (b) the pet remains originate with a municipality;
- (c) the pet is abandoned pursuant to article 25-B of the Agriculture and Markets Law; or
- (d) the pet is to be disposed of without charge to the pet owner.

§750-t. Disposal in compliance with forms

A pet cemetery owner shall dispose of a pet in compliance with a pet disposal form completed by a pet owner or veterinarian. If such pet is disposed of, either by individual cremation or individual burial, the pet cemetery owner shall within 10 days of such disposal send or give a written confirmation of such disposal to the pet owner or veterinarian, depending on instructions in pet disposal form, and, shall attest to the method, date, and place of disposal. If a pet is disposed of either through mass cremation or mass burial, no written confirmation shall be required. Copies of all forms shall be retained for a period of two years after receipt. All pet remains shall be buried at least 12 inches below the surface of the ground or in accordance with §377 of the Agriculture and Markets Law in the case of a large domestic animal or otherwise disposed of in a sanitary manner.

§750-u. Veterinary and agricultural production exclusions

Any pet cemetery which:

- 1. (a) is owned by a licensed veterinarian; or
- (b) is located on land used in agricultural production;
- 2. does not allow individual burials;
- 3. does not allow individual grave markers;
- 4. does not charge a maintenance fee for the care of pet graves; and
- 5. does not make any representation that pet graves will be cared for or that the land is dedicated; shall be exempt from the trust fund provisions provided by §750-r of this article, the dedication provisions provided by §750-n of this article and the area requirement provided by §750-p of this article.

§750-uu. Small pet cemetery exclusion

Any pet cemetery which buries less than five animals a year, makes no representation that the pet graves will be cared for or that the land is dedicated, and does not charge a maintenance fee for the care of the pet graves shall be exempt from the provisions of §§750-n, 750-p and 750-r of this article.

§750-v. Duties of pet cemetery owners and operators

All pet cemetery owners and operators shall have the following duties:

1. To keep permanently maps and records containing the specific site of each pet grave, the grave owner's last known address, the date of burial, the size of such grave, the contract for sale of such grave and pet disposal forms provided however that the provisions of this subdivision shall apply only to individual burials.

2. To keep complete records of the names of trustees of any trust accounts and complete records of all trust fund money.

3. To clearly inform customers of the option of paying maintenance fees for care of pet graves, including costs and benefits for permanent care for pet graves and annual care for pet graves.

4. To cooperate with all reasonable requests of inspectors appointed by the Secretary of State to inspect pet cemeteries and pet crematoriums.

5. To provide notice to customers about hours that the cemetery will open to customers to view pet graves.

§750-w. Separability clause

If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances and the Legislature hereby declares that it would have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.