

## ARTICLE 33-05

### CARE AND CUSTODY OF THE DEAD

#### Chapter

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#### CHAPTER 33-05-01

### CARE AND CUSTODY OF DEAD

#### Section

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#### **33-05-01-01. Burial-transit permits.**

1. A burial-transit permit, issued by the proper death registration authority, shall be required for each body transported by common carrier, and in all cases when transported by automobile, airplane, or any other conveyance, in lieu of a common carrier, and in every case when removed out of the state.
2. The burial-transit permit shall contain the information required on the blank furnished by the state department of health for the shipment of the dead and be properly signed by the local registrar.
3. The burial-transit permit shall be given to the person in charge of the corpse, or if shipped by express, attached to the shipping case in a strong envelope and in either case delivered with the body at the destination to the sexton or other person in charge of the cemetery.
4. When it is desired to reship a body after it has reached its original destination, and providing the body has not been interred, the burial-transit permit shall be filed with the local registrar at the original destination and a new burial-transit permit shall be obtained at this original destination for reshipment to the final destination.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-06-08, 23-06-09, 23-06-10, 23-06-11

**33-05-01-02. Disinterment.** No person, except a licensed funeral practitioner, after having obtained a permit from the state registrar of vital statistics, shall disinter the body of a deceased person, providing the authorities in charge

of a cemetery may transfer bodies buried therein from one part of such cemetery to another part thereof with the approval of the local health officer. All disinterred remains must be encased in a tight container or strong box. The disinterment permit shall be on the regular burial-transit permit and shall be issued only by the state registrar to funeral practitioners duly licensed in North Dakota.

**History:** Amended effective August 1, 2003.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-01-03

**33-05-01-03. Opening of hermetically sealed caskets.** The opening of hermetically sealed caskets containing disinterred remains of persons dead from any cause and shipped for burial in North Dakota is hereby forbidden except when so ordered by a court of competent jurisdiction.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-01-03

**33-05-01-04. Depth of grave and requirements for above surface interments.**

1. No dead human body shall be interred in a public burial ground unless the distance from the top of the box containing the casket shall be at least three and one-half feet [106.68 centimeters] from the natural surface of the ground.
2. If the casket is placed in an approved metal, concrete, or similar vault, the distance from the top of the vault shall be at least eighteen inches [45.72 centimeters] from the natural surface of the ground.
3. If the casket is placed in a surface vault, the cover of the vault may be placed flush with the natural surface of the ground.
4. No person or persons, organizations, or associations shall place, establish, or construct wholly or partially above the natural surface of the ground any vault, crypt, columbarium, mausoleum, or other structure or device by whatever name for the interment of any dead human body without first meeting the cemetery registration requirements and submitting the plans and specifications for the proposed installation to the state department of health for preliminary inspection and recommendation. The plans and specifications shall be submitted to the state department of health in triplicate and shall be developed to assure conformance to the following basic requirements:
  - a. Designation of the sections, halls, rooms, corridors, elevators, or other subdivisions and including descriptive names and numbers of the areas.

- b. Arrangement of the structure so that the cell, niche, or crypt may be readily examined by those legally authorized.
- c. Provision for hermetically and permanently sealing in a suitable manner each crypt or cell so that no fluid may escape therefrom after the placing of any dead human body therein.
- d. Provision of construction materials of the best quality and of a character best suited for the purposes intended.
- e. Construction to ensure durability, permanence and the protection of the safety, convenience, comfort, and health of the community in which it is located consistent with modern mausoleum construction and engineering science at the time.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-01-03

**33-05-01-05. Cemeteries.**

- 1. All cemeteries must be registered with the state department of health on forms provided by the department.
- 2. All cemeteries must be surveyed by a registered land surveyor prior to filing a plat of the cemetery with the recorder in the county in which the cemetery is located, as outlined in North Dakota Century Code section 43-19.1-30.
- 3. No body can be accepted for burial without a burial permit issued by the registrar where the death occurred.
- 4. The sexton or other person making burial must endorse on the burial permit the time and place of burial, and file the permit with the registrar having jurisdiction over the territory where the burial was made.
- 5. Sextons must keep permanent records of every burial or disinterment. The following items of record are required:
  - a. Full name of deceased.
  - b. Age at death and sex.
  - c. Date and place of death.
  - d. Date of burial.
  - e. Place of burial, block, lot, and grave.

- f. Number of burial permit.
- 9. Name and address of funeral practitioner.
- 6. All cemetery authorities must make such reports at such time as the state department of health may from time to time direct.
- 7. The state department of health has recommended a standard uniform record book for cemetery records. It may be obtained from the larger printing concerns in the state.

**History:** Amended effective February 1, 1984; August 1, 2003.

**General Authority:** NDCC 23-01-03, 23-06-23

**Law Implemented:** NDCC 23-01-03, 23-06-21, 23-06-23

**33-05-01-06. Cremation.** The cremation of a dead human body shall be considered the final disposition of that body.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-01-03