

1973 WL 26639 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 2, 1973

\*1 W. E. Baldwin, M.D., M.P.H.  
District Medical Director  
Applachia Public Health District I  
P. O. Box 1906  
Anderson, South Carolina 29621

Dear Dr. Baldwin:

In answer to the inquiry of any South Carolina laws on cremation, there are no laws in reference to this subject. There are no direct laws concerning burial on private property either, but there are several sections that might be of interest and help answer your question.

As long as a proper permit for burial is obtained, there is no law covering private property burials. Title 17-91 (1952) establishes the procedure for a burial permit from the coroner if the death involves investigation. Otherwise a death certificate and burial permit can be obtained from the local health department and filled out by the appropriate officials.

As for the perpetuation of a family grave after the disposition of the property, this involves the reserve rights for the grave in the conveyance of the property. Title § 57-424 (1960) subjects any cemetery to removal under the Abandoned Cemeteries Laws if reservation of the cemetery or burial ground is not made in the title conveyance. To be removed there must be a necessary and expedient reason in the opinion of the governing body of the county or municipality in which the cemetery or burying ground is situated. Titles § 57-422 and § 57-423 involve consent of the relatives of the deceased to be moved, proper notice if unable to locate the next of kin, the mutual approval of the new grave site by the relatives and the governing body, arbitration procedure if a mutual site cannot be agreed on and the expense and supervision of the movement.

Penalties for the desecration, destruction, or damage to graves, tombstones, or the surrounding are in Titles § 16-562 and § 16-563 of the code.

There are no South Carolina statutes on point concerning the forced sale of cemetery plots on private property in a family burial ground. Since the 14th Amendment applies to state actions, and your situation involves private citizens and private actions, this Amendment would not apply to you either. Hence there is no regulation of who you sell to.

I hope this information can be of help to you. If a more detailed explanation is needed, I'll try to answer any specific question you have.

Sincerely,

Pott Browne  
Law Clerk

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