

CHAPTER 306

PUBLIC CEMETERY ASSOCIATIONS

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**306.01 CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES, HOW GOVERNED.** All public cemetery associations existing at the time of the taking effect of Revised Laws 1905 shall continue under the forms of organization adopted by them, respectively, and shall retain all the rights and powers then possessed. All cemetery associations thereafter formed and all private cemeteries thereafter established shall be organized and governed solely by the provisions of this chapter applicable thereto.

[R. L. s. 2935] (7557)

**306.02 CEMETERY CORPORATIONS OR ASSOCIATIONS.** A corporation or association may be formed for the purpose of procuring and holding or selling lands or lots exclusively for the purpose of a public cemetery. It may acquire and manage all real and personal property necessary or proper for the establishment, embellishment, care, and management of a cemetery, and may construct and operate thereon a crematory and other proper means of disposing of the dead. It may sell and convey cemetery lots or sell and convey real or personal property

lawfully acquired by it but not needed for cemetery purposes. It may be formed by three or more persons, who shall execute and verify the certificate or articles of incorporation as required in the matter of the formation of other corporations. Such certificate of incorporation shall be filed for record in the office of the register of deeds of the county wherein such cemetery is situated and thereupon such association shall become a corporation.

Any cemetery lands and property or public burial ground now or hereafter owned or controlled by any town, village, or city of this state may be transferred by such town, village, or city by deed or otherwise to any cemetery association or corporation formed or organized under the terms of this chapter or heretofore existing and such transfer may be with or without condition, as shall be determined by the town, village, or city, as the case may be; such town, city, or village may, as a part of such transaction, enter into a contract or agreement with such cemetery association providing for the management and manner of maintaining, keeping, and caring for such cemetery, for the sale of lots or lands therein, and for such other matters in relation to the care and control thereof as shall be deemed advisable by such town, village, or city.

Any cemetery lands or property now or hereafter owned by any religious corporation existing under the laws of this state may be transferred to any cemetery association now in existence or hereafter formed under the laws of this state without any express consideration; and, in such case, the articles of incorporation of such cemetery association may provide for the appointment of its directors or trustees by the board of directors of such religious corporation or by some specified officer thereof, or may be amended to so provide. Any such cemetery association so affiliated with a religious corporation by such a provision in its articles may also provide for the acquisition of other cemetery properties within the state wherein bodies of persons of the same religious faith, exclusively, are to be buried.

[R. L. s. 2936; 1911 c. 385 s. 1; 1931 c. 119 s. 1] (7558)

**306.03 ACTUARY REQUIRED TO MAKE REPORTS.** Every such corporation, in addition to its ordinary corporate officers, shall annually appoint an actuary, or provide by its by-laws that its secretary shall perform the duties of such office. The actuary shall keep a register of burials, in which he shall enter the date of burial or cremation, the name, age, sex, nativity, and cause of death of every person interred or cremated in such cemetery, so far as such facts can be ascertained from the friends, attending physician, or undertaker in charge, and, in case of a pauper, stranger, or criminal, from the public official directing the burial. Such record shall be open to public inspection, and the actuary shall furnish to the state board of health and to local health officers, when so requested, an accurate summary of such record during any specified year. He shall report to the adjutant general the burial of any veteran of the Civil War, Spanish-American War, China Relief Expedition, Philippine Insurrection, Mexican Border Service, and the World War, stating the name of such deceased veteran and the location of his grave in the cemetery by lot number.

[R. L. s. 2937; 1933 c. 65] (7559)

**306.04 FAILURE TO KEEP REGISTER; FORFEITURE.** Every actuary, or secretary performing the duties of an actuary, failing to keep such register of burials and to record therein all interments and cremations, for every such offense shall forfeit not less than \$2.00, nor more than \$10.00, for the benefit of the school fund of the district in which such cemetery or crematory is situated.

[R. L. s. 2938] (7560)

**306.05 LAND ACQUIRED FOR CEMETERY PURPOSES.** Every such corporation may take and hold, by purchase or gift, within the county of its location and in an adjoining county, not exceeding 300 acres of land to be actually used and occupied exclusively for the burial or cremation of the dead and for purposes necessary or proper thereto. Such land, or such portion thereof as may from time to time be required for that purpose, shall be surveyed and divided into lots of such size as the trustees shall determine, with such avenues, alleys, and walks as they deem proper, and a map of such survey shall be filed for record with the register of deeds of the county of its location. When the corporation desires to enlarge its cemetery and cannot agree with the owners of the land desired therefor the same may be acquired under the power of eminent domain; provided, that public necessity, propriety, and convenience require such proposed enlargement, which, together

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with the boundaries thereof, shall be first established and determined as issues of fact.

[*R. L. s. 2939; 1941 c. 240*] (7561)

**306.06 LAND MAY BE CONVEYED TO CEMETERY ASSOCIATIONS IN CERTAIN CASES.** When any land situated within any town or village in this state, which land heretofore and prior to 1870 has been devoted to and used by the public without restriction as a cemetery, the governing body of the town or village wherein such lands are situated is hereby authorized to convey such lands to any cemetery association organized for the purpose of acquiring these lands for cemetery purposes upon such terms as the governing body may deem advisable.

[*1937 c. 45 s. 1*] (7561-2)

**306.07 FRATERNAL CORPORATIONS TO TRANSFER LANDS FOR CEMETERY PURPOSES.** Any fraternal corporation organized and existing under the laws of this state which acquired lands upon which it established a cemetery prior to 1885 and which thereafter operated such cemetery is hereby authorized and empowered to transfer and convey to any corporation incorporated under the laws of this state for the purpose of operating a public cemetery, the portion of such cemetery which such fraternal corporation has not transferred and conveyed to individuals to be used for the burial of the dead; also all interest of such fraternal corporation in portions of such cemetery which have heretofore been conveyed by such public cemetery association, without ownership or control thereof, to individuals to be used for the burial of the dead.

[*1937 c. 207 s. 1*] (7561-3)

**306.08 LANDS TO BE SUBJECT TO RULES AND REGULATIONS OF CEMETERY ASSOCIATIONS.** As a part of any such transfer or conveyance there may be included all right, title, and control in and to all lands so acquired and devoted to cemetery purposes; and thereupon the public cemetery association to which such transfer and conveyance is made shall acquire and exercise all of the rights, privileges, and control which the fraternal corporation theretofore had, and the cemetery and all premises constituting the same shall be subject to the rules and regulations of the cemetery association.

[*1937 c. 207 s. 2*] (7561-4)

**306.09 SALE OF LOTS.** After the filing of the map mentioned in section 306.05 the trustees may sell and convey the lots as designated on such map upon such terms and subject to such conditions and restrictions as they shall prescribe. Every conveyance of any such lot shall be expressly for burial purposes and no other and shall be in the corporate name of the association and signed by its president or vice-president and by its treasurer or secretary.

[*R. L. s. 2940*] (7562)

**306.10 FUNDS, HOW USED; GRANTS IN TRUST.** The proceeds of the sales of lots and of personal property not invested as hereinafter provided shall be applied solely to the payment of debts incurred in the purchase of cemetery grounds and property, to fencing, improving, and beautifying such grounds and the avenues leading thereto, and to defraying the necessary expenses of the management and care of the same. All real or personal estate given or granted to such association for the maintenance of any monument or the keeping or improvement of any grounds within the cemetery shall remain forever to the uses for which it was given or granted.

[*R. L. s. 2941*] (7563)

**306.11 VACANCIES; ANNUAL MEETING; REPORT OF TRUSTEES.** The certificate of incorporation may provide that vacancies among the associates shall be filled by the remaining associates and that at all elections after the first the trustees shall be chosen from such associates or it may provide that they shall be chosen by and from the lot owners. When there are two or more owners of a lot, they shall select one to represent them and to vote at such election. The trustees may fill any vacancy occurring in their own number for the unexpired term. Public notice of every annual election shall be given in the manner prescribed in the by-laws. If for any reason the annual election be not held on the day fixed in the certificate of incorporation, the trustees may appoint another time, not more than 60 days thereafter, and give public notice thereof; but the term of office shall be the same as if elected at the annual election.

At each annual meeting the trustees shall make a written report of their doings and of the affairs of the association, with an account of all receipts and expenditures during the preceding year.

[R. L. ss. 2942, 2943] (7564) (7565)

**306.12 ACTION FOR DAMAGES.** Every such cemetery association may recover, in its own name, all damages resulting from injury to or destruction of any stone, monument, building, fence, railing, or other work for protection or ornament, or any tree, shrub, or plant within the limits of such cemetery.

[R. L. s. 2944] (7566)

**306.13 EMPLOYEES TO HAVE POLICE POWERS.** The trustees or officers of any cemetery association may appoint such superintendents, watchmen, gardeners, and agents as they may deem advisable; and, upon taking and subscribing an oath similar to that required from constables, every such appointee shall have all the rights and powers of a police officer within and adjacent to the cemetery grounds.

[R. L. s. 2945] (7567)

**306.14 TAX EXEMPT; NO ROAD OR STREET LAID THROUGH A CEMETERY WITHOUT CONSENT OF TRUSTEES.** The lands and property of any such cemetery association shall be exempt from all public taxes and assessments, and shall not be sold on execution against such association or any lot owner. The owners of cemetery lots, their heirs or legal representatives, may hold the same so exempt so long as they remain appropriated to the use of a cemetery; and no road or street shall be laid through such cemetery, or any part of the lands of such association, without the consent of the trustees.

[R. L. s. 2946] (7568)

**306.15 LOTS INALIENABLE; CONVEYANCE.** Whenever any lot in such cemetery has been sold and conveyed for burial purposes, it shall forever thereafter be inalienable except as hereinafter provided. Before any interment shall have been made therein, or after all bodies therein buried, if any, shall have been lawfully removed, the owner of such lot may sell, convey, and release the same to the association, and when, by the consent of the owner, any lot has been solely used by some other person as a family burial place, such owner, with the consent of the governing body of the association, may convey the same to the person so using it. The association may use any of its funds for such repurchase, and may hold the lot or again sell and convey the same.

[R. L. s. 2947] (7569)

**306.16 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION, WHEN; PROCEDURE.** When any cemetery association organized under the laws of this state shall have heretofore conveyed to any person the right of sepulture or burial upon any platted lot or designated piece of ground within the area of such cemetery, and the deed or conveyance thereto from such association provides that the lot shall be held subject to all the rules, by-laws, and regulations of such cemetery association and such deed or such rules, by-laws, or regulations further provide for the payment of an annual charge for the care, up-keep, and maintenance of such lot, and the owner thereof named in such deed or conveyance neglects or refuses to pay such annual charge, for the period of ten successive years, the cemetery association may reinvest itself with the title to the portion of such cemetery lot not actually used for burial purposes, in the manner hereinafter set forth.

If the owner of such cemetery lot be a resident of the county wherein such cemetery is located, then such association may cause to be served upon such owner, in the manner prescribed by law for the service of a summons in a civil action, a notice specifying the amount unpaid for lot care upon such lot, and specifying a time within which the same must be paid to the secretary of such association, which time shall not be less than 30 days from the date of the service of the notice, and further specifying that, upon the failure of the owner of the lot to pay the amount specified in the notice within the time aforesaid, the association will take the necessary steps to reinvest itself with the title to the portion of such cemetery lot not actually used for burial purposes. Upon the failure of the owner of the lot to pay the amount within the time specified in the notice, the board of trustees of such cemetery association may, by resolution duly adopted at any regular meeting of the board of trustees, set forth the failure to pay the charges for lot care, the service of the notice prescribed herein, and declare such portion of the lot unused for burial purposes, describing the same by metes and bounds in such resolution, to be the property of the association.

When it shall be determined by the return of the sheriff of the county in which the cemetery is located that the owner of the lot is not a resident of the county and cannot be found therein, then the association may cause such notice to be published in a legal newspaper within the county for the period of three weeks, which notice shall specify a time for payment, at least 30 days after the completed service of such notice by publication thereof, and after the expiration of the time therein specified the board of trustees may adopt the resolution hereinbefore set forth, and reinvest the association with the title to the portion of the cemetery lot unused for burial purposes.

[1921 c. 167 ss. 1, 2] (7570) (7571)

**306.17 TO BE PART OF RECORDS OF ASSOCIATION.** All such notices, with the proof of service or publication thereof, and all such resolutions adopted by the board of trustees of the association shall be made a part of the records of the association, and when the deed or conveyance from the association to the lot owner shall be and appear of record in the registry of deeds of the county, a copy of such resolution, certified to by the secretary of the cemetery association, and a copy of the printed notice with the sheriff's return thereon, shall be placed of record in the registry of deeds.

[1921 c. 167 s. 3] (7572)

**306.18 LOTS, HOW DESCRIBED IN NOTICE AND PROCEEDINGS.** The notice and all proceedings had pursuant to sections 306.16 to 306.20, in relation to any such cemetery lots, shall distinctly describe by metes and bounds the portion of such cemetery lot unused for burial purposes; and such association is hereby required to lease sufficient ingress to, and egress from, any grave upon the lot, either by duly dedicated streets or alleys in the cemetery, or by leaving sufficient of the unused portion of the cemetery lot for such purpose.

[1921 c. 167 s. 4] (7573)

**306.19 LIMITATION.** Sections 306.16 to 306.20 shall not apply to any lot in any cemetery association where a perpetual care contract has been entered into between the cemetery association and the owner of the lot.

[1921 c. 167 s. 5] (7574)

**306.20 EFFECT; TIME LIMIT.** Compliance with the terms of sections 306.16 to 306.20 shall as fully reinvest the association with, and divest the record owner and his dependents of, the title to such portion of such cemetery lot unused for burial purposes, as though the same had never been conveyed to any person, and such association shall have, hold, and enjoy such reclaimed portions of such lots for its own uses and purposes, subject to the laws of this state, and to the charter, by-laws, rules, and regulations of such association; provided, that the association shall not be permitted to alienate any such lot for the period of one year from and after the adoption of the resolution provided for in sections 306.16 to 306.20 by the board of trustees of the association; and, provided that if at any time during the one-year period any person entitled to such cemetery lot by the laws of this state shall pay, or cause to be paid, to such association all the unpaid lot care, together with the expenses of the service of the notice hereinbefore provided for, and any additional sums due for lot care subsequent to the date of the notice, as prescribed by the by-laws, rules, and regulations of the cemetery association, and shall take out and pay for a perpetual care contract upon the lot, the cemetery association shall reconvey the lot to the person lawfully entitled to the same.

[1921 c. 167 s. 6] (7575)

**306.21 LOTS MUST BE KEPT FREE OF WEEDS AND BRUSH BY OWNERS; DEMAND; RESOLUTION.** In all cases where a duly incorporated association has owned a site for a cemetery for more than 40 years and has during that period sold lots and parcels for burial purposes, and has, prior to 1900, conveyed cemetery lots and parcels by deed of conveyance without restrictions contained therein and the grantee therein, or parties claiming through such grantee, have not used portions of such lots or parcels for the purposes of burial and have not kept such lots or plots free of weeds or brush but have allowed the same to remain entirely unimproved for more than 20 years, and such lots or parcels are situate in such portion of the cemetery that they adjoin or are adjacent to improved parts of such cemetery and by reason of their unimproved condition detract from the appearance of such cemetery and interfere with its harmonious improvement and furnish a place for the propagation and growth of weeds and brush, such corporation may, by resolution of its governing board, demand of such owners or holders that they

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keep the premises clear of weeds and in a condition in harmony with other plots adjoining, and serve a copy of such resolution upon such party or parties, if they can be found in such county, and if the sheriff of the county make return upon such resolution that such parties, or any of them, cannot be found in the county, then the resolution may be served upon the parties so absent from the county by publication thereof for three successive weeks in a legal newspaper published in the county.

[1921 c. 358 s. 1] (7576)

**306.22 ACTION TO QUIET TITLE.** If, for 30 days after the first day of May following such service or publication, the party or parties fail to conform with the demands of such resolution, the rights of such party or parties may be deemed abandoned, and thereupon the corporation, upon permission from its governing board, may bring an action in the district court of the county against all parties so in default, uniting as many parties so in default as it may desire in one action, to have the rights of these parties in such lots or parcels terminated and the property restored to the corporation free of any right, title, or interest of all such defaulting parties, their heirs or assigns. Such action in all other respects shall be brought and determined in the same manner as ordinary actions to determine title to real estate; provided, that that portion of any tract or part of tract in which a body lies buried shall not be included in any of these proceedings and there shall be left sufficient ground adjoining such grave or burial place as will provide proper mode of approach, the excepted portions, if any, to be particularly and fully described.

[1921 c. 358 s. 2] (7577)

**306.23 ABANDONMENT, WHAT PRIMA FACIE EVIDENCE.** In all such cases the fact that such grantee or holder has not, for a term of 20 years or more, used such plot or definite parts thereof and has failed to keep the same clear of weeds or brush, shall be prima facie evidence that such party has abandoned the same.

[1921 c. 358 s. 3] (7578)

**306.24 COPY OF JUDGMENT FILED WITH REGISTER OF DEEDS.** A certified copy of the judgment in such action quieting title may be filed in the office of the register of deeds in and for the county in which the parcel is situate.

[1921 c. 358 s. 4] (7579)

**306.245 NEGLECTED CEMETERIES; DUTIES OF TOWN BOARD.** The town board of supervisors shall have authority to maintain in a proper and decent manner, and keep free of weeds, any cemetery which has been neglected for a period of ten years or more.

[1939 c. 227] (1023-1)

**306.25 CANCELTION AND TERMINATION OF CONTRACTS FOR PURCHASE OF LOTS BY CERTAIN ASSOCIATIONS; REFUNDS.** When any cemetery association in any city of the first class, organized under the laws of this state, shall enter into a contract to convey to any person the right of sepulture or burial upon any platted lot or designated piece of ground within the area of such cemetery, by which contract the association has a right to terminate the same in case of default by the purchaser, it may do so in the manner provided by the laws of this state for the termination of any contract for the conveyance of real estate or any interest therein. If any interments or burials have been made on such platted lot or designated piece of ground so sold, the contracts to convey may be terminated only as to the portion of the premises not actually occupied by the interment or burial. The association shall thereafter refund to the party all money paid by him, after deducting the value of the proportionate part of the lot occupied, accrued interest on the purchase price, and reasonable costs and expenses of termination of such contract.

[1927 c. 196 s. 1] (7579-1)

**306.26 EXISTING CONTRACTS.** All contracts heretofore entered into by cemetery associations for the sale of lots or tracts for burial purposes, and which contain provisions for the termination thereof may be terminated as herein provided.

[1927 c. 196 s. 2] (7579-2)

**306.27 LIMITATION.** Nothing in sections 306.25 and 306.26 shall be construed as repealing, expressly or by implication, any of the provisions of sections 306.16 to 306.20 or sections 306.21 to 306.24.

[1927 c. 196 s. 3] (7579-3)

**306.28 PUBLIC CEMETERY ASSOCIATIONS MAY SELL PROPERTY IN CERTAIN CASES.** Any public cemetery association which owns lands that now are or hereafter may be no longer used for the burial of the dead is hereby authorized and empowered to do any or all of the following:

(1) To institute and prosecute to final judgment an action to determine adverse claims to such lands in accordance with the provisions of law relating to actions to determine adverse claims;

(2) To sell and convey such lands;

(3) To transfer and assign any funds or other property it may possess to such other public cemetery association as may at the time be serving the same community in the burial of the dead.

None of these powers shall be exercised as long as any dead remain buried in such cemetery.

[1921 c. 234 s. 1] (7580)

**306.29 DISPOSAL OF LOTS BY OWNERS.** Any owner of a cemetery lot may dispose of the same by will to any one of his relatives who may survive him, or to such cemetery association or private cemetery, as the case may be, in trust, for the use and benefit of any person or persons designated in the will; but no such lot shall be affected by any testamentary devise unless the same be specifically mentioned in the will, and by such devise limited to one particular person. Any owner of a cemetery lot may, in his lifetime, convey the lot to the cemetery association or the private cemetery in trust for the use and benefit of any person named in the trust conveyance. The conveyance may contain such conditions, provisions, and covenants as the parties may therein agree upon. No interment shall be made in any such lot, except by written consent of the cemetery association, or private cemetery, as the case may be, of the body of any person who was not, at the time of death, the owner thereof, or a relative of the owner by blood or marriage. Every conveyance or alienation or attempt at conveyance or alienation of any right, title, or interest in or to such lot, contrary to the foregoing conditions and reservations, shall be void. Every such cemetery association, or private cemetery, as the case may be, shall keep a record of all deeds, conveyances, judgments, decrees, or other documents affecting the title to lots in such cemetery, copies of which, certified by some person, officer, or official thereunto duly authorized, shall be received in evidence by the courts. Such cemetery association, or private cemetery, may, instead of deeding the fee title to this lot, grant only the exclusive right of interment or sepulture in the lot.

[R. L. s. 2949; 1915 c. 233 s. 2; 1927 c. 295 s. 2] (7582)

**306.30 CARE AND IMPROVEMENT FUND.** Every cemetery association which has established and maintains a public cemetery of more than 20 acres in extent, by a vote of two-thirds of its trustees taken at any regular meeting thereof, may provide for the establishment of a fund, the income of which shall be devoted to the care, maintenance, and improvement of such cemetery. Such fund shall be designated as the permanent care and improvement fund.

[R. L. s. 2950] (7584)

**306.31 CEMETERY ASSOCIATIONS HAVING NOT LESS THAN A ONE-HALF ACRE CEMETERY MAY ESTABLISH PERMANENT FUND.** Any cemetery association formed under the provisions of law and having a board of trustees or directors, not less than three in number, which shall have established and shall be maintaining a cemetery of not less than one-half acre in area, may, by a two-thirds vote of such trustees or directors of the association, which vote may be taken at any regular meeting of the board, provide for the establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance, and improvement of such cemetery, which shall be known as the permanent care and improvement fund of such cemetery association.

[1887 c. 168 s. 1; 1897 c. 339 s. 1; 1905 c. 197 s. 1; 1915 c. 345 s. 1] (7585)

**306.32 TRUSTEES OF FUND.** The trustees shall thereupon choose by ballot and appoint by deed of the association a board of not less than three, nor more than five, trustees of such fund. They shall be resident freeholders of this state during all the time they exercise the powers of such trust. Upon failure of any of

those appointed to qualify within 30 days after appointment, the one or more who shall have qualified shall appoint by deed other persons to be trustees in their places. On failure of any person so appointed to qualify within 30 days another shall be appointed in like manner; but every appointment to fill a vacancy shall be by unanimous vote of those acting; provided, that, instead of appointing such board, the trustees of the association may designate any trust company of the state to act as such trustee during their pleasure. All instruments of appointment of such trustees shall be recorded with the secretary.

[R. L. s. 2951] (7586)

**306.33 TRUSTEES; POWERS; TERM; ACCOUNTING.** Upon the appointment and qualification of trustees of such fund, or upon the designation of a trust company to act as such trustee, the title to the funds included in the trust, and all the rights, powers, authorities, franchises, and trusts thereto appertaining shall at once vest in the board, or in the part thereof qualifying within 30 days, or in the corporation so designated. The term of office of the trustees of such fund shall be for life. When a trust company has been appointed a board of trustees of the fund, or another like corporation, may be appointed in its place, and on notice of such appointment the corporation so acting shall render to its successor an account of its trusteeship and deliver to it all money, papers, and property in its possession or control belonging or appertaining to such fund.

[R. L. s. 2952] (7587)

**306.34 BONDS.** Before entering upon his duties, each person chosen as a trustee of such fund shall give bond to the association in a sum not less than \$500.00 and at least equal to one-third the amount of the fund at that time, conditioned for the faithful discharge of his trust. Upon July first, in each even-numbered year, every trustee shall give a new bond, in amount and with conditions as aforesaid. Every such bond shall be approved by a judge of the judicial district in which such cemetery or some part thereof is situate, and filed with the treasurer of the association. Failure by any trustee to renew his bond within 30 days after the time herein specified shall be a sufficient ground for his removal on application of any person interested.

[R. L. s. 2953; 1907 c. 211 s. 1] (7588)

**306.35 SURVIVING TRUSTEES; VACANCIES.** In case of the death, resignation, disability, or removal of one or more of the trustees of such fund, the trust shall at once vest in the remaining trustees, who shall forthwith fill the vacancies by appointment. Every newly appointed trustee, upon qualification, shall succeed to an equal share in all the rights and duties of such board.

[R. L. s. 2954] (7589)

**306.36 NEW BOARD; ORGANIZATION.** In case of the death, removal, resignation, or disability of all the members of such board, the trust, until the organization of a new board, shall vest in the district court of the county in which such cemetery is situate. The board may be reconstituted by such court, upon application of any person interested and such notice as it may direct. The trustees so appointed, upon qualifying, shall become vested with all the rights and powers of the original board. Every vacancy in the board continuing for one year may be filled by such court.

[R. L. s. 2955] (7590)

**306.37 FUND, HOW CONSTITUTED.** Twenty per cent of the proceeds of all sales of cemetery lots made after the vote of the trustees to establish the care and improvement fund shall be paid over to such board or trustee, on January first, April first, July first, and October first, in each year, until the principal of the fund shall amount to at least \$100,000; and any other income or funds of the association, in excess of its liabilities, may be added to such fund by a two-thirds vote of its trustees. The principal of such fund shall in no event exceed \$5,000 for each acre of the cemetery, nor \$1,000,000 in the aggregate.

[R. L. s. 2956] (7591)

**306.38 INVESTMENT; INCOME; UNEXPENDED BALANCES.** The principal of such fund shall remain intact and inviolate, and may be invested in the same securities in which savings banks are by law permitted to invest, and not otherwise. The trustees thereof, on January first and July first, in each year, shall turn over to the association all income arising from such fund, which shall be used solely for the care, maintenance, and improvement of the cemetery and the avenues leading thereto; but in case any portion of such income remains unexpended and unappro-

priated for one year after being so paid over, it shall be returned to the trustees of the fund and become a part of the principal.

[R. L. s. 2957] (7592)

**306.39 COMPENSATION.** Every trustee of such fund shall receive \$5.00 for each day actually employed in the duties of such trust, but not exceeding \$100.00 in any one year. Such fees shall be paid out of the general funds of the association until such trust fund reaches \$100,000, or \$2,000 for each acre of the cemetery. Thereafter the same shall be paid out of the income fund. A corporation acting as trustee may receive for its services as such any yearly compensation agreed upon, not exceeding five per cent of the income.

[R. L. s. 2958] (7593)

**306.40 SECRETARY; ANNUAL REPORT.** When such fund is in the care of a board of trustees, the secretary of the association shall act as its secretary and keep a full record of its proceedings. The board, on November first, each year, shall make a full report of the condition of the fund to the trustees of the association, which report shall be open to the inspection of all lot owners.

[R. L. s. 2959] (7594)

**306.41 PERMANENT CARE AND IMPROVEMENT FUND, ESTABLISHMENT; PROCEDURE; WHERE DEPOSITED.** The board of supervisors of any town, or the governing body of any incorporated city, village, or borough, or the board of trustees, or the directors, not less than three in number, of any religious incorporation or of any association formed under the provisions of law for the purpose of maintaining a cemetery in the state of Minnesota, which shall have established and shall be maintaining a cemetery of not less than one-half an acre in area, a plat of which is on file in the office of the register of deeds of the county in which such cemetery is located, by a unanimous vote of such supervisors, members of governing body, trustees, or directors, which vote may be taken at any regular meeting of such board or governing body, or at a special meeting called for the purpose, may provide, in accordance with the provisions of sections 306.41 to 306.54 for the establishment of a permanent fund to be deposited in the county treasury, the income whereof shall be devoted to the care, maintenance, and improvement of such cemetery, which shall be known as the permanent care and improvement fund of the cemetery of such municipality or incorporation. It is herein provided that the establishment of any such permanent care and improvement fund shall not be deemed invalid as violating any existing law against perpetuities or suspending the power of alienation; provided, that such fund shall never, in any case, be allowed to exceed \$15,000 per acre of the cemetery to be cared for.

[1921 c. 247 s. 1] (7594-1)

**306.42 POWERS OF BOARD OF DIRECTORS; USE OF INTEREST.** The board of directors of any such cemetery is hereby given the power and authority to require and provide that any certain part or portion of the price paid for a lot in such cemetery shall be taken and deposited as a part of the permanent care and improvement fund, and that the interest accruing from the amount set aside from the lot shall be expended by the board of directors of such cemetery in caring for and beautifying such lot, except as provided in sections 306.41 to 306.54.

[1921 c. 247 s. 3] (7594-3)

**306.43 GIFTS TO FUND; USE OF FUND.** The board of directors is hereby authorized and empowered to receive, accept, and deposit any donation or gift of money made to such fund so created and to provide and require that the interest therefrom shall be used in the care, maintenance, and beautifying of such lot or lots in such cemetery, or in the care and beautifying of such cemetery, or for the care and beautifying of any particular lot or lots in such cemetery, and shall use the same and the interest therefrom for the purpose specified by the donor; provided, that if funds are lacking for the general care of such cemetery, in the discretion of the board of directors a one-fifth part of the income, received annually from that portion of the permanent fund credited to any particular lot or lots, by sale or gift, may be used by the board for the general care of the cemetery.

[1921 c. 247 s. 4] (7594-4)

**306.44 DEPOSIT OF FUNDS IN COUNTY TREASURY.** From and after the vote to establish such permanent care and improvement fund the board of directors of any such cemetery shall, quarterly, on the first days of January, April, July, and October, in each year, deposit in the county treasury of the county in which such cemetery is located all such money belonging to such permanent fund, and

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the treasurer of any such county is hereby authorized, empowered, and directed to receive the same and all such and deposit it as hereinafter provided. The board of directors shall also file with the auditor of the county for record and future reference, at the time of the deposit of these funds, a statement of each particular amount so set aside from the sale of a lot or the amount received by a gift or donation of money, together with the name of the owner of such lot and the name of the donor of each particular gift and a description of the lot to which the income from such particular amount as a part of such permanent fund is applicable.

[1921 c. 247 s. 5] (7594-5)

**306.45 COUNTY CEMETERY FUND; MANAGEMENT, INVESTMENT, INTEREST.** The aggregate funds so deposited in the treasury of any county in the state by the boards of directors of all cemeteries in such county, acting under the provisions of sections 306.41 to 306.54, shall constitute the county cemetery permanent care and improvement fund, called county cemetery fund. The funds shall be managed and invested by the board of county auditors of such county. The funds, and all thereof, as soon as received by the county treasurer, shall be deposited in a bank or banks designated as a depository of county funds by the board of auditors of such county. The interest due on the fund shall become due and payable, as far as possible, on or about the first day of February, of each year.

[1921 c. 247 s. 6] (7594-6)

**306.46 DEPOSIT OF AND INTEREST ON FUND.** For the purpose of such deposit the fund so created shall be treated as other funds in the county treasury, except as otherwise provided, and shall draw no less a rate of interest than is paid on the funds of the county deposited in the depository; provided, that the board of auditors of the county may require all or part of the funds to be deposited on time certificates in the depository in the name of the county treasurer, payable to him or his successors in office, and the county treasurer shall secure on such time deposit the highest rate of interest which the depository will pay thereon and not less than the current rate paid on time certificates by such depository, and for such principal and interest so deposited on time certificates, such treasurer shall be liable in the same way and manner and to the same extent that he is liable upon his bond for moneys deposited on behalf of the county.

[1921 c. 247 s. 7] (7594-7)

**306.47 DEPOSITORY FOR FUND; BOND.** The county cemetery fund shall be deposited in a depository designated by the county board of auditors, in the name of the county and at the highest rate of interest which the depository will pay thereon, and the bond or security given to the county by such depository shall be taken and held to be as security for such fund, but the treasurer of such county shall keep an accurate and separate account thereof and shall draw from such depository, annually, the interest accruing on such fund for the purpose of distribution as hereinafter provided.

[1921 c. 247 s. 8] (7594-8)

**306.48 INVESTMENT OF FUNDS.** The board of county auditors, pursuant to a petition of at least two-thirds of the boards of directors of the cemeteries in any such county requesting such action, shall, with the approval of the county attorney, invest the county cemetery fund, or a part thereof, in the same kind of bonds and securities that the permanent school fund of the state may be invested in and for such purpose, and none other. The law as it shall exist at the time any money is received into this fund shall control the investment thereof and such fund shall be invested only as the law provides at the time of the receipt of the money into the fund, and no subsequent amendment or change in the law shall authorize the investment of any fund differently or in any other class of securities save as provided in the law when the money is received into the fund. The board of county auditors may require the treasurer of any such county to withdraw all or any part of such fund from such depository for investment, and if the fund, or any part thereof, be so invested, the bonds or other securities shall be and remain with the county treasurer and the bond of the county treasurer shall at all times be security for the proper care thereof and the payment of interest received by him thereon to the directors of such cemeteries, and upon payment of any such bonds or other securities the treasurer of such county upon such payment shall deposit the same in the depository in which county funds are deposited, the treasurer of such county

shall collect the interest upon the funds so loaned and pay the same to the treasurers of such cemeteries, as provided in sections 306.41 to 306.54.

[1921 c. 247 s. 9] (7594-9)

**306.49 ACCOUNTS KEPT BY AUDITOR.** The auditor of any such county wherein the board of directors of a cemetery or cemeteries is acting under the provisions of sections 306.41 to 306.54 shall keep an account of the funds deposited in the county treasury, as herein provided, crediting to the permanent fund of each cemetery all money deposited by its board of directors and preserving, for historical reference and record, the amount of each gift or portion set aside from the sale of each lot, with the name of the donor of each gift and of the buyer of each lot, and the description of each particular lot, or what part of the cemetery the income from the permanent fund is applicable for care, as provided in sections 306.41 to 306.54.

[1921 c. 247 s. 10] (7594-10)

**306.50 ANNUAL REPORT BY SECRETARY; DEPOSIT OF EXCESS INTEREST.** On or before the first day of February, of each year, the clerk or secretary of the board of directors of each such cemetery shall make and file with the county auditor a report showing in detail the amount expended of the interest received from the county cemetery fund during the preceding calendar year. All excess of such interest over the sum necessary for the care and beautifying of the lots or cemetery, or that has not been expended, in any one year, shall be deposited in the treasury of the county and be added to and become a part of the permanent fund credited to such cemetery, no part of which shall ever be used.

[1921 c. 247 s. 11] (7594-11)

**306.51 APPORTIONMENT OF INTEREST ON FUND.** On or before the first day of March, of each year, the county auditor shall apportion the interest from such county cemetery fund that shall have been collected by the county treasurer during the year, to each cemetery herein credited with a permanent fund in the proportion as the amount of such cemetery's permanent fund, deposited in the county treasury, bears to the county cemetery fund. Funds deposited according to the provisions of section 306.44 just before the close of such year, on which no interest has been collected, shall not be considered as a part of the permanent fund for that apportionment.

[1921 c. 247 s. 12] (7594-12)

**306.52 REPORT BY AUDITOR TO SECRETARY.** Immediately after such apportionment the county auditor shall report to the secretary of each such cemetery the apportionment of interest due such cemetery, together with a statement of the total amount of funds received by the county treasurer under the terms of sections 306.41 to 306.54 during the preceding year closing on January first, of each year, and also a statement of the total amount of such permanent care and improvement fund belonging to such cemetery.

[1921 c. 247 s. 13] (7594-13)

**306.53 INTEREST PAID TO TREASURER OF BOARD.** On and after the first day of March, of each year, if the board of each such cemetery shall have made its report and deposited the excess of interest, as provided in section 306.50, and not otherwise, the county treasurer, under the warrant of the county auditor, shall pay to the treasurer of the board of directors of each cemetery acting under the provisions of sections 306.41 to 306.54 its apportioned share of the interest from such cemetery fund.

[1921 c. 247 s. 14] (7594-14)

**306.54 AUDIT OF FUND; COUNTIES EXCEPTED.** The first time in each year that the board of county auditors of any such county shall examine and audit the accounts, books, and vouchers of the treasurer of the county, it shall make an examination of the county cemetery fund of the county. A statement of the condition of this fund shall be published as provided by section 385.06, at the expense of the cemetery fund, which shall show the total of all moneys received under the provisions of sections 306.41 to 306.54 during the preceding calendar year and a statement of the total amount then in such county cemetery fund on the first day of such calendar year, and the amount and kind of securities in which such fund is invested and a statement of the amount of interest collected on the fund during that year; provided, that sections 306.41 to 306.54 shall not apply to any county in this state having a population of 50,000 or more according to the last United States census.

[1921 c. 247 s. 15] (7594-15)

**306.55 ASSESSMENTS LEVIED ON LOTS FOR CARE THEREOF; ENFORCEMENT.** When any assessments are duly levied by any cemetery association authorized to levy the same by its articles of incorporation, by-laws or otherwise for the care, up-keep, and maintenance of any lot or lots in such cemetery and remain unpaid for a period of ten years, then the unused portion of such lot or lots shall thereupon revert to and become the absolute property of the cemetery association in which the lot or lots are situated; provided, that such reversion shall become effective only upon entry of judgment in the district court of the county in which the cemetery is situate, in proceedings instituted therefor upon petition by the association to the court and after hearing thereon upon such notice to interested parties as may be prescribed by the court.

[1927 c. 208] (7594-16)

**306.56 FUND FOR PERPETUAL CARE OF LOTS OR GRAVES SET ASIDE BY PROBATE COURT; MAXIMUM AMOUNT.** Any court having jurisdiction of the estate of any deceased person, before final distribution of such estate, may order set aside from the estate the reasonable and uniform sum which has been fixed and determined by the governing board of the cemetery wherein the deceased person is interred, not to exceed the sum of \$100.00, for the perpetual care of the lot or grave of the deceased, and direct payment thereof to the treasurer of the permanent care and improvement fund of the cemetery association or other governing board having control of the cemetery wherein the lot is situated.

[1925 c. 209 s. 1] (7594-17)

**306.57 APPLICATION.** Section 306.56 shall not apply to any cemetery association or other governing board in any city of the first class, nor to such association or board having the cost of perpetual maintenance of graves included in the established price of its cemetery lots, nor shall it apply where payment for the perpetual care of the lot or grave has been made to the cemetery association, nor where such deceased person has made provision for such care either in his lifetime or by his last will and testament, duly admitted to probate.

[1925 c. 209 s. 2] (7594-18)

**306.58 REORGANIZATION OF CERTAIN ASSOCIATIONS.** Any cemetery association not having a capital stock, heretofore or hereafter organized under any law in this state, which has acquired a burial site and sold lots therein, and the managing officers of which are all deceased or moved from the county in which the burial site is situated, or have for three years or more failed to act as such officers, may reorganize in the manner prescribed in section 306.59.

[1909 c. 165 s. 1] (7595)

**306.59 MEETING OF LOT OWNERS; NOTICE.** Any three lot owners in such cemetery may issue a notice, signed by them, that a meeting will be held at a time and place to be fixed by them, and designated in the notice, in the town or village nearest the cemetery site, for the purpose of reorganizing the association. Such notice shall be published at least twice in a legal newspaper published in the city in which the meeting is held, and the time of the meeting shall not be less than ten days after the second publication thereof.

[1909 c. 165 s. 2] (7596)

**306.60 MEETING, HOW CONDUCTED; ELECTION OF OFFICERS.** At the time and place mentioned in the notice the meeting so called shall be held. Any owner of one or more lots in the cemetery may be present, in person or by proxy, and shall be entitled to one vote at that and all subsequent meetings of the association. The meeting may be called to order by any lot owner and shall be organized by choosing in the usual manner a chairman and a secretary. The meeting shall thereupon proceed to elect a president, secretary, treasurer, and three trustees. The officers so elected shall hold their offices until the next succeeding annual meeting of the association and until their successors are elected and have qualified. The voting at such meeting shall be by viva voce, unless otherwise ordered by those present at the meeting. A majority shall elect.

[1909 c. 165 s. 3] (7597)

**306.61 CERTIFICATE; RECORD; EFFECT.** The chairman and the secretary of the meeting shall, within five days after the meeting is held, prepare a certificate, which shall set forth the existence of the facts mentioned in section 306.58. It shall further state that the meeting was held, giving the names of the chairman and the secretary and the names of the lot owners present and voting; but, if more than ten are so present and voting, the names of ten thereof shall be sufficient, but in

such case the number of lot owners present and voting shall be stated. The certificate shall also give the names of the persons elected as such trustees and other officers at such meeting and shall be recorded at length in the office of the register of deeds in and for the county in which such cemetery is located, and the certificate or the record thereof shall be prima facie evidence of all the facts stated therein and required to be so stated.

[1909 c. 165 s. 4] (7598)

**306.62 POWERS AND DUTIES OF OFFICERS.** The officers so elected at such meeting shall, as soon as the certificate is recorded, as provided in section 306.61, have power to convey and execute deeds for lots in the cemetery for cemetery purposes, and shall have the same powers and duties and be subject to the same rights and liabilities as they would be had they been elected in the manner originally provided by the law under which the association was organized or pursuant to the articles or by-laws thereof, and thereafter all meetings shall be held and all affairs of the association shall be conducted in the manner provided by law and under the original articles of incorporation of the association.

[1909 c. 165 s. 5] (7599)

**306.63 SALE OF CERTAIN REAL ESTATE.** Any cemetery corporation which has been heretofore incorporated under the laws of this state may sell and convey, for other than burial or cemetery purposes, any real estate lawfully acquired by it, which is not suitable or fit for cemetery purposes, and which has not been platted for such purposes.

[1911 c. 296 s. 1] (7600)

**306.64 REAL ESTATE, WHEN SOLD.** Any public cemetery corporation which has been heretofore or may hereafter be incorporated under the laws of this state, and has acquired more than 100 acres of land, may sell and convey, for other than burial or cemetery purposes, any real estate in excess of such 100 acres. Any such sale shall not include any land in which any interments have been made. Any such sale shall be approved by the unanimous vote of all the trustees of such corporation.

[1913 c. 444 s. 1] (7601)

**306.65 PLATS FILED, CITIES OF FIRST CLASS.** In any case where a cemetery corporation organized under the laws of this state is, or may be hereafter, maintaining and conducting a cemetery of more than 80 acres in extent, in any city in this state having a population of more than 50,000, such corporation shall file in the office of the register of deeds of the county in which its cemetery is located a plat showing the area and location of such cemetery.

[1911 c. 129 s. 1] (7601-1)

**306.66 SUBDIVISION OR REARRANGEMENT OF CEMETERIES.** The cemetery corporation may subdivide or rearrange its cemetery, from time to time, as may be necessary in the conduct of the business, but no plat of such subdivision or rearrangement shall interfere with the rights and privileges of the several lot owners of such cemetery without their consent, nor need same be filed in the office of the register of deeds. A plat of the same shall be kept for public inspection at such cemetery and there shall be placed at the corners of each lot of such subdivision or rearrangement cement or other non-destructible markers three inches or more in diameter and eight inches or more in length, one of such markers showing the number of the lot.

[1911 c. 129 s. 2] (7601-2)

**306.67 APPLICATION.** Sections 306.65 and 306.66 shall not apply to cities with charters adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36.

[1911 c. 129 s. 3] (7601-3)

**306.68 REORGANIZATION OF CERTAIN ASSOCIATIONS.** Subdivision 1. **Authorization.** Any cemetery association not having a capital stock, heretofore organized under any law of this state, which has acquired a burial site and sold lots therefrom, and the management of which association is confined to the original members of the association, either by the statutes then in force or the certificate of organization, may reorganize in the manner prescribed in subdivision 2 of this section.

Subdivision 2. **Call for meeting.** Any two or more of the original members of the association, or in case all of the original members are deceased, then any three or more of the lot owners in the burial site, may issue a call for a meeting of the

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association to be held at a time and place designated in the notice, in the city or village nearest to the cemetery site, for the purpose of reorganizing the association. The notice shall be published for two successive weeks in a legal newspaper printed in the place in which the meeting is to be held, and shall give at least 30 days' notice of such meeting.

**Subdivision 3. Articles of reassociation.** At the time and place mentioned in the notice those present shall organize and proceed to prepare and adopt, or authorize to be prepared and adopted, articles of reassociation, which articles of reassociation shall conform to the requirements of the general laws of this state for the organization of public cemetery associations, and shall name the first board of trustees and such other officers as the meeting may determine; provided, that a majority of the trustees and officers shall be first named, and afterwards elected, from the members of the old association if there are sufficient survivors living in the county where the site is located or in adjoining counties.

**Subdivision 4. Powers and duties.** The trustees and officers so named and elected shall, as soon as such certificate of reassociation is adopted, and recorded with the register of deeds in the county where the cemetery is located, have all the powers and perform all the duties and be subject to the same rights and liabilities as provided by the general laws of the state pertaining to cemetery associations, and amendments thereof.

[1913 c. 526 ss. 1, 2, 3, 4] (7602) (7603) (7604) (7605)

**306.69 CERTAIN CORPORATIONS MAY AMEND ARTICLES.** The board of trustees, board of administration, or other governing body of any religious corporation, which has established and is now maintaining a cemetery of more than five acres in extent in any county of this state now or hereafter having a population of not less than 225,000, nor more than 350,000, may by resolution adopted by at least a two-thirds vote of its members at any authorized meeting of the board amend its certificates or articles of incorporation in any or all of the following particulars:

(1) By providing for the management and conduct of the affairs of such cemetery by a board of associates and prescribing the number composing such board of associates, the title by which they shall be designated, the time and manner of their election, by whom they shall be elected, their term of office, their powers and duties, and for the division of such board into classes, if it is so desired, with respect to the time for which they shall severally hold office;

(2) By specifying whether such board of associates shall be elected by the owners of lots in the cemetery, either from among themselves, or from among the board of trustees, or board of administration, or other governing body of the religious corporation, or by the board of associates from their own number, or from among the lot owners in the cemetery, or from the board of trustees or other governing body of the religious corporation;

(3) By specifying the names and addresses of the first board of associates and their term of office;

(4) By providing that any vacancy in the board of associates, caused by death, resignation, or otherwise, may be filled by the board of associates for the unexpired term;

(5) By providing that the board of associates may elect its own officers and that the duties of the officers may be defined by the by-laws of the board;

(6) By providing that the board of associates may adopt by-laws and promulgate rules and regulations with respect to the management and conduct of the cemetery;

(7) By providing that the board of associates may create, provide, and establish a permanent fund, the income whereof shall be devoted to the care, maintenance, and improvement of the cemetery, to be known as a permanent care and improvement fund;

(8) By providing that the board of associates shall have the care, custody, and control of the permanent care and improvement fund and all other trust funds donated for the permanent care of particular burial plots, with authority in the board of associates to appoint trustees of such funds from among their number, or to designate and appoint as such trustee one or more trust companies organized under the laws of this state;

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(9) By any other lawful provision defining and regulating the powers or business of such board of associates, and the powers and duties of its officers, trustees, and lot owners in such cemetery.

[1921 c. 422 s. 1] (7606)

**306.70 CERTIFICATE OF AMENDED ARTICLES TO BE RECORDED.** The board of trustees or other governing body of such religious corporation shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers under the corporate seal of the corporation, which certificate shall be recorded in the office of the register of deeds of the county in which the cemetery of such association is located and in the office of the secretary of state.

[1921 c. 422 s. 2] (7607)

**306.71 TO BE PRIVATE CEMETERY ASSOCIATION.** Every religious corporation which shall avail itself of the provisions of sections 306.69 to 306.72 and provide for the management and conduct of its cemetery, as therein provided, shall thereafter as to such cemetery be deemed in law a private cemetery association and as such have all the rights, exemptions, and privileges, and be subject to all the duties and liabilities, provided by law in respect of private cemetery associations and without regard to the fact that such cemetery is established by a religious corporation.

[1921 c. 422 s. 3] (7608)

**306.72 ASSOCIATION, HOW GOVERNED.** Every religious corporation which shall avail itself of the provisions of sections 306.69 to 306.72 and establish a permanent care and improvement fund shall, as to such fund, be subject, so far as not inconsistent therewith, to the provisions of sections 306.76 to 306.85.

[1921 c. 422 s. 4] (7609)

**306.73 AMENDMENT OF ARTICLES OF INCORPORATION.** The board of trustees of any cemetery association organized under the laws of this state, which has established and is now maintaining a public cemetery in this state, may, by resolution duly adopted by at least a two-thirds vote of its members at any authorized meeting of the board, amend its certificate or articles of incorporation in any or all of the following particulars:

(1) By providing for a board of associates, the number composing such board, the time and manner of their election and by whom they shall be elected, their term of office, their powers and duties and for the division of such board into classes, if it is so desired, with respect to the time for which they shall severally hold office;

(2) By specifying the names and addresses of the members of the first board of associates and their term of office;

(3) By providing that the management of the affairs of the association may be vested in a board of not more than nine trustees, and that such trustees may be divided into classes in respect to the time for which they shall severally hold office, or, if it is so stated, that only one trustee need be elected each year;

(4) By providing the time and manner of election of the trustees and specifying whether such trustees shall be elected by the owners of lots in the cemetery of such association, either from among themselves or from among the board of associates, or by the existing trustees from among lot owners or from among a board of associates, or by the board of associates from their own number or from the retiring trustees;

(5) By providing that any vacancy in the board of trustees, caused by death, resignation, or otherwise, may be filled by the board of trustees for the unexpired term;

(6) By specifying the names and addresses of the first board of trustees and the time for which they shall severally hold office;

(7) By providing that the trustees may elect officers of the association and that the duties of such officers may be defined by the by-laws;

(8) By providing that the trustees may adopt by-laws and promulgate rules and regulations with respect to the cemetery of the association;

(9) By providing that the duration of the association shall be perpetual or for a fixed period of time;

(10) By any other lawful provision defining and regulating the power or business of such association and the powers and duties of its officers, trustees, associates, and lot owners.

[1915 c. 304 s. 1; 1939 c. 21] (7610)

**306.74 CERTIFICATE OF AMENDMENT.** The trustees shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers, under the corporate seal of the corporation, which certificate shall be recorded in the office of the register of deeds of the county in which the cemetery of the association is located and in the office of the secretary of state.

[1915 c. 304 s. 2] (7611)

**306.75 APPLICATION.** Sections 306.73 to 306.75 shall also apply to the cemetery associations mentioned in section 306.73 maintaining such cemeteries in cities existing under a charter framed pursuant to the Constitution of the State of Minnesota, Article 4, Section 36; but shall not apply to private cemeteries nor to cemeteries established by religious corporations.

[1915 c. 304 ss. 3, 4] (7612) (7613)

**306.76 PERMANENT CARE AND IMPROVEMENT FUND MAINTAINED BY CERTAIN ASSOCIATIONS.** Every cemetery association heretofore or hereafter organized under the laws of this state, which shall maintain a public cemetery in or adjacent to any city of this state having a population of more than 50,000, shall provide for the creation and establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance, and improvement of such cemetery, which fund shall be known as the permanent care and improvement fund of such cemetery association.

[1917 c. 95 s. 1; 1927 c. 198 s. 1] (7614)

**306.77 FUNDS, IN CARE OF TRUST COMPANY.** The board of trustees of any such association shall, by a resolution adopted by a vote of at least two-thirds of its members, designate and appoint one or more trust companies organized under the laws of this state, or a board consisting of at least three individuals, to act as trustee or trustees of such fund. In case more than one trust company shall at any time be so designated and appointed, the board of trustees shall, from time to time, apportion all moneys available for the fund between these trust companies in such proportion as such board by vote may direct or determine. This designation and appointment shall be evidenced by a written instrument duly executed by the proper officers of the association under its corporate seal. Each trust company and individual so designated and appointed shall qualify as such trustee by filing written acceptance of such designation and appointment with the secretary of the association. All instruments of designation and appointment, and any revocation of the same, and the written acceptances shall be recorded at length by the secretary of the association in its corporate records. The appointment of any such trustee may be revoked by the board of trustees of the association at any time by a vote of two-thirds of its members. No trustee of such fund shall be liable as such except for neglect or wilful default in the discharge of its or his duties.

[1917 c. 95 s. 2] (7615)

**306.78 PERCENTAGE OF SALE OF LOTS TO BE PAID INTO FUND; OTHER ADDITIONS TO FUND.** Each such cemetery association shall take not less than 20 per cent, for such fund, of the proceeds of all sales hereafter of cemetery lots, which shall be paid over, on the first days of January, April, July, and October, each year, to the trustee or trustees of the fund, and such payments shall thereafter become a part of the permanent care and improvement fund. Any other income or funds not required by the association for other purposes may from time to time be added to the fund by a vote of at least two-thirds of the members of the board of trustees of the association.

[1917 c. 95 s. 3; 1927 c. 198 s. 1] (7616)

**306.79 PRINCIPAL INVIOLEATE; INVESTED IN CERTAIN SECURITIES.** The principal of such permanent care and improvement fund shall forever remain intact and inviolable and invested by the trustee or trustees in the same class of securities only in which savings banks are authorized by the laws of this state to invest their funds, except that the association may, by resolution adopted by vote of at least two-thirds of the members of its board of trustees at any authorized meeting of the board, authorize the withdrawal and use of not more than 50 per cent of the principal of such permanent care and improvement fund for any or all of the following purposes: for the acquisition of additional land for cemetery purposes for the erection of a chapel, greenhouse, or other buildings desirable or necessary for the operation of such cemetery, or for the building or improvement of roads and avenues in such cemetery; provided, that the fund shall at no time

be diminished to an amount less than \$1,000 per acre for each acre of land in the cemetery. Upon presentation to such trustee or trustees of a certified copy of the resolution adopted, as aforesaid, such trustee or trustees shall at once comply therewith and thereupon be forever thereafter released and discharged from any and all further liability and responsibility for the part of such funds so withdrawn and delivered to such association. The trustee or trustees of such funds shall, at least semiannually turn over to the association the entire net income arising from such fund, which income shall be used by the association solely for the care, maintenance, and improvement of the cemetery and the avenues leading thereto; but in case any portion of the income shall not be expended or appropriated by the association for the period of one year after the same has been received by it, it shall be turned back to the trustee or trustees and invested by it or them as a part of the principal of the fund. No trustee or board of trustees shall receive as compensation for acting as such any sum in each year in excess of five per cent of the income derived from the fund in its hands.

[1917 c. 95 s. 4; 1923 c. 359 s. 1] (7617)

**306.80 TRUST COMPANY TO MAKE ANNUAL REPORT.** Any trust company or board of trustees acting as trustees pursuant to the terms hereof shall on the first day of each year make a full and complete report in writing to the association of the condition and state of the fund in its hands, which report shall at all times be open to the inspection of all owners of lots in such cemetery.

[1917 c. 95 s. 5] (7618)

**306.81 SELECTION OF SUCCESSOR TO TRUSTEE.** Upon the revocation of the appointment or resignation or removal of any sole trustee or individual appointed pursuant to the authority hereby conferred, the board of trustees of such association shall forthwith appoint a successor; and thereupon the trustee so resigning or removed shall immediately turn over to the successor all property of every description belonging to or appertaining to such fund. Upon written notice to it by the board of trustees of the association of the resignation or removal of any such trustee, or of any application to the court for an accounting by, or removal of, any such trustee, any bank, trust company, safety deposit company, or other corporation, institution, or individual having in its or his possession any of the moneys, securities, papers, or other property belonging or appertaining to such fund, shall thereupon refuse payment or delivery of the same, or any part thereof, to the trustee or trustees named in the notice, and upon its or their check or other authorization, except upon a check or other authorization for the transfer, surrender, or delivery of the same, or any part thereof, to its or his successor or successors.

[1917 c. 95 s. 6; 1923 c. 359 s. 2] (7619)

**306.82 DISTRICT COURT GIVEN POWER TO REMOVE ANY TRUSTEE OR TO COMPEL ACCOUNTING.** The district court for the judicial district in which the trust estate is situated shall have the power, for good cause shown, upon the application of one or more trustees of such association or of any other interested party, to remove any trustee or trustees of such fund, or to compel an accounting by any trustee of such fund, and shall have all the powers now or hereafter conferred by law upon district courts for the enforcement, execution, or regulation of express trusts.

[1917 c. 95 s. 7] (7620)

**306.83 APPLICATION TO CERTAIN ASSOCIATIONS.** Every cemetery association mentioned in section 306.76, which has heretofore created and established such permanent care and improvement fund pursuant to any law of this state, shall, with respect to such fund, comply with and be bound by the terms of sections 306.76 to 306.85.

[1917 c. 95 s. 8] (7621)

**306.84 CERTAIN SECTIONS NOT APPLICABLE.** Sections 306.31 to 306.39 shall not apply to, or be operative upon, cemetery associations mentioned in section 306.76.

[1917 c. 95 s. 9] (7622)

**306.85 APPLICATION.** Sections 306.76 to 306.85 shall apply to cemetery associations mentioned in section 306.76 maintaining such cemeteries in cities existing under a charter framed pursuant to the Constitution of the State of Min-

nesota, Article 4, Section 36; but shall not apply to cemeteries established by religious corporations, nor to private cemetery associations.

[1917 c. 95 ss. 10, 11] (7623) (7624)

**306.86 CONVEYANCES OF CEMETERY LOTS AND LANDS TO HOLDING CORPORATIONS LEGALIZED; RECONVEYANCE TO CITIES OF FIRST CLASS FOR CEMETERY PURPOSES.** In all cases where any person has heretofore executed a deed or other instrument of conveyance of any right, title, or interest in any cemetery land or lot in a cemetery in this state to a corporation empowered to acquire, hold, and convey title to real estate, such conveyances are hereby legalized and shall have the effect of transferring and conveying to such corporation all right, title, and interest of the grantor therein, and such corporation shall, by such conveyance, acquire all right, title, and interest which the grantor had in such land and property, subject only to the limitations, if any, contained in such instrument of conveyance, and shall have the right to convey the same for cemetery purposes to any city of the first class in this state, including those organized and operating under a home rule charter adopted under the provisions of the Constitution of the State of Minnesota, Article 4, Section 36, and the state laws relating thereto.

[1927 c. 96 s. 1] (7624-1)

**306.87 DEFINITIONS.** Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subdivision 2. **Associates.** The word "associates" shall mean the original incorporators and their successors.

Subdivision 3. **Public cemeteries.** All cemeteries heretofore started or established as public cemeteries and all cemeteries hereafter started or established, except cemeteries established by religious corporations, are hereby declared to be public cemeteries within the provisions of this chapter.

Subdivision 4. **Board of directors.** The term "board of directors," as used in sections 306.41 to 306.54, shall refer to and include the board of supervisors of any town, the governing body of any city, village, or borough, the board of trustees or directors of any religious corporation or of any cemetery association described in section 306.41.

[R. L. ss. 2936, 2942; 1911 c. 385 s. 1; 1921 c. 247 s. 2] (7558) (7564) (7594-2)