

## CHAPTER 306

## PUBLIC CEMETERIES

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NOTE: For definitions, see section 300.02.

**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.

**History:** (7557) *RL s 2935*

**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 county recorder 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 or city of this state may be transferred by such town 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 or city, as the case may be; such town or city 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 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.

**History:** (7558) *RL s 2936; 1911 c 385 s 1; 1931 c 119 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2*

**306.023 UNUSED PUBLIC CEMETERY; TRANSFER TO OPERATING PUBLIC CEMETERY.**

Subdivision 1. Any public cemetery association which owns a cemetery in which no interments have been made for 40 years may transfer such cemetery and real estate owned by it, together with any funds or property which it possesses to such other public cemetery association or corporation as may at the time be serving the same community in the burial of the dead.

Subd. 2. To accomplish such transfer, the board of trustees of such cemetery association shall adopt a resolution to that effect by an unanimous vote of the board of trustees, and thereupon the chair or president of the board of trustees and the

secretary shall be authorized to execute the proper instruments and a deed in the name of the association to evidence the transfer; provided, however, that such transfer must first have been authorized by a majority vote of all members of the association, present and voting, at any regular meeting or at any special meeting called for that purpose, written notice of which meeting shall have been given to the members specifying the time, place and purpose of such meeting.

In the event said association shall be an unincorporated association, a deed executed in the name of such association by the chair or president and the secretary or treasurer of the board of trustees shall be deemed a valid conveyance of the lands of the association.

Subd. 3. Any public cemetery association or corporation actually serving such community in the burial of the dead may accept a transfer of such a cemetery and the lands, property and funds thereof. Before any transfer shall be made, the public cemetery association to which such transfer is being made shall adopt a resolution agreeing to accept such cemetery and its lands, property and funds and agreeing to operate, maintain, control and manage such cemetery and to administer the property and funds thereof, if any, in the name of, and in accordance with the rules and regulations and laws governing such public cemetery association so accepting.

Subd. 4. After any such transfer, all lot owners of the former association shall continue their ownership and shall be entitled to the same rights and privileges with respect to their lots as are accorded to lot owners by the public cemetery association to which such transfer was made and shall thereafter be subject to all the rules, regulations and laws governing such public cemetery association.

**History:** 1949 c 298 s 1; 1984 c 543 s 13; 1986 c 444

### 306.025 TRANSFER OF CEMETERIES TO STATUTORY CITIES.

Subdivision 1. **Acceptance.** Any public cemetery association which owns a cemetery located within or partly within a statutory city may transfer such cemetery to the statutory city in which it is located or partly located, together with all the funds and property of such association, whether such funds be of a trust character or otherwise. Any statutory city in which such a cemetery is located or partly located may accept a transfer of any such cemetery and of the property and funds thereof, and may continue to operate, maintain, manage and conduct such cemetery, and to sell lots therein and provide for the burial of the dead therein. All funds received from such cemetery association upon such transfer shall be administered by the statutory city for the same purposes and upon the same trusts for which they were originally established.

Subd. 2. **Transfer, how made.** To accomplish such transfer, the board of trustees of such cemetery association shall first adopt a resolution to that effect by a unanimous vote of the members of the board of trustees, and thereupon the chair or president of the board of trustees and the secretary shall be authorized to execute the proper instruments to evidence the transfer thereby and herein authorized, provided, however, that such transfer must first have been authorized by a majority vote of all the members of the association at any regular meeting or at any special meeting called for that express purpose.

Subd. 3. **Statutory city council to accept by resolution.** Before such transfer shall be made, the statutory city council of the statutory city in which such cemetery is located or partly located shall first adopt a resolution agreeing to accept such transfer of the property and funds of such cemetery association, and agree to continue to operate, maintain, manage, conduct, and control such cemetery, to sell lots therefrom, and to administer the funds thereof for the same purposes and upon the same trusts for which they were originally established.

Subd. 4. **Trust fund for perpetual care.** If a trust fund for the perpetual care of cemetery lots is transferred to any such statutory city pursuant to this section, then such fund shall be preserved and kept and used and administered for the same purposes and upon the same trusts as if such transfer had not been made. All lots for which payment

in full for perpetual care has been made to such cemetery association, shall be entitled to receive and such statutory city shall provide such perpetual care.

Subd. 5. **Rights of lot owners.** After any such transfer, all lot owners shall be entitled to the same rights and privileges with respect to their lots as if such transfer had not been made.

Subd. 6. **Maintenance.** After any such transfer shall have been made, as herein provided, and shall have been accepted by any such statutory city, the council of any such statutory city shall operate, maintain, conduct, control, and manage such cemetery so transferred. For that purpose it may appoint a committee of the council.

Subd. 7. **Rules.** The statutory city council may adopt rules and regulations for the conduct, management, maintenance, and operation of any such cemetery, but such rules may not infringe upon the rights of lot owners who were such at the time the transfer was made.

**History:** 1945 c 188; 1973 c 123 art 5 s 7; 1986 c 444

### 306.027 MERGER OF CEMETERIES.

The ownership of a cemetery owned by a cemetery association or corporation, a municipality or town, a religious corporation, or any other body, or of a privately owned cemetery, may be merged with that of any other cemetery upon the terms set by its governing body, board of trustees, or owner. The surviving association, corporation, municipality, town, religious corporation, or other body or private person owning the cemeteries shall be subject to the laws appropriate for the particular type of cemetery ownership. No interests of third parties shall be impaired by the merger and after the merger lot owners of the former cemeteries shall continue their ownership and be entitled to the same rights and privileges with respect to their lots that were accorded to them under the previous ownership.

**History:** 1971 c 104 s 1

### 306.03 ACTUARY; RECORDS; REPORTS.

Every such corporation, in addition to its ordinary corporate officers, shall annually appoint an actuary, or provide by its bylaws that its secretary shall perform the duties of such office. The actuary shall keep a register of burials, entering 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 commissioner of health and to local health officers, when so requested, an accurate summary of such record during any specified year.

**History:** (7559) RL s 2937; 1933 c 65 s 1; 1953 c 699 s 13; 1955 c 4 s 7; 1969 c 275 s 11; 1977 c 305 s 45; 1986 c 444

### 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 nor more than \$10 for the benefit of the school fund of the district in which such cemetery or crematory is situated.

**History:** (7560) RL s 2938

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

**History:** (7561) *RL s 2939; 1941 c 240; 1976 c 181 s 2*

### **306.06 CONVEYANCE OF CERTAIN LANDS TO CEMETERY ASSOCIATIONS.**

When any land situated within any town or statutory city 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 statutory city 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.

**History:** (7561-2) *1937 c 45 s 1; 1973 c 123 art 5 s 7*

### **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.

**History:** (7561-3) *1937 c 207 s 1*

### **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.

**History:** (7561-4) *1937 c 207 s 2*

### **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.

**History:** (7562) *RL s 2940*

### **306.10 FUNDS, HOW USED; GRANTS IN TRUST.**

The proceeds of the sales of lots and of personal property not invested as hereinaf-

ter 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.

**History:** (7563) *RL s 2941*

### **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 bylaws. 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.

**History:** (7564, 7565) *RL s 2942, 2943*

### **306.111 VACANCIES AMONG ASSOCIATES, PROCEDURE FOR FILLING.**

Subdivision 1. Any incorporated public 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 a majority of the associates of the corporation are deceased or have for three years or more failed to act as such associates, may by a meeting of the lot owners in said cemetery fill the vacancies among the associates.

Subd. 2. Any three or more lot owners in such cemetery may mail notice to all the lot owners known to them or whose addresses appear in the cemetery records that a meeting of the lot owners will be held not less than 14 days after the mailing at a time and place to be fixed by them and designated in the notice, in the county wherein the cemetery is situated, for the purpose of filling the vacancies among the associates.

Subd. 3. 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 lot owners. The meeting may be called to order by any lot owner and shall be organized by choosing in the usual manner a chair and a secretary. The meeting shall thereupon proceed to fill the vacancies among the associates. The voting at such meeting shall be by viva voce, unless otherwise ordered by those present at the meeting. A majority of the lot owners voting at the meeting shall elect.

Subd. 4. The chair 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 subdivision 1. It shall further state that the meeting was held, giving the names of the chair 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 associates and shall be recorded at length in the office of the county recorder 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.

Subd. 5. The associates elected at the meeting of the lot owners shall exercise all

of the powers of associates as provided by law and the articles of incorporation of the association, and shall fill any vacancy then existing in the board of directors or trustees of the association.

**History:** 1959 c 7 s 1-5; 1976 c 181 s 2; 1984 c 543 s 14; 1986 c 444

### **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.

**History:** (7566) RL s 2944

### **306.13 EMPLOYEES TO HAVE POLICE POWERS.**

The trustees or officers of any cemetery association may appoint such superintendents, security guards, 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.

**History:** (7567) RL s 2945; 1986 c 444

### **306.14 TAX EXEMPT; NO ROAD OR STREET LAID THROUGH A CEMETERY WITHOUT CONSENT OF TRUSTEES.**

Subdivision 1. 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.

Subd. 2. Nothing contained in subdivision 1 shall be construed to exempt cemetery property owned or leased by any corporation, association, partnership, proprietorship or any other organization from any special assessment unless such corporation, association, partnership, proprietorship or other organization

(a) was formed for a purpose not involving pecuniary gain to its shareholders or members; and

(b) pays no dividends or other pecuniary remuneration directly or indirectly to its shareholders or members as such.

**History:** (7568) RL s 2946; 1969 c 980 s 1

### **306.15 LOTS, CONVEYANCE.**

Whenever any lot in any cemetery, or any entombment or inurnment space in any mausoleum, has been sold or conveyed for burial purposes, such lot, entombment or inurnment space shall forever thereafter be inalienable, except as hereinafter provided.

(1) The original purchaser of such lot, entombment or inurnment space, may sell, convey and release to the cemetery the portion of the same not actually occupied by interments or by entombed or inurned human remains.

(2) The owner by inheritance of such lot, entombment or inurnment space, may sell, convey and release to the cemetery the portion of the same not actually occupied by interments or by entombed or inurned human remains.

(3) When, by the consent of the owner, such lot, entombment or inurnment space will be solely used by some other person as a family burial place, such owner may convey the same to the person so using it.

(4) There shall be filed with the cemetery a copy of an agreement of sale signed and acknowledged by such owner (and spouse, if any) and the proposed purchaser, transferring and releasing title to the cemetery and requesting that the cemetery issue a new

conveyance of such lot or space directly to such purchaser in consideration of the payment by purchaser to such owner of a specified price, which price shall not be more than the price which would be charged by the cemetery in a sale by it of any similar lot or space.

(a) With the filing of such agreement, there shall be paid to the cemetery a reasonable transfer and service charge not to exceed \$15.

(b) Upon compliance with the foregoing, the cemetery shall forthwith issue a conveyance of such lot or space to the designated purchaser.

The cemetery may use any of its funds for repurchase of any lots, entombment or inurnment spaces, as provided herein, and may hold or again sell and convey the same.

**History:** (7569) *RL s 2947; 1943 c 253 s 1; 1951 c 492 s 1; 1967 c 623 s 1*

### **306.16 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION, WHEN; PROCEDURE.**

Subdivision 1. When any cemetery association organized under the laws of this state or any public cemetery, whether the same be operated by a municipality or not, 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 cemetery provides that the lot shall be held subject to all the rules, bylaws, and regulations of such cemetery and such deed or such rules, bylaws, or regulations further provide for the payment of an annual charge for the care, upkeep, 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 or any municipally-owned cemetery 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.

Subd. 2. The association or any municipally-owned cemetery may cause to be served upon the owner of the lot, 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 or the proper officer of the municipally-owned cemetery, 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 of aforesaid, the association or municipally-owned cemetery 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 any such cemetery 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 or such municipally-owned cemetery.

Subd. 3. 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 or any public cemetery described therein 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 or municipality with the title to the portion of the cemetery lot unused for burial purposes.

**History:** (7570, 7571) *1921 c 167 s 1.2; 1949 c 163 s 1; 1984 c 543 s 15*

### **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 or public cemetery shall be made a part of the records of the association or public cemetery, as the case may be, and when the deed or conveyance from the association or public cemetery 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 both secretary of the cemetery association or public cemetery, and a copy of the printed notice with the sheriff's return thereon, shall be placed of record in the registry of deeds.

**History:** (7572) 1921 c 167 s 3; 1949 c 163 s 2

### **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 or public cemetery is hereby required to leave 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.

**History:** (7573) 1921 c 167 s 4; 1949 c 163 s 3

### **306.19 LIMITATION.**

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

**History:** (7574) 1921 c 167 s 5; 1949 c 163 s 4

### **306.20 EFFECT; TIME LIMIT.**

Compliance with the terms of sections 306.16 to 306.20 shall as fully reinvest the association and municipality with, and divest the record owner and 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 or municipality 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, bylaws, rules, and regulations of such association or municipality; provided that the association or municipality 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 section 306.16 by the board of trustees of the association or public cemetery; 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 or public cemetery 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 bylaws, rules, and regulations of the cemetery association or public cemetery, and shall take out and pay for a perpetual care contract upon the lot, the cemetery association or public cemetery shall reconvey the lot to the person lawfully entitled to the same.

**History:** (7575) 1921 c 167 s 6; 1949 c 163 s 5; 1986 c 444

### **306.21 UPKEEP OF LOTS; ABANDONMENT.**

**Subdivision 1. Lots conveyed and abandoned.** 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, conveyed cemetery lots or parcels by deed of conveyance with or without restrictions contained therein and the grantee therein, or parties claiming through such grantee, (a) for more than 75 years in counties having a population over 50,000 according to the 1960 federal decennial census, and 50 years in all other counties, have not used portions of such lots or parcels for the purposes of burial and during said time have not made provision for care of said lots beyond that provided uniformly to all lots within the cemetery, and during said

time have not given to said corporation a written notice of claim or interest in such lots or parcels, or (b) 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 of growth of weeds and brush, such corporation may, by resolution of its governing board, demand of such owners or holders (a) that they file with the corporation a written notice of claim or interest in and to said lots or parcels supported by satisfactory evidence thereof within 60 days after the service of a copy of such resolution of demand, or (b) that they 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 in the same manner as a complaint in a civil action.

**Subd. 2. Lots conveyed before 1925.** Where such an association has sold lots and parcels for burial purposes prior to 1925 with or without restriction which have not been used for burial purposes, and the owners have not maintained the lots nor paid the fees required by the association of lot owners for care and upkeep for a period of at least 15 years, association may by resolution of its governing body demand that the owners or holders of any such lots described therein pay to the association the fees owed for care and upkeep in the period during which such fees were not paid, stating the amount thereof as to each lot, without interest, and declare that if that amount is not paid to the association by the persons claiming to be owners within 90 days that the described lots and all interest therein shall be deemed abandoned to the association. Such resolution shall name all of the persons shown by the records of the association to have a claim of ownership to the lots described and shall be served in the manner required for service of a resolution in subdivision 1 of this section.

**History:** (7576) 1921 c 358 s 1; 1959 c 673 s 1; 1961 c 535 s 1; 1969 c 311 s 1; 1984 c 543 s 16

### 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.

**History:** (7577) 1921 c 358 s 2

### 306.23 ABANDONMENT, PRIMA FACIE EVIDENCE.

In all such cases the fact that such grantee or holder (a) for more than 75 years in counties having a population over 50,000 according to the 1960 federal decennial census, and 50 years in all other counties, has not used portions of such lots or parcels for the purposes of burial and during said time has not made provision for care of said lots beyond that provided uniformly to all lots within the cemetery, and during said time has not given to said corporation a written notice of claim or interest in such lots or parcels, or (b) 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.

**History:** (7578) 1921 c 358 s 3; 1969 c 311 s 2

**306.24 COPY OF JUDGMENT; FILING.**

A certified copy of the judgment in such action quieting title may be filed in the office of the county recorder in and for the county in which the parcel is situate.

**History:** 1921 c 358 s 4; 1976 c 181 s 2

**306.241 DEPOSIT OF NET PROCEEDS FROM LOT RESALES.**

All of the proceeds from the subsequent resale of any lots or parcels the title to which has been revested in the corporation pursuant to sections 306.21 to 306.24, or 306.242, less the costs and expenses incurred in such proceedings approved by the district court, shall become a part of the permanent care and improvement fund of the corporation.

**History:** 1969 c 311 s 3; 1983 c 149 s 1

**306.242 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION AFTER 60 YEARS.**

**Subdivision 1. Scope.** As an alternative to the procedure in sections 306.21 to 306.241, a cemetery association incorporated in Minnesota may use the procedures in this section to reinvest itself with the title to a portion of a cemetery which was conveyed by deed to a person but which has not been used for the purposes of burial for more than 60 years.

**Subd. 2. Required statement of owner's interest.** The governing board of a cemetery association may pass a resolution demanding that the owner of a portion of a cemetery which has been unused for more than 60 years express an interest in the cemetery plot. The board must then personally serve a copy of its resolution on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner must, within 60 days of service of the resolution on the owner, express an interest in retaining the cemetery plot and submit satisfactory evidence of an intention to use the plot for a future burial.

**Subd. 3. Published notice; substitute service.** If the owner cannot be personally served with the resolution of the board, as required in subdivision 2, because the owner cannot be found in this state or for another valid reason, the board must publish its resolution for three successive weeks in a legal newspaper published in the county and must mail a copy of the resolution within 14 days after the third publication to the owner's last known address.

**Subd. 4. Reinvestment.** If for 60 days after the service or publication of the board's resolution the owner or person with a legal interest in the cemetery plot fails to state a valid interest in the use of the cemetery plot for burial purposes, the owner's rights are terminated and that portion of the cemetery once again belongs to the cemetery association.

**History:** 1983 c 149 s 2; 1983 c 216 art 2 s 13

**306.243 ABANDONED CEMETERIES, MAINTENANCE OF.**

**Subdivision 1. Appropriation for improvement.** Whenever in any county, whether within the corporate limits of any town or statutory city or not, there exists any cemetery that has been abandoned or neglected and the association having had charge of said cemetery has disbanded or fails to act, or there exists a private cemetery containing the remains of pioneers or residents of this state, deceased before the year 1875 or civil war veterans or veterans of the armed services of the United States of any previous war, and such private cemeteries have been abandoned or neglected for any reason, the county board of any county may appropriate such funds from the general revenue funds as is deemed necessary for the improvement and maintenance of said cemetery.

**Subd. 2. Duties of county board.** Whenever in any county, there is an isolated grave or graves located outside of the boundaries of a cemetery, or outside of an abandoned or neglected private cemetery, as described in subdivision 1 the county

board may order the disinterment of the body and the reinterment thereof in some cemetery controlled by a duly organized cemetery association and the county board may appropriate funds for the purpose of paying perpetual care to said association for the care of said grave or graves.

**Subd. 3. Delegation of duties.** The management and supervision of the maintenance and care of the abandoned cemeteries, and abandoned or neglected private cemeteries, or the removal of bodies as herein provided shall be delegated by the county board to the county highway department or to some existing cemetery association, veterans organization or Boy Scouts of America Area Council, or other charitable institution which shall be responsible to the county board for its acts.

**Subd. 4. Disbursement of funds.** Whenever funds are raised by any organization or institution other than an existing cemetery association, to be used for the care and maintenance of an abandoned or neglected private cemetery described in subdivision 1, such funds may be paid to the county treasurer to be held or disbursed upon authority of the county board for the purposes intended for which the funds are raised.

**History:** 1943 c 468; 1947 c 382 s 1; 1955 c 844 s 1; 1973 c 123 art 5 s 7; 1974 c 211 s 2; 1986 c 444

### **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.

**History:** (1023-1) 1939 c 227

### **306.246 CEMETERY MAINTENANCE FUNDS.**

A county, city or town may disburse funds for the general maintenance of abandoned or neglected cemeteries.

**History:** 1974 c 211 s 1

### **306.25 CANCELLATION AND TERMINATION OF CONTRACTS FOR PURCHASE OF LOTS BY CERTAIN ASSOCIATIONS; REFUNDS.**

When any cemetery association organized under the laws of this state, shall enter into a contract to convey to any person or persons the right of sepulture or burial upon any platted lot or designated piece of ground, or any entombment or inurnment space in any mausoleum within the area of such cemetery, by which contract the association has reserved the right to terminate the same in case of default by the purchaser, and to forfeit the payments made, as liquidated damages, it may do so by serving upon the purchaser, a personal representative, or assigns, a notice as provided in section 559.21, specifying the conditions in which default has been made, and stating that such contract will terminate 30 days after the service of such notice, unless prior thereto, the purchaser shall comply with such conditions and pay the costs of service. When the contract so specifies the notice may be served upon the purchaser, by certified mail, return receipt requested, by depositing the same in the post office, with the postage prepaid thereon, and addressed to the purchaser at the address given in the contract, or as later changed by written notice to the association. In case the notice of default is served by mail, the 30-day period hereinbefore specified shall commence to run as of the date of depositing the same in the post office.

If any interment or burial has been made on such platted lot or designated piece of ground, or in any entombment or inurnment space in said mausoleum so sold said contracts to convey may be terminated only as to the portion of the premises or entombment or inurnment space not actually occupied by said interment or burial or by an entombment or inurnment.

Laws 1943, chapter 216, shall not apply to any contracts existing prior to the passage thereof.

**History:** (7579-1) 1927 c 196 s 1; 1943 c 216 s 1,2; 1978 c 674 s 60; 1986 c 444

**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.

**History:** (7579-2) 1927 c 196 s 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.

**History:** (7579-3) 1927 c 196 s 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.

**History:** (7580) 1921 c 234 s 1

**306.29 DISPOSAL OF LOTS BY OWNERS.**

Any owner of a cemetery lot may dispose of the same by will to a relative who may be a survivor, 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, while living, 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.

**History:** (7582) RL s 2949; 1915 c 233 s 2; 1927 c 295 s 2; 1986 c 444

**306.30 [Repealed, 1973 c 35 s 49]**

**306.31 CEMETERY ASSOCIATIONS 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.

**History:** (7585) 1887 c 168 s 1; 1897 c 339 s 1; 1905 c 197 s 1; 1915 c 345 s 1

**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.

**History:** (7586) RL s 2951

**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.

**History:** (7587) RL s 2952

**306.34 BONDS.**

Before entering upon duties, each person chosen as a trustee of such fund shall give bond to the association in a sum not less than \$500 and at least equal to one-third the amount of the fund at that time, conditioned for the faithful discharge of the 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 a bond within 30 days after the time herein specified shall be a sufficient ground for removal on application of any person interested.

**History:** (7588) RL s 2953; 1907 c 211 s 1; 1986 c 444

**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.

**History:** (7589) RL s 2954

**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.

**History:** (7590) *RL s 2955*

**306.37 CARE AND IMPROVEMENT FUND.**

Twenty percent of the proceeds of all sales of cemetery lots and ten percent of the proceeds of all sales of burial space in a mausoleum made after the vote of the board of trustees of the association to establish said care and improvement fund shall be paid over to such trustee or trustees of the fund, on January 1, April 1, July 1, and October 1, in each year. Until so paid over, the foregoing amounts shall be held in trust by the cemetery association for payment thereof to the trustee or trustees of such fund. 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 the members of its board of trustees. The principal of such fund shall not be subject to any minimum or maximum amount. The words "cemetery lots" as used in this section shall not be construed to include burial space in a mausoleum. The term "burial space" as used herein shall include private rooms, crypts, niches or other designated space in which the bodies or ashes of deceased persons are placed for permanent burial in a mausoleum.

**History:** (7591) *RL s 2956; 1943 c 133 s 1; 1959 c 640 s 1*

**306.38 EXPENDITURE; INVESTMENTS.**

Subdivision 1. Except as otherwise provided in subdivision 2, 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 1 and July 1, 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 unappropriated 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.

Subd. 2. Every cemetery association governed by the provisions of sections 306.31 to 306.40, heretofore or hereafter organized under the laws of this state, including private cemetery associations, which shall maintain a public cemetery of not less than 20 acres in extent in or adjacent to any city of the first class of this state and which has provided for a permanent care and improvement fund administered, whether in one trust or more than one trust, by one or more trust companies acting as trustee or trustees of such fund, pursuant to the provisions of section 306.32, when the aggregate principal of such fund reaches \$100,000 or more, may, by a resolution adopted by a vote of at least two-thirds of the members of its board of trustees at any authorized meeting of its board, authorize the trust company or trust companies acting as such trustee or trustees, in investing, reinvesting, exchanging, and managing such fund, to acquire every kind of investment, specifically including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, which any ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as such trustee.

**History:** (7592) *RL s 2957; 1959 c 640 s 2; 1976 c 239 s 89*

**306.39 COMPENSATION.**

Every trustee of such funds shall receive \$5 for each day actually employed in the

duties of such trust, but not exceeding \$100 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 percent of the income or \$100 of said income if the trust fund is less than \$20,000.

**History:** (7593) *RL s 2958; 1963 c 725 s 1*

#### **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.

**History:** (7594) *RL s 2959*

#### **306.41 PERMANENT CARE AND IMPROVEMENT FUND, ESTABLISHMENT; PROCEDURE; WHERE DEPOSITED OR INVESTED.**

The board of supervisors of any town, or the governing body of any incorporated city or statutory city, 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 county recorder 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 or invested as provided in section 306.44, 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.

**History:** (7594-1) *1921 c 247 s 1; 1963 c 82 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2*

#### **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.

**History:** (7594-3) *1921 c 247 s 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.

**History:** (7594-4) 1921 c 247 s 4

### **306.44 DEPOSIT OR INVESTMENT OF FUNDS.**

Subdivision 1. 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 or invest all money belonging to such permanent fund as follows. (1) The money may be deposited in the county treasury of the county in which such cemetery is located and 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. (2) The money may be invested in the same securities in which savings banks are by law permitted to invest. Any of the income unexpended and unappropriated for one year after becoming available for care, maintenance, or improvement shall be returned to the fund and become a part of the principal. (3) The money may be deposited or invested as provided in both (1) and (2), above, and may be withdrawn from either and deposited in the other, and the county treasurer is directed to return to the board any moneys deposited in the county treasury which the board, by resolution, withdraws. When money is deposited in the county treasury, 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.

If the board of directors invests permanent care and improvement funds in the securities in which savings banks are by law permitted to invest, the board shall designate certain of its members to handle such funds. The persons so designated shall give bond to the association, corporation, or municipality maintaining the cemetery in a sum not less than the total amount of the fund at the time of posting such bond, conditioned for the faithful discharge of the trust. On July 1 of each even numbered year thereafter, the person shall give a new bond in the amount and with the conditions provided above.

Subd. 2. The directors are authorized to retain annually out of the money received not to exceed \$100 for upkeep, improvements and expenses.

**History:** (7594-5) 1921 c 247 s 5; 1949 c 250 s 1; 1963 c 82 s 2; 1986 c 444

### **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.

**History:** (7594-6) 1921 c 247 s 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 the treasurer or 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 the treasurer is liable upon the treasurer's bond for moneys deposited on behalf of the county.

**History:** (7594-7) 1921 c 247 s 7; 1986 c 444

#### **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.

**History:** (7594-8) 1921 c 247 s 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 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.

**History:** (7594-9) 1921 c 247 s 9; 1986 c 444

#### **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.

**History:** (7594-10) 1921 c 247 s 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.

**History:** (7594-11) 1921 c 247 s 11

**306.51 INTEREST ON FUND, APPORTIONMENT.**

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; provided, that if the legal existence of any religious incorporation or any association formed under the provisions of law for the purpose of maintaining a cemetery has terminated, the interest due from such fund to such defunct cemetery association or incorporation shall be paid to the treasurer of the city or town in which such cemetery is located, to be expended by such municipality for the care, maintenance, or improvement of such cemetery. 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.

**History:** (7594-12) 1921 c 247 s 12; 1953 c 205 s 1; 1973 c 123 art 5 s 7

**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.

**History:** (7594-13) 1921 c 247 s 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.

**History:** (7594-14) 1921 c 247 s 14

**306.54 AUDIT OF FUND; COUNTIES EXCEPTED.**

The first time in each year that the county board 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 in the official newspaper of the county, 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.

**History:** (7594-15) 1921 c 247 s 15; 1967 c 409 s 1

### **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, bylaws or otherwise for the care, upkeep, and maintenance of any lot or lots in such cemetery and remain unpaid for a period of five 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.

**History:** (7594-16) 1927 c 208; 1949 c 428 s 1

### **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, 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.

**History:** (7594-17) 1925 c 209 s 1

### **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 while living or by last will and testament, duly admitted to probate.

**History:** (7594-18) 1925 c 209 s 2; 1986 c 444

### **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.

**History:** (7595) 1909 c 165 s 1

### **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 statutory city 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.

**History:** (7596) 1909 c 165 s 2; 1973 c 123 art 5 s 7

**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 chair 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.

**History:** (7597) 1909 c 165 s 3; 1986 c 444

**306.61 CERTIFICATE; RECORD; EFFECT.**

The chair 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 chair 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 county recorder 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.

**History:** (7598) 1909 c 165 s 4; 1976 c 181 s 2; 1986 c 444

**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 bylaws 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.

**History:** (7599) 1909 c 165 s 5

**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.

**History:** (7600) 1911 c 296 s 1

**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.

**History:** (7601) 1913 c 444 s 1

**306.65 PLATS FILED, CITIES OF OVER 50,000.**

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 county recorder of the county in which its cemetery is located a plat showing the area and location of such cemetery.

**History:** (7601-1) 1911 c 129 s 1; 1976 c 181 s 2

**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 county recorder. 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 nondestructible markers three inches or more in diameter and eight inches or more in length, one of such markers showing the number of the lot.

**History:** (7601-2) 1911 c 129 s 2; 1976 c 181 s 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.

**History:** (7601-3) 1911 c 129 s 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.

Subd. 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 association to be held at a time and place designated in the notice, in the city 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.

Subd. 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.

Subd. 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 county recorder 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.

**History:** (7602, 7603, 7604, 7605) 1913 c 526 s 1-4; 1973 c 123 art 5 s 7; 1976 c 181 s 2

**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 bylaws of the board;

(6) By providing that the board of associates may adopt bylaws 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;

(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.

**History:** (7606) 1921 c 422 s 1

**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 county recorder of the county in which the cemetery of such association is located and in the office of the secretary of state.

**History:** (7607) 1921 c 422 s 2; 1976 c 181 s 2

**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.

**History:** (7608) 1921 c 422 s 3

### **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.

**History:** (7609) 1921 c 422 s 4

### **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 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 bylaws;

(8) By providing that the trustees may adopt bylaws 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.

**History:** (7610) 1915 c 304 s 1; 1939 c 21

### **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 county recorder of the county in which the cemetery of the association is located and in the office of the secretary of state.

**History:** (7611) 1915 c 304 s 2; 1976 c 181 s 2

### **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.

**History:** (7612, 7613) 1915 c 304 s 3,4

### **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.

**History:** (7614) 1917 c 95 s 1; 1927 c 198 s 1

### **306.761 PERMANENT CARE AND IMPROVEMENT FUNDS; MINIMUM AMOUNTS; REPORTING; PENALTIES.**

Subdivision 1. Any cemetery association which operates a cemetery larger than ten acres shall establish a permanent care and improvement fund and all cemetery associations operating a cemetery larger than ten acres and having a permanent care and improvement fund shall file annually as part of the report required in subdivision 2 a notice with the county auditor of the county in which the cemetery is situated. The notice shall include the names and addresses of each person or entity owning a five percent or greater interest in the cemetery, and the names and addresses of all officers if any change has taken place since the previous notice. The term "association" as used in this section shall include any person, firm, partnership, association or corporation.

Subd. 2. Any cemetery association which operates a cemetery larger than ten acres and having a permanent care and improvement fund shall make a full and complete written annual report to the county auditor of the county in which the cemetery is situated on the condition and state of the fund, including all deposits and withdrawals of principal amounts and all receipts and disbursements. The report shall be filed on forms prescribed by the county auditor by March 31 for any cemetery association operating a cemetery larger than ten acres and operating on a calendar year basis and by 90 days after the end of the fiscal year for any cemetery association operating a cemetery larger than ten acres and operating on a fiscal year basis. There shall be paid to the county auditor a filing fee of \$10 for each report.

Subd. 3. Any person, firm, partnership, association, or corporation knowingly violating the provisions of this section shall be guilty of a misdemeanor and for a second offense shall be guilty of a gross misdemeanor.

Subd. 4. This section shall not apply to cemeteries owned and operated by a municipality, church, religious corporation or religious association.

**History:** 1971 c 894 s 1; 1981 c 139 s 1

### **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 willful default in the discharge of duties.

**History:** (7615) 1917 c 95 s 2; 1986 c 444

### **306.773 INVESTMENT OF FUND OF CEMETERY ASSOCIATIONS.**

Subdivision 1. Every cemetery association heretofore or hereafter organized under the laws of this state which has provided for a permanent care and improvement fund administered by one or more trust companies acting as trustee or trustees of such fund, pursuant to the provisions of section 306.77, may, when the principal of such fund remaining after withdrawals therefrom for purposes authorized by law shall have reached an amount exceeding \$100,000, by resolution adopted by a vote of at least two-thirds of the members of its board of trustees at any authorized meeting of the board, authorize the trust company or trust companies acting as such trustee or trustees, in investing, reinvesting, exchanging, and managing such fund, to acquire every kind of investment, specifically including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, which any ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as such trustee.

Subd. 2. The trustee or trustees may invest the trust property in accordance with this section, notwithstanding any contrary limitation or condition contained in the trust instrument.

**History:** 1957 c 4 s 1; 1969 c 13 s 1; 1969 c 964 s 1

### **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 percent 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 of each year to the trustee or trustees of said fund, and such payments shall thereafter become a part of such permanent care and improvement fund. Any other income or funds not required by such association for other purposes may from time to time be added to said fund by a vote of at least two-thirds of the members of the said board of trustees of the association. The words "cemetery lots" as used in this section shall not be construed to include burial space in a mausoleum. Each such cemetery association shall take not less than ten percent of the proceeds of all sales of burial space hereafter made in a mausoleum for such fund, which shall be paid over on the first days of January, April, July, and October of each year to the trustee or trustees of said fund, and such payments shall thereafter become a part of such permanent care and improvement fund. The term "burial space" as used herein shall include private rooms, crypts, niches or other designated space in which the bodies or ashes of deceased persons are placed for permanent burial in a mausoleum.

**History:** (7616) 1917 c 95 s 3; 1927 c 198 s 1; 1943 c 133 s 2

**306.79 PRINCIPAL INVIOLETE; 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 percent 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 percent of the income derived from the fund in its hands.

**History:** (7617) 1917 c 95 s 4; 1923 c 359 s 1

**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.

**History:** (7618) 1917 c 95 s 5

**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 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 a successor or successors.

**History:** (7619) 1917 c 95 s 6; 1923 c 359 s 2; 1986 c 444

**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.

**History:** (7620) 1917 c 95 s 7

### **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.

**History:** (7621) 1917 c 95 s 8

### **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.

**History:** (7622) 1917 c 95 s 9

### **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 Minnesota, article 4, section 36. The governing body of any corporate public cemetery association wishing to avail such corporation the benefits of sections 306.76 to 306.85 may do so by adoption of a resolution by a two-thirds vote of the governing board. Sections 306.76 to 306.85 shall not apply to cemeteries established by religious corporations, nor to private cemetery associations.

**History:** (7623, 7624) 1917 c 95 s 10,11; 1943 c 32 s 1

### **306.851 SECTIONS 306.76 TO 306.85 NOT APPLICABLE TO CERTAIN CEMETERIES.**

Any public cemetery association organized under the laws of the state of Minnesota for the purpose of providing free burial for the poor and not with view to profit, and which has been in existence for over 25 years prior to the enactment hereof, shall be exempt from the provisions of Minnesota Statutes 1945, Sections 306.76 to 306.85.

**History:** 1949 c 147 s 1

### **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.

**History:** (7624-1) 1927 c 96 s 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.

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

Subd. 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.

Subd. 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, the board of trustees or directors of any religious corporation or of any cemetery association described in section 306.41.

**History:** (7558, 7564, 7594-2) *RL s 2936, 2942; 1911 c 385 s 1; 1921 c 247 s 2; 1973 c 123 art 5 s 7*

**306.88 ACQUISITION OF CEMETERY.**

Subdivision 1. Any lodge, order or association of a purely religious, charitable or benevolent description, which does not operate with view to profit and is exempt from the provisions of chapter 64B under section 64B.38 thereof, and which has been organized under the laws of the state of Minnesota and has been in existence for 20 years, and one of whose purposes as set forth in its charter is to provide free burial ground for its members and their families, and all of whose members are also members of a cemetery association by virtue of a provision in the charter of such cemetery association so specifically providing, which provision has been in effect for 15 years prior to the enactment hereof, is hereby authorized to acquire, by gift or purchase, the cemetery lands and property of such cemetery association and to maintain and enlarge the same. Any such cemetery association is hereby authorized and empowered to convey to any such lodge, order or association any cemetery land or property.

Any such lodge, order or association that pursuant hereto has acquired such cemetery lands in any county having a population of 600,000 or more and maintains the same for cemetery purposes is hereby also authorized to acquire by gift or purchase the cemetery lands or any part thereof owned by a public or other cemetery association which is adjacent thereto or is separated therefrom by a public highway or street. Any public or other cemetery association owning such lands is hereby authorized to convey the same or any part thereof to any such lodge, order or association by deed, pursuant to authorization by its board of directors or trustees. Sections 306.76 to 306.85 shall not apply to the proceeds of such sale. Upon the acquisition thereof, such lodge, order or association shall succeed to all the rights to maintain and use such other lands for cemetery purposes as were possessed by the public or other cemetery association from which they were acquired.

Subd. 2. Minnesota Statutes 1941, section 306.10 and sections 306.76 to 306.85, as amended by Laws 1943, chapters 32 and 133, shall not apply to lodges, orders, or associations acquiring, maintaining, or enlarging cemeteries as authorized hereunder. Section 306.14 shall apply to any land or property acquired or maintained by any such lodge, order, or association for cemetery purposes. Sections 307.01 to 307.10, in so far as they relate to cemeteries owned or managed by religious corporations, shall also apply to any cemeteries acquired, owned, and managed by any such lodge, order, or association under the within authorization.

**History:** 1945 c 297 s 1,2; 1955 c 63 s 1; 1969 c 6 s 39; 1985 c 49 s 41