CHAPTER 306

PUBLIC CEMETERIES

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306.01 CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES, HOW GOVERNED.

Public cemetery associations existing on March 1, 1906, shall continue under the forms of organization adopted by them and retain the rights and powers then possessed. Cemetery associations and private cemeteries established after that date shall be organized and governed by this chapter.

History: *(7557) RL s 2935; 1988 c 469 art 5 s 1*

306.02 CEMETERY CORPORATIONS OR ASSOCIATIONS.

Subdivision 1. **Purpose and method of formation.** A corporation or association may: (1) be formed to procure and hold or sell lands or lots exclusively for the purpose of a public cemetery; (2) acquire and manage all real and personal property necessary or proper to establish, embellish, care for, and manage a cemetery, and may construct and operate on that property a crematory and other proper means of disposing of the dead; and (3) sell and convey cemetery lots or sell and convey real or personal property acquired by it but not needed for cemetery purposes. The corporation or association 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. The certificate of incorporation shall be recorded in the office of the county recorder of the county where the cemetery is located and upon filing, the association is a corporation.

Subd. 2. **Transfer by local government unit.** Cemetery land and property or a public burial ground owned or controlled by a town, statutory or home rule charter city, or county may be transferred by deed or otherwise to an existing cemetery association or corporation, a cemetery association or corporation formed under this chapter, or a cemetery association or corporation formed under the laws of a federally recognized Indian Tribe in Minnesota. The transfer may be with or without condition, as determined by the town, statutory or home rule charter city, or county. The town, statutory or home rule charter city, or county may, as a part of the transaction, enter into a contract or agreement with the cemetery association to provide for the management and maintenance of the cemetery, for the sale of lots or land in the cemetery, and for those

other matters concerning the care and control of the cemetery as the town, statutory or home rule charter city, or county considers advisable.

Subd. 3. **Transfer by religious corporation.** Cemetery land or property owned by a religious corporation existing under state laws may be transferred to a cemetery association under state laws without any express consideration. In this case, the articles of incorporation of the cemetery association may provide, or may be amended to provide, for the appointment of its directors or trustees by the board of directors of the religious corporation or by some specified officer of the corporation. A cemetery association affiliated with a religious corporation by such a provision in its articles may provide for the acquisition of other cemetery properties within the state for the burial of persons of the same religious faith, exclusively.

Subd. 4. **Transfer to religious corporation.** A cemetery corporation or association governed by this chapter may transfer cemetery land or property to a religious corporation existing under state laws without any express consideration. Money held by the cemetery corporation or association for maintenance of transferred land containing cemetery burial plots must also be transferred to the religious corporation to which the land is transferred, and the religious corporation shall use the money for maintenance of the land and plots.

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; 1988 c 469 art 5 s 1; 1990 c 380 s 1; 1996 c 413 s 2; 2005 c 4 s 41; 2014 c 214 s 1*

306.023 UNUSED PUBLIC CEMETERY; TRANSFER TO OPERATING PUBLIC CEMETERY.

Subdivision 1. **Transfer authorized.** A public cemetery association that owns a cemetery in which no interments have been made for 40 years may transfer the cemetery and real estate owned by it, together with funds or property that it possesses, to another public cemetery association or corporation serving the same community in the burial of the dead.

Subd. 2. **Method of transfer.** To accomplish the transfer, the board of trustees of the transferring cemetery association shall adopt a resolution to that effect by an unanimous vote of the board of trustees. The chair or president of the board of trustees and the secretary may then execute the proper instruments and a deed in the name of the association to evidence the transfer. However, the 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, after written notice to the members specifying the time, place, and purpose of the meeting.

If the association is an unincorporated association, a deed executed in the name of the association by the chair or president and the secretary or treasurer of the board of trustees is a valid conveyance of the lands of the association.

Subd. 3. **Acceptance of transfer.** A public cemetery association or corporation serving the community in the burial of the dead may accept a transfer of a cemetery and its lands, property, and funds. Before a transfer is made, the public cemetery association to which the transfer is being made shall adopt a resolution agreeing to accept the cemetery and its real and personal property and funds and agreeing to operate, maintain, control, and manage the cemetery and administer its property and funds in the name of, and in accordance with the rules and laws governing the accepting public cemetery association.

Subd. 4. **Effect of transfer.** After transfer, lot owners of the former association continue their ownership. They are entitled to the same rights and privileges with respect to their lots accorded to lot owners by the

public cemetery association to which the transfer was made and are thereafter subject to all the rules and laws governing the public cemetery association.

History: *1949 c 298 s 1; 1984 c 543 s 13; 1986 c 444; 1988 c 469 art 5 s 1*

306.025 TRANSFER OF CEMETERY TO LOCAL GOVERNMENT UNIT.

Subdivision 1. **Acceptance.** A public cemetery association owning a cemetery may transfer it to a statutory or home rule charter city, town, or county in which the cemetery is wholly or partly located, together with all the funds and property of the association, whether the funds are of a trust character or otherwise. The statutory or home rule charter city, town, or county in which the cemetery is wholly or partly located may accept a transfer of the cemetery and of its property and funds, and may continue to operate, maintain, manage, and conduct the cemetery, and to sell lots and provide for the burial of the dead in the cemetery. Funds received from the cemetery association upon transfer shall be administered by the statutory or home rule charter city, town, or county for the same purposes and upon the same trusts for which they were originally established.

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

Subd. 3. **Local government unit to accept by resolution.** Before the transfer is made, the governing body of the statutory or home rule charter city, town, or county in which the cemetery is wholly or partly located shall first adopt a resolution agreeing to accept the transfer of the property and funds of the association, and agree to continue to operate, maintain, manage, conduct, and control the cemetery, to sell lots in it, and to administer its funds 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 a statutory or home rule charter city, town, or county under this section, then the fund must be preserved and kept and used and administered for the same purposes and upon the same trusts as if the transfer had not been made. Lots for which payment in full for perpetual care has been made to the cemetery association are entitled to receive perpetual care, and the statutory or home rule charter city, town, or county shall provide it.

Subd. 5. **Rights of lot owners.** After transfer, lot owners are entitled to the same rights and privileges concerning their lots as if the transfer had not been made.

Subd. 6. **Maintenance.** After the transfer has been made and accepted by the statutory or home rule charter city, town, or county, the governing body of the statutory or home rule charter city, town, or county shall operate, maintain, conduct, control, and manage the transferred cemetery. For that purpose it may appoint a committee of the governing body.

Subd. 7. **Rules.** The governing body of the statutory or home rule charter city, town, or county may adopt rules and regulations to conduct, manage, maintain, and operate the cemetery, but the rules may not infringe upon the rights of persons who were lot owners at the time the transfer was made.

History: *1945 c 188; 1973 c 123 art 5 s 7; 1986 c 444; 1988 c 469 art 5 s 1; 1996 c 413 s 3*

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 is 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 concerning their lots that were accorded to them under the previous ownership.

History: *1971 c 104 s 1; 1988 c 469 art 5 s 1*

306.03 ACTUARY; RECORDS; REPORTS.

Every such corporation, including any person, firm, partnership, association, or corporation owning or operating a mausoleum or columbarium, shall, in addition to its ordinary corporate officers, annually appoint an actuary or provide by its bylaws that its secretary shall perform the duties of an actuary. The actuary shall keep a register of burials, entering (1) the date of burial, entombment, or cremation and (2) the name, age, sex, nativity, and cause of death of every person interred or cremated in the cemetery. These facts must be registered so far as they 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. The record shall be open to public inspection, and the actuary shall give the state commissioner of health and to local agents of a community health board as authorized under section 145A.04, upon their request, an accurate summary of the 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; 1987 c 309 s 24; 1988 c 469 art 5 s 1; 1988 c 509 s 3; 2015 c 21 art 1 s 109*

306.04 FAILURE TO KEEP REGISTER; FORFEITURE.

Every actuary, or secretary performing the duties of an actuary, failing to keep a register of burials and to record in it all interments and cremations, shall forfeit not less than $2 nor more than $10 for every failure to keep a register or record the required information for the benefit of the school fund of the district in which the cemetery, mausoleum, or crematory is located.

History: *(7560) RL s 2938; 1988 c 469 art 5 s 1; 1988 c 509 s 4*

306.05 LAND ACQUIRED FOR CEMETERY PURPOSES.

Every such corporation may own, by purchase or gift, in the county where it is located and in an adjoining county, a maximum of 300 acres of land to be used and occupied exclusively for the burial or cremation of the dead and for other purposes necessary or proper to those purposes. Land required for that purpose must be surveyed and divided into lots of a size determined by the trustees, with the avenues, alleys, and walks they consider proper. A map of the survey must be filed with the county recorder of the county where the cemetery is located. When the corporation desires to enlarge its cemetery and cannot agree with the owners of the land desired for the cemetery, the land may be acquired under the power of eminent domain. However, public necessity, propriety, and convenience requiring the proposed enlargement, together with the boundaries of the cemetery, shall be first established and determined as issues of fact.

History: *(7561) RL s 2939; 1941 c 240; 1976 c 181 s 2; 1988 c 469 art 5 s 1*

306.06 CONVEYANCE OF CERTAIN LANDS TO CEMETERY ASSOCIATIONS.

When land located within a town or statutory city has before 1870 been devoted to and used by the public without restriction as a cemetery, the governing body of the town or city where the land is located may convey the land to a cemetery association organized to acquire the land for cemetery purposes. The governing body may decide the terms of the conveyance.

History: *(7561-2) 1937 c 45 s 1; 1973 c 123 art 5 s 7; 1988 c 469 art 5 s 1*

306.07 FRATERNAL CORPORATIONS TO TRANSFER LANDS FOR CEMETERY PURPOSES.

A fraternal corporation organized under state law that acquired land upon which it established a cemetery before 1885 and that operated a cemetery after that date may convey to a corporation incorporated under state law to operate a public cemetery, any part of the cemetery that the corporation has not conveyed to individuals to be used for the burial of the dead. The corporation may also convey all its interest in any part of the cemetery that has previously been conveyed by the public cemetery association, without ownership or control of it, to individuals to be used for the burial of the dead.

History: *(7561-3) 1937 c 207 s 1; 1988 c 469 art 5 s 1*

306.08 LANDS TO BE SUBJECT TO RULES OF CEMETERY ASSOCIATIONS.

A conveyance by a fraternal corporation may transfer all right, title, and control in the acquired land that is devoted to cemetery purposes. Upon transfer, the public cemetery association to which the conveyance is made acquires and may exercise all of the rights, privileges, and control that the fraternal corporation previously had, and the cemetery and all premises constituting it are subject to the rules of the cemetery association.

History: *(7561-4) 1937 c 207 s 2; 1988 c 469 art 5 s 1*

306.09 SALE OF LOTS.

After the filing of a map under section 306.05 the trustees may sell and convey the lots designated on the map upon terms and conditions as they determine. Every conveyance of a lot must be expressly for burial purposes and no other and must 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; 1988 c 469 art 5 s 1*

306.10 USE OF FUNDS; GRANTS IN TRUST.

Proceeds from the sales of lots and personal property not invested as hereinafter provided shall be applied solely to pay debts incurred in purchasing cemetery grounds and property, to fence, improve, and beautify the grounds and the avenues leading to the grounds, and to defray the necessary expenses of their management and care. Real or personal property given to an association to maintain a monument or to keep or improve grounds within the cemetery must always be applied to the uses for which the property was given.

History: *(7563) RL s 2941; 1988 c 469 art 5 s 1*

306.11 VACANCIES; ANNUAL MEETING; REPORT OF TRUSTEES.

The certificate of incorporation may provide that vacancies among the associates must be filled by the remaining associates and that at all elections after the first the trustees shall be chosen from the 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 an election. The trustees may fill any vacancy occurring in their own number for the unexpired term. Public notice of every annual election must be given in the manner prescribed in the bylaws. If for any reason the annual election is not held on the day fixed in the certificate of incorporation, the trustees may set another time, not more than 60 days after the date provided in the certificate, and must give public notice of that date. However, the term of office shall be the same as if the person were elected at the regularly scheduled annual election.

At each annual meeting the trustees shall make a written report of their official acts 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; 1988 c 469 art 5 s 1*

306.111 VACANCIES AMONG ASSOCIATES, PROCEDURE FOR FILLING.

Subdivision 1. **Authorization.** An incorporated public cemetery association without capital stock, organized under state law, which has acquired a burial site and sold lots in it and for which a majority of the associates of the corporation are deceased or have for three years or more not acted as associates, may by a meeting of the lot owners of the cemetery fill the vacancies among the associates.

Subd. 2. **Notice of meeting.** Three or more lot owners of the 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 where the cemetery is located, for the purpose of filling the vacancies among the associates.

Subd. 3. **Meeting.** The meeting must be held at the time and place provided in the notice. An owner of one or more lots in the cemetery may attend in person or by proxy and is 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 must then proceed to fill the vacancies among the associates. A voice vote must be used unless otherwise ordered by those present at the meeting. A majority of the lot owners voting at the meeting shall elect.

Subd. 4. **Certificate; contents.** The chair and the secretary of the meeting shall, within five days after the meeting is held, prepare a certificate that recites the facts required by subdivision 1. It must also 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. However, if more than ten are present and voting, the names of ten of the voters are sufficient, but in that case the number of lot owners present and voting must be stated. The certificate must also give the names of the persons elected as associates. The certificate must be recorded at length in the office of the county recorder in the county where the cemetery is located. The certificate or the record of it is prima facie evidence of all the facts stated in it that are required to be stated.

Subd. 5. **Powers of associates.** The associates elected at the meeting of the lot owners shall exercise the powers of associates provided by law and the articles of incorporation of the association, and fill any vacancy 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; 1988 c 469 art 5 s 1*

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 the cemetery.

History: *(7566) RL s 2944; 1988 c 469 art 5 s 1*

306.13 [Repealed, 2005 c 10 art 2 s 5]

306.14 TAXES; ROADS; SPECIAL ASSESSMENTS.

Subdivision 1. **Tax exemption.** The lands and property of any such cemetery association are exempt from all public taxes and assessments, and shall not be sold on execution against the association or any lot owner. The owners of cemetery lots, their heirs or legal representatives, may hold the lots exempt from taxation so long as the lots are used for a cemetery. No road or street shall be laid through the cemetery, or any part of the lands of the association without the consent of the trustees.

Subd. 2. **Special assessments.** Subdivision 1 does not exempt cemetery property owned or leased by a corporation, association, partnership, proprietorship, or other organization from any special assessment unless the corporation, association, partnership, proprietorship or other organization:

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

(2) 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; 1988 c 469 art 5 s 1*

306.141 RELOCATION.

A cemetery may not be relocated without the consent of the trustees.

History: *1993 c 100 s 1*

306.15 LOTS, CONVEYANCE.

(a) When a lot in a cemetery, or an entombment or inurnment space in a mausoleum, has been sold or conveyed for burial purposes, the lot, entombment, or inurnment space is then inalienable, except as provided in this section.

(b) The original purchaser of the lot, entombment, or inurnment space may sell or convey any part of it to the cemetery that is not actually occupied by interments or by entombed or inurned human remains.

(c) A person who has inherited the lot, entombment, or inurnment space may sell or convey any part of it to the cemetery that is not actually occupied by interments or by entombed or inurned human remains.

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

(e) There must be filed with the cemetery a copy of an agreement of sale signed and acknowledged by the owner (and spouse, if any) and the proposed purchaser, transferring title to the cemetery and requesting that the cemetery issue a new conveyance of the lot or space directly to the purchaser in consideration of the payment by the purchaser to the owner of a specified price which must not be more than the price that would be charged by the cemetery in its sale of a similar lot or space.

Upon filing the agreement, a reasonable transfer and service charge of not more than $15 must be paid to the cemetery and the cemetery shall then promptly issue a conveyance of the lot or space to the designated purchaser.

(f) The cemetery may use any of its funds to repurchase lots, entombments, or inurnment spaces, as provided herein, and may hold or again sell and convey them.

History: *(7569) RL s 2947; 1943 c 253 s 1; 1951 c 492 s 1; 1967 c 623 s 1; 1988 c 469 art 5 s 1*

306.155 CORRECTION OF INTERMENT ERRORS.

Subdivision 1. **Requirement.** If the operator of a cemetery is informed or becomes aware that it has interred or permitted the interment of a body or remains in the wrong burial space, unless the interested parties have agreed otherwise in writing, it shall disinter the burial container wrongfully interred, identify the burial container, and reinter it in the proper burial space. The cemetery must give reasonable notice, in advance of the disinterment, to the person or persons legally entitled to control the body or remains of the deceased person and, if requested, the owner of the burial space.

Subd. 2. **Witnesses.** At the time specified for the disinterment and reinterment, the cemetery must permit the person or persons legally entitled to control the body or remains and, if requested, the owner of the burial space to witness the disinterment and reinterment.

Subd. 3. **Costs.** The cemetery must bear all costs of the disinterment and reinterment.

History: *2003 c 48 s 1; 1Sp2003 c 23 s 1*

306.16 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION; PROCEDURE.

Subdivision 1. **Authority.** If a cemetery association organized under state law or a public cemetery operated by a municipality or other entity has before March 1, 1906, conveyed to a person the right of burial in any platted lot or designated piece of ground within the cemetery, and the deed or conveyance from the cemetery provides that the lot is held subject to the rules, bylaws, and regulations of the cemetery and the deed or the rules, bylaws, or regulations further provide for the payment of an annual charge for the care, upkeep, and maintenance of the lot, and the owner of the lot named in the deed or conveyance does not pay the annual charge for a period of ten successive years, the cemetery association or municipally-owned cemetery may reinvest itself with the title to the part of the cemetery lot not used for burial purposes, in the manner hereinafter set forth.

Subd. 2. **Procedure.** The association or municipally owned cemetery may serve 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 care of the lot, and specifying a time within which the amount must be paid to the secretary of the association or the proper officer of the municipally-owned cemetery, which shall not be less than 30 days from the date of the service of the notice. The notice must also provide that if the owner of the lot fails to pay the amount within the specified time, the association or municipally-owned cemetery will take the necessary steps to reinvest itself with the title to the part of the cemetery lot not actually used for burial purposes. If the owner of the lot fails to pay the amount within the time specified in the notice, the board of trustees of the cemetery may, by resolution 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, and declare the portion of the lot unused for burial purposes, describing it by metes and bounds in the resolution, to be the property of the association or the municipally owned cemetery.

Subd. 3. **Service by publication.** If the return of the sheriff of the county in which the cemetery is located shows that the owner of the lot is not a resident of the county and cannot be found in it, then the association or public cemetery may have the notice published in a legal newspaper within the county for the period of three weeks. The notice shall specify a time for payment, at least 30 days after the completed service of the notice by publication. After the expiration of the time specified in the notice, the board of trustees may adopt the resolution provided in subdivision 2 and reinvest the association or municipality with the title to the part 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; 1988 c 469 art 5 s 1*

306.17 RECORDS OF ASSOCIATION.

All notices, with the proof of service or publication, and all resolutions adopted by the board of trustees of the association or public cemetery under section 306.16, subdivision 2, shall be made a part of the records of the association or public cemetery. When the deed or conveyance from the association or public cemetery to the lot owner appears in the record in the registry of deeds of the county, a copy of the resolution, certified to the secretary of the cemetery association or public cemetery, and a copy of the printed notice with the sheriff's return, shall be placed in the records of the registry of deeds.

History: *(7572) 1921 c 167 s 3; 1949 c 163 s 2; 1988 c 469 art 5 s 1*

306.18 DESCRIPTION OF LOTS IN NOTICE AND PROCEEDINGS.

The notice and proceedings under sections 306.16 to 306.20, concerning cemetery lots, shall distinctly describe by metes and bounds the part of a cemetery lot unused for burial purposes. The association or public cemetery shall leave sufficient passage to and from any grave upon the lot, either by dedicated streets or alleys in the cemetery or by leaving unused a part of the cemetery sufficient for that purpose.

History: *(7573) 1921 c 167 s 4; 1949 c 163 s 3; 1988 c 469 art 5 s 1*

306.19 LIMITATION.

Sections 306.16 to 306.20 do not apply to a lot in a cemetery for which a perpetual care contract has been entered into between the cemetery association and the lot owner.

History: *(7574) 1921 c 167 s 5; 1949 c 163 s 4; 1988 c 469 art 5 s 1*

306.20 REINVESTMENT; REDEMPTION.

Compliance with sections 306.16 to 306.20 reinvests the association or municipality with, and divests the record owner and dependents of, the title to the part of the cemetery lot unused for burial purposes as though the lot had never been conveyed to any person. The association or municipality then owns the reclaimed part of the lot for its own purposes, subject to state law and to the charter, bylaws, rules, and regulations of the association or municipality. The association or municipality may not transfer the title of the lot for one year after the adoption of the resolution provided for in section 306.16. If during the one-year period a person entitled by state law to the cemetery lot pays to the association or public cemetery all the unpaid lot care, the expenses of the service of the notice provided for in section 306.16, and any additional amount due for lot care after the date of the notice under the bylaws, rules, and regulations of the cemetery association or public cemetery, and contracts and pays for the perpetual care of the lot, the association or cemetery shall reconvey the lot to the person lawfully entitled to it.

History: *(7575) 1921 c 167 s 6; 1949 c 163 s 5; 1986 c 444; 1988 c 469 art 5 s 1*

306.21 UPKEEP OF LOTS; ABANDONMENT.

Subdivision 1. **Lots conveyed and abandoned.** (a) In the instances provided in paragraph (b), an incorporated cemetery association may, by a resolution of its governing board, require that grantees of lots or parcels, or parties claiming through grantees of lots or parcels, within the cemetery either:

(1) file with the corporation a written notice of claim of their interest in their lot or parcel, supported by satisfactory evidence of the interest, within 60 days after service of a copy of the resolution; or

(2) keep the lots clear of weeds and in a condition in harmony with other adjoining lots or parcels.

A copy of the resolution must be served upon all parties in the same manner as a complaint in a civil action.

(b) Paragraph (a) may be applied in all cases where an incorporated association has owned a site for a cemetery for more than 40 years and has sold lots and parcels for burial purposes, and has conveyed them by deed of conveyance with or without restrictions and the grantee, or parties claiming through the grantee, (1) 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 parts of the lots or parcels for the purposes of burial and during that time have not provided care for the lots beyond that provided uniformly to all lots within the cemetery, and during that time have not given to the corporation a written notice of claim or interest in the lots or parcels, or (2) have not used parts of the lots or parcels for the purposes of burial and have not kept the lots or plots free of weeds or brush but have allowed the lots to remain entirely unimproved for more than 20 years, and the lots or parcels are located in the cemetery adjacent to improved parts of the cemetery and by reason of their unimproved condition detract from the appearance of the cemetery and interfere with its harmonious improvement and furnish a place for the propagation of growth of weeds and brush.

Subd. 2. **Lots conveyed before 1925.** If an incorporated cemetery association has sold lots and parcels for burial purposes before 1925, with or without restriction, that have not been used for burial purposes and the owners have not maintained the lots or paid the fees required by the association of lot owners for care and upkeep for a period of at least 15 years, the association may by resolution of its governing body demand that the owners or holders of the lots pay the association the fees owed for care and upkeep in the period during which the fees were not paid. The resolution must state the amount of fees due for 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 in them will be considered abandoned to the association. The resolution must name all of the persons shown by the records of the association to have a claim of ownership to the lots described and must be served in the manner required for service of a resolution by subdivision 1.

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; 1988 c 469 art 5 s 1*

306.22 ACTION TO QUIET TITLE.

If, for 30 days after May 1 following service or publication, the party or parties fail to conform with the demands of the resolution authorized by section 306.21, the rights of the party or parties may be considered abandoned, and the corporation may, with the approval of its governing board, bring an action in the district court of the county against all parties in default, uniting as many parties in default as it may desire in one action, to have their rights in the lots or parcels terminated and the property restored to the corporation free of any right, title, or interest of the parties, their heirs or assigns. The action in all other respects must be

brought and determined in the same manner as ordinary actions to determine title to real estate. However, that part of a tract in which a body lies buried must not be included in any of these proceedings. Sufficient ground must be left adjoining the grave or burial place to provide a proper approach. The excepted portions, if any, must be particularly and fully described.

History: *(7577) 1921 c 358 s 2; 1988 c 469 art 5 s 1*

306.23 EVIDENCE OF ABANDONMENT.

In all cases brought under section 306.22, the following facts are prima facie evidence that the grantee or holder has abandoned the lot:

(1) the fact that the grantee or holder has not used portions of the lots or parcels for burial purposes 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, and during that time has not made any provision for the care of the lots beyond that provided uniformly to all lots within the cemetery, and during that time has not given to the corporation a written notice of claim or interest in the lots or parcels; or

(2) the fact that the party has, for a term of 20 years or more, not used the plot or definite parts of it and has failed to keep the lot or parts of it clear of weeds or brush.

History: *(7578) 1921 c 358 s 3; 1969 c 311 s 2; 1988 c 469 art 5 s 1*

306.24 RECORDING OF JUDGMENT.

A certified copy of the judgment in an action to quiet title under section 306.22 may be recorded in the office of the county recorder in the county in which the parcel is located.

History: *1921 c 358 s 4; 1976 c 181 s 2; 1988 c 469 art 5 s 1; 2005 c 4 s 42*

306.241 DEPOSIT OF NET PROCEEDS FROM LOT RESALES.

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

History: *1969 c 311 s 3; 1983 c 149 s 1; 1988 c 469 art 5 s 1*

306.242 TITLE TO 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 revest itself with the title to part of a cemetery that was conveyed by deed to a person but that 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 part of a cemetery that has been unused for more than 60 years express an interest in the cemetery plot. The board shall 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 shall, 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. **Service by publication.** 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 shall publish its resolution for three successive weeks in a legal newspaper published in the county and 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 personal 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 part of the cemetery again belongs to the cemetery association.

History: *1983 c 149 s 2; 1983 c 216 art 2 s 13; 1988 c 469 art 5 s 1*

306.243 MAINTAINING ABANDONED CEMETERIES.

Subdivision 1. **Appropriation for improvement.** A county board may appropriate the general revenue funds it determines necessary for the improvement and maintenance of the cemetery if there is in the county, whether or not within the corporate limits of a town or statutory city, either of the following:

(1) a cemetery that has been abandoned or neglected and the association having had charge of the cemetery has disbanded or fails to act; or

(2) an abandoned or neglected private cemetery containing the remains of pioneers or residents of this state, deceased before 1875 or civil war veterans or veterans of the armed services of the United States of any previous war.

Subd. 2. **Duties of county board.** If there is an isolated grave or graves located outside the boundaries of a cemetery or outside an abandoned or neglected private cemetery, as described in subdivision 1, the county board of the county where the grave is located may order the disinterment and the reinterment of the body in some cemetery controlled by an organized cemetery association. The county board may appropriate funds for paying perpetual care to that association for the care of the 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 provided in this section must 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. That organization is responsible to the county board for its acts.

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

Subd. 5. **Transfer.** A county that has assumed maintenance of an abandoned cemetery under this section for a period of at least one year may transfer the cemetery land and property as provided in section 306.02.

Subd. 6. **Abandonment; end of operation as cemetery.** A county that has accepted responsibility for an abandoned cemetery may prohibit further burials in the abandoned cemetery, and may cease all acceptance of responsibility for new burials.

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; 1988 c 469 art 5 s 1; 1996 c 413 s 4; 2009 c 152 s 3*

306.245 NEGLECTED CEMETERIES; DUTIES OF TOWN BOARD.

The town board of supervisors may maintain in a proper manner, and keep free of weeds, a cemetery that has been neglected for at least ten years.

History: *(1023-1) 1939 c 227; 1988 c 469 art 5 s 1*

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; 1988 c 469 art 5 s 1*

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

When a cemetery association organized under state law agrees to convey to a person the right of burial upon any platted lot or designated piece of ground or in an entombment or inurnment space in a mausoleum within the cemetery, by which contract the association reserves the right to terminate the contract 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, the notice provided in section 559.21. The notice must specify the conditions defaulted upon, and state that the contract will terminate 30 days after the service of the notice, unless before the expiration of that time the purchaser complies with the conditions and pays the costs of service. If the contract allows it, the notice may be served upon the purchaser by certified mail with return receipt requested by depositing the notice in the post office, with the postage prepaid, and addressed to the purchaser at the address given in the contract or as later changed by written notice to the association. If the notice of default is served by mail, the 30-day period provided in this section begins to run on the date the notice is deposited in the post office.

If a burial has been made on the platted lot or designated piece of ground, or in an entombment or inurnment space in a mausoleum sold under the previously mentioned contract, the contract may be terminated only as to the part of the premises or entombment or inurnment space not actually occupied by the burial or by an entombment or inurnment.

Laws 1943, chapter 216, does not apply to contracts existing prior to its passage.

History: *(7579-1) 1927 c 196 s 1; 1943 c 216 s 1,2; 1978 c 674 s 60; 1986 c 444; 1988 c 469 art 5 s 1*

306.26 EXISTING CONTRACTS.

A contract entered into by a cemetery association before April 14, 1927, for the sale of lots or tracts for burial purposes that contains a provision for the termination of the contract may be terminated as provided in section 306.25.

History: *(7579-2) 1927 c 196 s 2; 1988 c 469 art 5 s 1*

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; 1988 c 469 art 5 s 1*

306.28 PROPERTY SALES BY PUBLIC CEMETERY ASSOCIATIONS.

A public cemetery association which owns land that is or may be no longer used for the burial of the dead may exercise any or all of the following powers:

(1) to institute and prosecute to final judgment an action to determine adverse claims to the land in accordance with the laws relating to actions to determine adverse claims;

(2) to sell and convey the land; or

(3) to transfer and assign any funds or other property it may possess to another public cemetery association 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 the cemetery.

History: *(7580) 1921 c 234 s 1; 1988 c 469 art 5 s 1*

306.29 DISPOSAL OF LOTS BY OWNERS.

An owner of a cemetery lot may dispose of the lot by will to a relative who may be a survivor, or to the 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. However, no lot may be affected by a testamentary devise unless the lot is specifically mentioned in the will and limited by it to one particular person. An 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 a person named in the trust conveyance. The conveyance may contain conditions, provisions, and covenants as the parties agree upon. No interment shall be made in any lot, except by written consent of the cemetery association or private cemetery, as the case may be, of a person who was not at the time of death, the owner of the lot 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 the lot contrary to the conditions and reservations of this section is void. Every 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 the cemetery. Certified copies of any of these documents shall be received in evidence by the courts. The cemetery association or private cemetery may, instead of deeding the fee title to this lot, grant only the exclusive right of interment in the lot.

History: *(7582) RL s 2949; 1915 c 233 s 2; 1927 c 295 s 2; 1986 c 444; 1988 c 469 art 5 s 1*

306.30 [Repealed, 1973 c 35 s 49]

306.31 CEMETERY ASSOCIATION MAY ESTABLISH PERMANENT FUND.

A cemetery association formed under the law that has at least three members of a board of trustees or directors that has established and maintains a cemetery of at least one-half acre in area, may, by a two-thirds vote of its trustees or directors taken at a regular meeting of the board, establish a permanent fund for the care, maintenance, and improvement of the cemetery. The fund must be known as the permanent care and improvement fund of the cemetery association.

History: *(7585) 1887 c 168 s 1; 1897 c 339 s 1; 1905 c 197 s 1; 1915 c 345 s 1; 1988 c 469 art 5 s 1*

306.32 TRUSTEES OF FUND.

The trustees shall choose by ballot and appoint by deed of the association a board of at least three and not more than five trustees of the fund. They shall be resident landowners of this state during all the time

they exercise the powers of the trust. If any of those appointed fails to qualify within 30 days after appointment, the one or more who have qualified shall appoint by deed other persons to be trustees in their places. If any of those appointed fails to qualify within 30 days, another shall be appointed in the same manner. Every appointment to fill a vacancy must be by unanimous vote of those acting. However, instead of appointing a board, the trustees of the association may designate any trust company of the state to act as the trustee during a time determined by the board. All instruments of appointment of trustees must be recorded with the secretary.

History: *(7586) RL s 2951; 1988 c 469 art 5 s 1; 2004 c 228 art 2 s 8*

306.33 TRUSTEES; POWERS; TERM; ACCOUNTING.

Upon the appointment and qualification of the trustees of the fund, or upon the designation of a trust company to act as trustee, the title to the funds included in the trust and all the rights, powers, authorities, franchises, and trusts pertaining to those funds vest in the board or in the part of the board qualifying within 30 days, or in the designated trust company. The term of office of the trustees of the fund is for life. When a trust company has been appointed, a board of trustees of the fund or another similar trust corporation may be appointed in its place. On notice of appointment of the board or another corporation, the first corporation acting as trustee shall give its successor an account of its trusteeship and deliver to it all money, papers, and property in its possession or control belonging or pertaining to the fund.

History: *(7587) RL s 2952; 1988 c 469 art 5 s 1*

306.34 BONDS.

Before entering upon duties, each person chosen as a trustee of the fund shall give a bond to the association equal to one-third the amount of the fund at that time, or $500, whichever is more, conditioned upon the faithful discharge of the trust. On July 1 of each even-numbered year, every trustee shall give a new bond, in that amount and with those conditions. Every bond must be approved by a judge of the judicial district in which the cemetery or some part of it is located and filed with the treasurer of the association. A trustee who fails to renew a bond within 30 days after the time provided in this section may be removed on application of an interested person.

History: *(7588) RL s 2953; 1907 c 211 s 1; 1986 c 444; 1988 c 469 art 5 s 1*

306.35 VACANCY IN BOARD OF TRUSTEES.

In case of the death, resignation, disability, or removal of one or more of the trustees of the fund, the trust at once vests in the remaining trustees, who shall promptly fill the vacancies by appointment. A newly appointed trustee, upon qualification, succeeds to an equal share in the rights and duties of the board.

History: *(7589) RL s 2954; 1988 c 469 art 5 s 1*

306.36 NEW BOARD; ORGANIZATION.

In case of the death, removal, resignation, or disability of all the members of the board, the trust, until the organization of a new board, vests in the district court of the county in which the cemetery is located. The board may be reconstituted by the court on application of any person interested and on notice as the court may direct. Upon qualifying, the appointed trustees have the rights and powers of the original board. A vacancy in the board continuing for one year may be filled by the court.

History: *(7590) RL s 2955; 1988 c 469 art 5 s 1*

306.37 CARE AND IMPROVEMENT FUND.

Subdivision 1. **Required payments.** 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 or columbarium made after the vote of the board of trustees of the association to establish the care and improvement fund must be paid to the trustees of the fund, on January 1, April 1, July 1, and October 1, in each year. Until paid, these amounts must be held in trust by the cemetery association for payment to the trustees of the fund. "Proceeds" includes any installment payment made towards the purchase of a cemetery lot or burial space in a mausoleum or columbarium.

Subd. 2. **Addition of other funds.** Any other income or funds of the association, in excess of its liabilities, may be added to the fund by a two-thirds vote of the members of its board of trustees. The principal of the fund is not subject to any minimum or maximum amount.

Subd. 3. **Clarification of terms.** The words "cemetery lots" as used in this section do not include burial space in a mausoleum or columbarium. The term "burial space" as used in this section includes private rooms, crypts, niches, or other designated space in which the bodies or cremated remains of deceased persons are placed for permanent burial in a mausoleum or columbarium.

Subd. 4. **Violation; penalty.** 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.

History: *(7591) RL s 2956; 1943 c 133 s 1; 1959 c 640 s 1; 1988 c 469 art 5 s 1; 1988 c 509 s 5*

306.38 EXPENDITURES AND INVESTMENTS.

Subdivision 1. **Investment and income.** Except as provided in subdivision 2, the principal of the care and improvement fund shall remain intact, and may be invested in the securities in which savings banks are by law permitted to invest, and not otherwise. The fund trustees, on January 1 and July 1, in each year, shall turn over to the association all income arising from the fund. The income must be used solely for the care, maintenance, and improvement of the cemetery and the avenues leading. If a part of the income remains unexpended and unappropriated for one year after being paid to the association, it must be returned to the trustees of the fund and become a part of the principal.

Subd. 2. **Investments by certain associations.** (a) A cemetery association governed by sections 306.31 to 306.40, organized under state law, including a private cemetery association that maintains a public cemetery of at least 20 acres in or adjacent to any city of the first class and that 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 the fund under section 306.32, when the aggregate principal of the fund reaches $100,000 or more may act as provided in paragraph (b).

(b) The cemetery association may, by a resolution adopted by a vote of at least two-thirds of the members of its board of trustees at an authorized meeting of its board, authorize the trust company or trust companies acting as trustee or trustees in investing, reinvesting, exchanging, and managing the fund, to acquire every kind of investment, including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, that an ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as a trustee.

History: *(7592) RL s 2957; 1959 c 640 s 2; 1976 c 239 s 89; 1988 c 469 art 5 s 1*

306.39 COMPENSATION.

A trustee of a care and improvement fund shall receive $5 for each day actually employed in the duties of the trust, but not exceeding $100 in any one year. The fees shall be paid out of the general funds of the association until the trust fund reaches $100,000, or $2,000 for each acre of the cemetery. After that time the fee shall be paid out of the income fund. A corporation acting as trustee may receive for its services any yearly compensation agreed upon not exceeding five percent of the income or $100 of the income if the trust fund is less than $20,000.

History: *(7593) RL s 2958; 1963 c 725 s 1; 1988 c 469 art 5 s 1*

306.40 SECRETARY'S ANNUAL REPORT.

When a care and improvement fund is in the care of a board of trustees, the secretary of the association shall be its secretary and keep a full record of its proceedings. The board, on November 1 each year, shall make a full report of the condition of the fund to the trustees of the association. The report must be open to the inspection of all lot owners.

History: *(7594) RL s 2959; 1988 c 469 art 5 s 1*

306.41 ESTABLISHMENT OF PERMANENT CARE AND IMPROVEMENT FUND.

(a) The entities provided in paragraph (b) may by a unanimous vote taken at any regular meeting or special meeting called for that purpose, provide in accordance with 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 of the fund must be devoted to the care, maintenance, and improvement of the cemetery. The fund must be known as the permanent care and improvement fund of the cemetery of the municipality or incorporation. The establishment of a permanent care and improvement fund shall not be considered to violate any existing law against perpetuities or suspend the power of alienation. The fund authorized by this section must not be allowed to exceed $25,000 per acre of the cemetery to be cared for.

(b) Any of the following entities may provide for the establishment of a fund if it has established and is maintaining a cemetery of at least one-half acre, a plat of which is on file in the office of the county recorder of the county in which the cemetery is located:

(1) the board of supervisors of a town;

(2) the governing body of a city or statutory city; or

(3) the board of trustees, or the directors, not less than three in number, of a religious corporation or of an association formed under state law to maintain a cemetery in this state.

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; 1987 c 18 s 1; 1988 c 469 art 5 s 1*

306.42 USE OF INTEREST.

The board of directors of a cemetery referred to in section 306.41 may provide that any part of the price paid for a lot in the cemetery must be deposited as a part of the permanent care and improvement fund, and that the interest accruing from the amount set aside from the lot be used by the board of directors of the cemetery to care for and beautify the lot, except as provided in sections 306.41 to 306.54.

History: *(7594-3) 1921 c 247 s 3; 1988 c 469 art 5 s 1*

306.43 USE OF GIFTS TO FUND.

The board of directors referred to in section 306.41 may accept and deposit any donation or gift of money made to the fund and may provide that the interest on the money be used in the care, maintenance, and beautifying of the cemetery, or any particular lot and shall use the money and the interest on it for the purpose specified by the donor. If funds are lacking for the general care of the cemetery, in the discretion of the board of directors a one-fifth part of the income, received annually from the part 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; 1988 c 469 art 5 s 1*

306.44 INVESTMENT AND USE OF FUNDS.

Subdivision 1. **Investment.** (a) A cemetery board of directors voting to establish a fund under section 306.41 shall on January 1, April 1, July 1, and October 1 of each year, deposit or invest all money belonging to the fund as provided in this section.

(b) The money may be deposited in the county treasury of the county in which the cemetery is located and the treasurer of that county shall deposit it as provided in this section.

(c) 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 must be returned to the fund and become a part of the principal.

(d) The money may be deposited or invested as provided in paragraphs (b) and (c) and may be withdrawn from either and deposited in the other, and the county treasurer shall return to the board any money deposited in the county treasury which the board, by resolution, withdraws.

(e) When money is deposited in the county treasury, the board of directors shall also file with the county auditor for record and future reference, at the time of the deposit, 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, with the name of the owner of the lot and the name of the donor of each particular gift and a description of the lot to which the income from the particular amount as a part of the permanent fund is applicable.

(f) 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 those funds. The designated persons shall give bond to the association, corporation, or municipality maintaining the cemetery in an amount at least equal to the total amount of the fund at the time of posting the bond, conditioned upon the faithful discharge of the trust. On July 1 of each even-numbered year after making the original bond, the person shall give a new bond in the amount and with the conditions provided above.

Subd. 2. **Use.** The directors may retain annually out of the money received not more than $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; 1988 c 469 art 5 s 1*

306.45 COUNTY CEMETERY FUND; MANAGEMENT, INVESTMENT, INTEREST.

All funds deposited in accordance with section 306.44 in the treasury of any county by the boards of directors of all the cemeteries in the county under sections 306.41 to 306.54 constitute the county cemetery fund. The money in the fund shall be managed and invested by the board of county commissioners of the county. As soon as the money in the fund is received by the county treasurer, it must be deposited in a bank

designated as a depository of county funds by the board of county commissioners of the county. The interest due on the fund becomes due and payable, as far as possible, on or about February 1 of each year.

History: *(7594-6) 1921 c 247 s 6; 1988 c 469 art 5 s 1*

306.46 DEPOSIT OF AND INTEREST ON COUNTY FUND.

For the purpose of the deposit required by section 306.45 and except as otherwise provided, the fund must be treated as other funds in the county treasury and draw at least the rate of interest paid on the funds of the county deposited in the depository. The county board 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 the treasurer's successors in office. The county treasurer shall secure on the time deposit the highest rate of interest that the depository will pay on it and not less than the current rate paid on time certificates by the depository. The county treasurer is liable for the principal and interest deposited on time certificates in the same way and to the same extent that the treasurer is liable upon the treasurer's bond for money deposited on behalf of the county.

History: *(7594-7) 1921 c 247 s 7; 1986 c 444; 1988 c 469 art 5 s 1*

306.47 DEPOSITORY FOR COUNTY FUND; BOND.

The county cemetery fund must be deposited in a depository designated by the county board, in the name of the county and at the highest rate of interest that the depository will pay on the fund. The bond or security given to the county by the depository must be taken and held as security for the fund. The treasurer of the county shall keep an accurate and separate account of the fund and annually draw from the depository the interest accruing on the fund to distribute as hereinafter provided.

History: *(7594-8) 1921 c 247 s 8; 1988 c 469 art 5 s 1*

306.48 INVESTMENT OF COUNTY CEMETERY FUND.

If required by a petition of at least two-thirds of the boards of directors of the cemeteries in a county requesting action, the board of county commissioners shall, with the approval of the county attorney, invest all or a part of the county cemetery fund in the same kind of bonds and securities that the permanent school fund of the state may be invested in. The law as it exists at the time any money is received into this fund controls the investment of the fund and no subsequent amendment of the law authorizes the investment of any fund differently or in any other class of securities. The county board may require the treasurer of the county to withdraw all or part of the fund from the depository for investment. If the fund or part of it is invested, the bonds or other securities must remain with the county treasurer. The bond of the county treasurer is security for the proper care of the bonds or other securities and the payment of interest received on them to the directors of the cemeteries. On payment of the bonds or other securities, the treasurer of the county shall deposit them in the depository in which county funds are deposited and collect the interest upon the funds so loaned and pay it to the treasurers of the cemeteries, as provided in sections 306.41 to 306.54.

History: *(7594-9) 1921 c 247 s 9; 1986 c 444; 1988 c 469 art 5 s 1*

306.49 ACCOUNTS KEPT BY AUDITOR.

The auditor of any county in which the board of directors of a cemetery is acting under sections 306.41 to 306.54 shall keep an account of the funds deposited in the county treasury. The auditor shall credit to the permanent fund of each cemetery all money deposited by its board of directors and record the following information for historical reference and record: (1) the amount of each gift or part set aside from the sale of

each lot; (2) the name of the donor of each gift and of the buyer of each lot; and (3) 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; 1988 c 469 art 5 s 1*

306.50 ANNUAL REPORT BY SECRETARY; DEPOSIT OF EXCESS INTEREST.

On or before February 1 of each year, the clerk or secretary of the board of directors of each cemetery referred to in section 306.49 shall 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 of the interest not necessary for the care and beautifying of the lots or cemetery, or that has not been expended, in any one year, must be deposited in the treasury of the county and added to the permanent fund credited to the cemetery, no part of which shall ever be used.

History: *(7594-11) 1921 c 247 s 11; 1988 c 469 art 5 s 1*

306.51 INTEREST ON COUNTY FUND, APPORTIONMENT.

On or before March 1 of each year, the county auditor shall apportion the interest from the county cemetery fund that has been collected by the county treasurer during the year to each cemetery with a permanent fund in the proportion that the amount of the cemetery's permanent fund in the county treasury bears to the county cemetery fund. If the legal existence of a religious incorporation or an association formed under law to maintain a cemetery has ended, the interest due from the fund to the defunct cemetery association or incorporation must be paid to the treasurer of the city or town in which the cemetery is located, to be spent by the municipality for the care, maintenance, or improvement of the cemetery. Funds deposited according to section 306.44 just before the close of the year, on which no interest has been collected, must 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; 1988 c 469 art 5 s 1*

306.52 REPORT BY AUDITOR TO SECRETARY.

Immediately after the apportionment required by section 306.51 the county auditor shall report to the secretary of the cemetery the apportionment of interest due the cemetery. The auditor shall also give the secretary a statement of the total funds received by the county treasurer under sections 306.41 to 306.54 during the preceding year closing on January 1 of each year, and also a statement of the total amount of the permanent care and improvement fund belonging to that cemetery.

History: *(7594-13) 1921 c 247 s 13; 1988 c 469 art 5 s 1*

306.53 INTEREST PAID TO TREASURER OF BOARD.

On and after March 1 of each year, if the board of each cemetery has made its report and deposited the excess of interest as required by section 306.50, 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 sections 306.41 to 306.54 its apportioned share of the interest from the cemetery fund.

History: *(7594-14) 1921 c 247 s 14; 1988 c 469 art 5 s 1*

306.54 AUDIT OF COUNTY FUND.

The first time in each year that the county board of a county governed by sections 306.41 to 306.54 examines and audits the accounts, books, and vouchers of the treasurer of the county, it shall examine the county cemetery fund of the county. A statement of the condition of this fund must be published in the official newspaper of the county at the expense of the cemetery fund. The statement must show the total of all money received under sections 306.41 to 306.54 during the preceding calendar year, a statement of the total amount then in the county cemetery fund on the first day of the calendar year, the amount and kind of securities in which the fund is invested, and a statement of the amount of interest collected on the fund during that year. Sections 306.41 to 306.54 do not apply to a county that has 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; 1988 c 469 art 5 s 1*

306.55 ASSESSMENTS LEVIED FOR LOT CARE; ENFORCEMENT.

When assessments are levied by a cemetery association authorized to levy assessments by its articles of incorporation, bylaws, or otherwise for the care, upkeep, and maintenance of any lot or lots in the cemetery and remain unpaid for a period of five years, the unused portion of the lot or lots reverts to and becomes the property of the cemetery association in which the lot or lots are located. The reversion becomes effective upon entry of judgment in the district court of the county in which the cemetery is located, in proceedings instituted for that purpose after petition by the association to the court and after a hearing on the petition, upon notice to interested parties as prescribed by the court.

History: *(7594-16) 1927 c 208; 1949 c 428 s 1; 1988 c 469 art 5 s 1*

306.56 FUND FOR PERPETUAL CARE OF GRAVES SET ASIDE BY COURT.

Any court having jurisdiction of the estate of a deceased person may, before its final distribution, order set aside from the estate the reasonable and uniform amount determined by the governing board of the cemetery in which the person is interred, not to exceed $100, for the perpetual care of the lot or grave of the deceased. The court may direct payment of the amount to the treasurer of the permanent care and improvement fund of the cemetery association or other governing board having control of the cemetery where the lot is located.

History: *(7594-17) 1925 c 209 s 1; 1988 c 469 art 5 s 1; 1995 c 189 s 8; 1996 c 277 s 1*

306.57 APPLICATION.

Section 306.56 does not apply to a cemetery association or other governing board in a city of the first class, nor to such an association or board that has included the cost of perpetual maintenance of graves in the price of its cemetery lots. The section also does not apply when payment for the perpetual care of the lot or grave has been made to the cemetery association, nor if the deceased person has provided for care either while living or by last will and testament that has been admitted to probate.

History: *(7594-18) 1925 c 209 s 2; 1986 c 444; 1988 c 469 art 5 s 1*

306.58 REORGANIZATION OF CERTAIN ASSOCIATIONS.

A cemetery association organized before or after March 1, 1986, that does not have a capital stock may reorganize in the manner prescribed in section 306.59 if the association has acquired a burial site and sold

lots in it and if the managing officers of the association are all deceased, have moved from the county where the burial site is located, or have failed to act as association officers for at least three years.

History: *(7595) 1909 c 165 s 1; 1988 c 469 art 5 s 1*

306.59 NOTICE FOR MEETING OF LOT OWNERS.

Any three lot owners in the cemetery may issue a notice signed by them that a meeting will be held at a time and place designated in the notice, in the town or statutory city nearest the cemetery site, for the purpose of reorganizing the association. The notice must be published at least twice in a legal newspaper published in the city in which the meeting is held. The time of the meeting must not be less than ten days after the second publication.

History: *(7596) 1909 c 165 s 2; 1973 c 123 art 5 s 7; 1988 c 469 art 5 s 1*

306.60 MEETING AND ELECTION OF OFFICERS.

The meeting must be held at the time and place mentioned in the notice. Any owner of one or more lots in the cemetery may be present in person or by proxy and is 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 must then proceed to elect a president, secretary, treasurer, and three trustees. The officers 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 the meeting shall be by voice vote, unless otherwise ordered by those present at the meeting. A majority shall elect.

History: *(7597) 1909 c 165 s 3; 1986 c 444; 1988 c 469 art 5 s 1*

306.61 CERTIFICATE; RECORD; EFFECT.

Within five days after the meeting is held, the chair and the secretary of the meeting shall prepare a certificate that recites the existence of the facts mentioned in section 306.58. It must also 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. If more than ten are present and voting, the names of ten are sufficient, but in that case the number of lot owners present and voting must be stated. The certificate must also give the names of the persons elected as trustees and other officers at the meeting and must be recorded at length in the office of the county recorder for the county in which the cemetery is located. The certificate or the record of the certificate is prima facie evidence of all the facts stated in it that are required to be stated.

History: *(7598) 1909 c 165 s 4; 1976 c 181 s 2; 1986 c 444; 1988 c 469 art 5 s 1*

306.62 POWERS AND DUTIES OF OFFICERS.

As soon as the certificate is recorded under section 306.61, the officers elected at the meeting under section 306.60 may convey and execute deeds for lots in the cemetery for cemetery purposes, and have the same powers and duties and are subject to the same rights and liabilities as if they had been elected in the manner originally provided by the law under which the association was organized or pursuant to its articles or bylaws. After the election provided for in section 306.60 all meetings must be held and all affairs of the association conducted in the manner provided by law and under the original articles of incorporation of the association.

History: *(7599) 1909 c 165 s 5; 1988 c 469 art 5 s 1*

306.63 SALE OF CERTAIN REAL ESTATE.

Any cemetery corporation incorporated under state law before April 19, 1911, may sell and convey, for other than burial or cemetery purposes, any real estate lawfully acquired by it that is not suitable for cemetery purposes and that has not been platted for those purposes.

History: *(7600) 1911 c 296 s 1; 1988 c 469 art 5 s 1*

306.64 REAL ESTATE, WHEN SOLD.

Any public cemetery corporation incorporated under state law before or after April 23, 1913, that 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 that 100 acres. The sale must not include land in which any interments have been made. Any sale must be approved by the unanimous vote of all the trustees of the corporation.

History: *(7601) 1913 c 444 s 1; 1988 c 469 art 5 s 1*

306.65 PLATS FILED, CITIES OF OVER 50,000.

If a cemetery corporation organized under state law maintains a cemetery of more than 80 acres in a city in this state with a population of more than 50,000, the 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 the cemetery.

History: *(7601-1) 1911 c 129 s 1; 1976 c 181 s 2; 1988 c 469 art 5 s 1*

306.66 SUBDIVISION OR REARRANGEMENT OF CEMETERIES.

The cemetery corporation mentioned in section 306.65 may from time to time subdivide or rearrange its cemetery as necessary in the conduct of the business, but no plat of the subdivision or rearrangement may interfere with the rights and privileges of the lot owners of the cemetery without their consent, and the plat need not be filed in the office of the county recorder. A plat of the subdivision or rearrangement must be kept for public inspection at the cemetery. Cement or other nondestructible markers at least three inches in diameter and at least eight inches in length, with one of the markers showing the number of the lot, must be placed at the corners of each lot of the subdivision or rearrangement.

History: *(7601-2) 1911 c 129 s 2; 1976 c 181 s 2; 1988 c 469 art 5 s 1*

306.67 APPLICATION.

Sections 306.65 and 306.66 do not apply to cities with charters adopted under the Minnesota Constitution.

History: *(7601-3) 1911 c 129 s 3; 1988 c 469 art 5 s 1*

306.68 REORGANIZATION OF CERTAIN ASSOCIATIONS.

Subdivision 1. **Authorization.** A cemetery association organized under state law before April 25, 1913, that does not have a capital stock and that has acquired a burial site and sold lots from it may reorganize as provided in subdivision 2 if the management of the association is confined to the original members of the association either by the statutes then in force or by the certificate of organization.

Subd. 2. **Call for meeting.** Any two or more of the original members of the association, or if all the original members are deceased then any three or more of the lot owners in the burial site, may call a meeting of the association. The meeting must 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 must be published for two

successive weeks in a legal newspaper printed in the place in which the meeting is to be held and must give at least 30 days' notice of the 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 conforming to the requirements of state law for the organization of public cemetery associations. The articles must name the first board of trustees and other officers as the meeting determines. A majority of the trustees and officers must be named and 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, as soon as the certificate of reassociation is adopted and recorded with the county recorder in the county where the cemetery is located, have the powers, duties, rights, and liabilities provided by state law pertaining to cemetery associations.

History: *(7602, 7603, 7604, 7605) 1913 c 526 s 1-4; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1988 c 469 art 5 s 1*

306.69 CERTAIN CORPORATIONS MAY AMEND ARTICLES.

The board of trustees, board of administration, or other governing body of a religious corporation that has established and is maintaining a cemetery of more than five acres in any county of this state with a population of at least 225,000 and not 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 as follows:

(1) by providing for the management and conduct of the affairs of the cemetery by a board of associates and prescribing the number composing the board of associates, the title by which they are designated, the time and manner of their election, by whom they are elected, their term of office, their powers and duties, and for the division of the board into classes, if desired, concerning the time for which the trustees hold office;

(2) by specifying whether the board of associates is elected by the owners of lots in the cemetery, either from among themselves, from among the board of trustees, board of administration, or other governing body of the religious corporation, by the board of associates from their own number, 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 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 rules and regulations concerning the management and conduct of the cemetery;

(7) by providing that the board of associates may establish a permanent care and improvement fund, the income from which is devoted to the care, maintenance, and improvement of the cemetery;

(8) by providing that the board of associates has the control of the permanent care and improvement fund and all other trust funds donated for the permanent care of particular burial plots, and has authority to

appoint trustees of the funds from among their number, or to appoint as trustee one or more trust companies organized under the laws of this state; or

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

History: *(7606) 1921 c 422 s 1; 1988 c 469 art 5 s 1*

306.70 CERTIFICATE OF AMENDED ARTICLES TO BE RECORDED.

The board of trustees or other governing body of the religious corporation shall include the resolution in a certificate executed and acknowledged by the corporation's president and secretary or other presiding and recording officers under the corporate seal of the corporation. The certificate must be recorded in the office of the county recorder of the county in which the association's cemetery is located.

History: *(7607) 1921 c 422 s 2; 1976 c 181 s 2; 1988 c 469 art 5 s 1; 1988 c 682 s 20*

306.71 RIGHT AND DUTIES AFTER AMENDMENT.

A religious corporation amending its certificates or articles of incorporation under sections 306.69 to 306.72 and providing for the management and conduct of its cemetery as provided in those sections, is then considered to be a private cemetery association having the rights, exemptions, privileges, duties, and liabilities that are provided by law concerning private cemetery associations, without regard to the fact that the cemetery is established by a religious corporation.

History: *(7608) 1921 c 422 s 3; 1988 c 469 art 5 s 1*

306.72 ASSOCIATION, HOW GOVERNED.

A religious corporation amending its certificates or articles of incorporation under sections 306.69 to 306.72 and establishing a permanent care and improvement fund is, as to that fund, subject to sections 306.76 to 306.85 to the extent that those sections are consistent with sections 306.69 to 306.72.

History: *(7609) 1921 c 422 s 4; 1988 c 469 art 5 s 1*

306.73 AMENDMENT OF ARTICLES OF INCORPORATION.

The board of trustees of a cemetery association organized under state law that has established and is maintaining a public cemetery in this state may, by resolution 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 the board, the time and manner of their election and by whom they are elected, their term of office, their powers and duties and for the division of the board into classes, if desired, concerning the time for which the trustees 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 the trustees may be divided into classes concerning the time for which the trustees hold office, or that only one trustee need be elected each year;

(4) by providing the time and manner of election of the trustees and specifying whether the trustees are to be elected by the owners of lots in the cemetery of the association, either from among themselves or from among the board of associates, 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 a 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 each member holds office;

(7) by providing that the trustees may elect officers of the association and that the duties of the officers may be defined by the bylaws;

(8) by providing that the trustees may adopt bylaws and rules and regulations concerning the cemetery of the association;

(9) by providing that the duration of the association is perpetual or for a fixed period of time;

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

History: *(7610) 1915 c 304 s 1; 1939 c 21; 1988 c 469 art 5 s 1*

306.74 CERTIFICATE OF AMENDMENT.

The trustees shall include the resolution in a certificate executed and acknowledged by its president and secretary or other presiding and recording officers, under the corporate seal of the corporation. The certificate must be recorded in the office of the county recorder of the county in which the cemetery of the association is located.

History: *(7611) 1915 c 304 s 2; 1976 c 181 s 2; 1988 c 469 art 5 s 1; 1988 c 682 s 21*

306.75 APPLICATION.

Sections 306.73 to 306.75 also apply to the cemetery associations mentioned in section 306.73 maintaining cemeteries in cities existing under a charter framed according to the Minnesota Constitution. However, those sections do not apply to private cemeteries nor to cemeteries established by religious corporations.

History: *(7612, 7613) 1915 c 304 s 3,4; 1988 c 469 art 5 s 1*

306.76 PERMANENT CARE AND IMPROVEMENT FUND MAINTAINED BY CERTAIN ASSOCIATIONS.

Every cemetery association organized under state law that maintains a public cemetery in or adjacent to a city with a population of more than 50,000, shall provide for the establishment of a permanent fund, the income from which must be devoted to the care, maintenance, and improvement of the cemetery. The fund must be known as the permanent care and improvement fund of the cemetery association.

History: *(7614) 1917 c 95 s 1; 1927 c 198 s 1; 1988 c 469 art 5 s 1*

306.761 PERMANENT CARE AND IMPROVEMENT FUNDS.

Subdivision 1. **Notice.** A cemetery association operating a cemetery larger than ten acres shall establish a permanent care and improvement fund. All cemetery associations operating a cemetery larger than ten

acres and having a permanent care and improvement fund shall annually file, as part of the report required in subdivision 2, a notice with the county auditor of the county in which the cemetery is located. The notice must 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 includes any person, firm, partnership, association, or corporation.

Subd. 2. **Report.** A cemetery association operating a cemetery larger than ten acres and any person, firm, partnership, association, or corporation owning or operating a mausoleum or columbarium, or constructing or selling space in a mausoleum or columbarium to be built, which has a permanent care and improvement fund shall annually make a complete written report to the county auditor of the county in which the cemetery or mausoleum or columbarium or future site of the mausoleum or columbarium is located on the state of the fund, including all deposits and withdrawals of principal amounts and all receipts and disbursements. The report must be filed on forms prescribed by the state auditor by March 31 for any entity described in this subdivision which operates on a calendar year basis and by 90 days after the end of the fiscal year for any entity described in this subdivision which operates on a fiscal year basis. The report shall be signed and notarized under oath. A filing fee of $15 for each report must be paid to the county auditor.

Subd. 3. **Money in trust.** Any person, firm, partnership, association, or corporation holding money in trust under this section shall provide notice to the person purchasing the cemetery lot, or the burial space in a mausoleum or columbarium, at the time of the first payment. The notice shall be in writing, and shall identify the location where the money will be held in trust including any identifying account numbers and the name and address of the institution in which the money is held. Any person, firm, partnership, association, or corporation holding money in trust under this section shall notify the county auditor receiving the annual report if there is a change in the identifying account numbers or location of the fund within seven days of the change.

Subd. 4. **Notice of change of trustee.** Any person, firm, partnership, association, or corporation subject to this section must file a notice of change of trustee of any trust funds with the same county auditor who should receive the annual report required by this section within 30 days after the change of trustees.

Subd. 5. **Penalty.** A person, firm, partnership, association, or corporation knowingly violating this section is guilty of a misdemeanor and for a second offense is guilty of a gross misdemeanor.

Subd. 6. **Application.** This section does not apply to cemeteries, mausoleums, or columbariums owned and operated by a municipality, church, religious corporation, or religious association.

History: *1971 c 894 s 1; 1981 c 139 s 1; 1988 c 469 art 5 s 1; 1988 c 509 s 6*

306.762 PERMANENT RETENTION OF RECORDS.

Subdivision 1. **Required records.** Any cemetery association and any person, firm, partnership, association, and corporation owning or operating a mausoleum or columbarium, or constructing or selling space in a mausoleum or columbarium to be built, required to deposit trust money in a permanent care and improvement fund must, in Minnesota, permanently retain records of the trust account. The records of the trust account must include the name of the person purchasing the cemetery lot or burial space, the name of the living representative of that person if one was designated, and the location of the money including any identifying numbers and the name and address of the institution in which the money is held.

Subd. 2. **Penalty.** 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. 3. **Exception.** This section shall not apply to cemeteries, mausoleums, or columbariums owned and operated by a municipality, church, religious corporation, or religious association.

History: *1988 c 509 s 7*

306.77 APPOINTMENT OF TRUST COMPANY.

The board of trustees of an association mentioned in section 306.76 shall, by a resolution adopted by a vote of at least two-thirds of its members, appoint one or more trust companies organized under state law, or a board consisting of at least three individuals, to act as trustees of the permanent care and improvement fund. If more than one trust company is appointed, the board of trustees shall, from time to time, apportion all money available for the fund between these trust companies in the proportion that the board determines. The appointment must be evidenced by a written instrument executed by the proper officers of the association under its corporate seal. Each trust company and the appointed individuals shall qualify as trustee by filing a written acceptance of the appointment with the secretary of the association. All instruments of appointment, any revocation of appointment, and the written acceptances must be recorded at length by the secretary of the association in its corporate records. The appointment of any 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 the fund is liable as a trustee except for neglect or willful default in the discharge of duties.

Seven days before any portion of the principal of a permanent care and improvement fund is transferred or withdrawn from its present location, the board of trustees must, in writing, notify the county auditor of such activity and of the destination of the funds. 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.

History: *(7615) 1917 c 95 s 2; 1986 c 444; 1988 c 469 art 5 s 1; 1988 c 509 s 8*

306.773 INVESTMENT OF FUND OF CEMETERY ASSOCIATIONS.

Subdivision 1. **Authorization.** Every cemetery association organized under state law that provides for a permanent care and improvement fund administered by one or more trust companies acting as trustees of the fund under section 306.77, may adopt a resolution as provided in this subdivision. When the principal of the fund remaining after lawful withdrawals equals more than $350,000, the association may adopt a resolution by a vote of at least two-thirds of the members of its board of trustees at any authorized meeting of the board, authorizing the trust companies acting as trustees in investing, reinvesting, exchanging, and managing the fund, to acquire any kind of investment, including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, that an ordinarily prudent person of discretion and intelligence who is a trustee of the property of others would acquire as the trustee.

Subd. 2. **Trust limitations inapplicable.** The trustees may invest the trust property according to 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; 1988 c 469 art 5 s 1; 1988 c 509 s 9*

306.78 PERCENTAGE OF SALE OF LOTS AND MAUSOLEUMS PAID INTO FUND; OTHER ADDITIONS TO FUND.

Each cemetery association creating a permanent care and improvement fund under section 306.77 shall take for its cemetery fund at least 20 percent of the proceeds of all sales of cemetery lots and ten percent of the proceeds of all sales of all burial space in mausoleums sold on or after December 31, 1927. That percentage must be paid on January 1, April 1, July 1, and October 1 of each year to the trustees of the fund, and the payments then become a part of the permanent care and improvement fund. Any other income or funds not required by the association for other purposes may from time to time be added to the fund by a vote of at least two-thirds of the members of the board of trustees of the association. The term "burial space" as used in this section includes 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; 1988 c 469 art 5 s 1*

306.79 PRINCIPAL INVIOLATE; INVESTED IN CERTAIN SECURITIES.

The principal of a permanent care and improvement fund created under section 306.76 must forever remain intact and invested by the trustees only in the same class of securities in which savings banks are authorized by the laws of this state to invest their funds. However, 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 the fund to acquire additional land for cemetery purposes for the erection of a chapel, greenhouse, or other buildings desirable or necessary for the operation of the cemetery, for the building or improvement of roads and avenues in the cemetery, or for both of those purposes. However, the fund must not be diminished to an amount less than $1,000 per acre for each acre of land in the cemetery. Upon presentation to the trustees of a certified copy of the adopted resolution, the trustees shall at once comply with it and are then released from further liability for the part of the funds withdrawn and delivered to the association. The trustees of the funds shall, at least semiannually, turn over to the association the entire net income from the fund, which shall be used by the association solely for the care, maintenance, and improvement of the cemetery and the avenues leading to it. But if any part of the income is not spent or appropriated by the association for a period of one year after the income has been received by it, the income must be returned to the trustees and invested by them as a part of the principal of the fund. No trustee or board of trustees may receive as compensation for acting as trustee any amount 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; 1988 c 469 art 5 s 1*

306.80 TRUST COMPANY TO MAKE ANNUAL REPORT.

A trust company or board of trustees acting as trustees under sections 306.76, 306.77, 306.78, 306.79, and this section shall on the first day of each year make a complete written report to the association of the condition and state of the fund in its hands. The report must at all times be open to the inspection of all owners of lots in the cemetery.

History: *(7618) 1917 c 95 s 5; 1988 c 469 art 5 s 1*

306.81 DISPOSITION OF PROPERTY TO SUCCESSOR TRUSTEE.

Upon the revocation of the appointment, resignation, or removal of any sole trustee or individual appointed under section 306.77, the board of trustees of the association shall promptly appoint a successor. The resigning or removed trustee shall then immediately turn over to the successor all property belonging to or pertaining to the fund. When the board of trustees of the association gives written notice of the resignation or removal

of any trustee, or of an application to the court for an accounting by or removal of any trustee, a bank, trust company, safety deposit company, or other corporation, institution, or individual possessing money, securities, papers, or other property belonging or pertaining to the fund, shall refuse payment or delivery of all or part of it to the trustee named in the notice. 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, the bank, company, or other entity shall pay or deliver the money, securities, papers, or other property to the successor.

History: *(7619) 1917 c 95 s 6; 1923 c 359 s 2; 1986 c 444; 1988 c 469 art 5 s 1*

306.82 POWER OF COURT TO REMOVE TRUSTEE OR COMPEL ACCOUNTING.

The district court for the judicial district in which the trust estate is located has the power, for good cause shown, upon the application of one or more trustees of the association or of any other interested party, to remove any trustee of the fund, or to compel an accounting by a trustee of the fund. The district court also has all the powers conferred by law upon district courts for the enforcement, execution, or regulation of express trusts.

History: *(7620) 1917 c 95 s 7; 1988 c 469 art 5 s 1*

306.83 APPLICATION TO CERTAIN ASSOCIATIONS.

Every cemetery association mentioned in section 306.76, that has established a permanent care and improvement fund under any law of this state before December 31, 1927, is subject to sections 306.76 to 306.85.

History: *(7621) 1917 c 95 s 8; 1988 c 469 art 5 s 1*

306.84 CERTAIN SECTIONS NOT APPLICABLE.

Sections 306.31 to 306.39 do not apply to cemetery associations mentioned in section 306.76.

History: *(7622) 1917 c 95 s 9; 1988 c 469 art 5 s 1*

306.85 APPLICATION.

Sections 306.76 to 306.85 apply to cemetery associations mentioned in section 306.76 maintaining those cemeteries in cities existing under a charter framed under the Minnesota Constitution. The governing body of a corporate public cemetery association wishing to avail itself of 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 do 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; 1988 c 469 art 5 s 1*

306.851 PUBLIC CEMETERIES FOR THE POOR.

A public cemetery association organized under the laws of Minnesota for the purpose of providing free burial for the poor and not for purposes of profit, which has been in existence for over 25 years before March 22, 1947, is exempt from sections 306.76 to 306.85.

History: *1949 c 147 s 1; 1988 c 469 art 5 s 1*

306.86 CONVEYANCES OF CEMETERY LOTS AND LANDS TO HOLDING CORPORATIONS LEGALIZED; RECONVEYANCE TO CITIES OF FIRST CLASS FOR CEMETERY PURPOSES.

A deed or other instrument of conveyance of a right, title, or interest in any cemetery land or lot in a cemetery in this state executed before March 31, 1927, conveying the land or plot to a corporation authorized to acquire, hold, and convey title to real estate is lawful and conveys all right, title, and interest of the grantor to the corporation. By the conveyance, the corporation acquires all right, title, and interest that the grantor had in the land and property subject to any limitations contained in the instrument of conveyance. The corporation has the right to convey the property 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 Minnesota Constitution, and the state laws relating to it.

History: *(7624-1) 1927 c 96 s 1; 1988 c 469 art 5 s 1*

306.87 DEFINITIONS.

Subdivision 1. **Applicability.** Unless the language or context clearly indicates that a different meaning is intended, the following definitions apply to this chapter.

Subd. 2. **Associates.** "Associates" means the original incorporators and their successors.

Subd. 3. **Public cemeteries.** All cemeteries started or established as public cemeteries and all cemeteries hereafter started or established, except cemeteries established by religious corporations, are public cemeteries within the provisions of this chapter.

Subd. 4. **Board of directors.** "Board of directors," as used in sections 306.41 to 306.54, means the board of supervisors of a town, the governing body of a city, the board of trustees or directors of a religious corporation or of a 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; 1988 c 469 art 5 s 1*

306.88 ACQUISITION OF CEMETERY.

Subdivision 1. **Conditions of acquisition.** A lodge, order, or association of a purely religious, charitable, or benevolent description, may acquire the cemetery property of the cemetery association by gift or purchase and maintain and enlarge it if it: (1) does not operate for purposes of profit; (2) is exempt from chapter 64B under section 64B.38; (3) has been organized under state law; (4) has been in existence for 20 years; (5) one of its purposes under its charter is to provide free burial ground for its members and their families; and (6) all of its members are also members of a cemetery association by virtue of a specific provision in the charter of the association and the provision has been in effect for 15 years before enactment of this section. The cemetery association may convey to the lodge, order, or association any cemetery land or property.

A lodge, order, or association that acquires cemetery land under this section in a county with a population of 600,000 or more and maintains the land for cemetery purposes may also acquire by gift or purchase the cemetery land or any part of it owned by a public or other cemetery association that is adjacent to the land maintained for cemetery purposes or is separated from it by a public highway or street. A public or other cemetery association owning the land may convey it or any part of it to the previously described lodge, order, or association by deed, in accordance with authorization by its board of directors or trustees. Sections 306.76 to 306.85 do not apply to the proceeds of the sale. On acquisition, the lodge, order, or association succeeds to all the rights to maintain and use the other land for cemetery purposes as were possessed by the public or other cemetery association from which the land was acquired.

Subd. 2. **Application.** Sections 306.10 and 306.76 to 306.85 do not apply to lodges, orders, or associations acquiring, maintaining, or enlarging cemeteries as authorized by this section. Section 306.14 applies to land or property acquired or maintained by the 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, also apply to cemeteries acquired, owned, and managed by the lodge, order, or association under this section.

History: *1945 c 297 s 1,2; 1955 c 63 s 1; 1969 c 6 s 39; 1985 c 49 s 41; 1988 c 469 art 5 s 1*

306.90 CONSTRUCTION PERFORMANCE BOND.

Subdivision 1. **Bond requirement.** Any person, firm, partnership, association, or corporation selling burial space in a mausoleum or columbarium before the mausoleum or columbarium is completed and usable shall obtain a performance bond in an amount sufficient to cover all construction costs associated with building the mausoleum or columbarium as promised at the time of sale. The bond shall be executed by an insurance company authorized to do business in Minnesota which has sufficient net worth to satisfy the amount of the bond and which has given consent to be sued in Minnesota.

Subd. 2. **Claims.** The bond shall be in favor of the state for the benefit of any purchaser who suffers a loss due to failure of the seller to deliver the promised structure. Any person claiming against the bond may file a claim with the surety, and if the claim is not paid, may maintain an action based on the bond and recover against the surety. The attorney general may file a claim with the surety on behalf of any purchaser. The surety shall pay the amount of the claims to the attorney general for distribution to the claimants entitled to restitution and shall be relieved of liability to that extent. If the claim is not paid, the attorney general may maintain an action against the surety on behalf of the claimants.

Subd. 3. **Aggregate liability.** The aggregate liability of the surety to all persons buying space in the mausoleum or columbarium shall not exceed the amount of the bond.

Subd. 4. **Copy filed; fee.** Any person, firm, partnership, association, or corporation selling burial space in a mausoleum or columbarium before the mausoleum or columbarium is completed and usable shall file a copy of the performance bond with the county auditor of the county in which the mausoleum or columbarium will be built 30 days before the entity may sell space and begin construction. There shall be paid to the county auditor a filing fee of $15 for each copy of the bond.

Subd. 5. **Deadline for certain bonds to be filed.** Any person, firm, partnership, association, or corporation which has begun selling burial space in a mausoleum or columbarium before the mausoleum or columbarium is complete and usable as promised at time of sale, and before August 1, 1988, shall file a copy of the performance bond 30 days after August 1, 1988, or cease all sales. The performance bond must meet the criteria in this section except that if the structure is partially completed, the bond must cover only the remaining construction costs necessary to complete the structure as promised at time of sale. There shall be paid to the county auditor a filing fee of $15 for each copy of the bond.

Subd. 6. **Exception.** This section shall not apply to cemeteries, mausoleums, or columbariums owned and operated by a municipality, church, religious corporation, or religious association.

Subd. 7. **Penalty.** 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.

History: *1988 c 509 s 10*

306.93 CERTIFIED LETTER.

Subdivision 1. **Contents; filing; fee.** Any person, firm, partnership, association, or corporation which is subject to section 306.761 is required to file, by March 31 if operating on a calendar year basis and by 90 days after the end of the fiscal year if operating on a fiscal year basis, either its independently audited financial statement or a certified letter prepared by a certified public accountant which reviews the permanent care and improvement fund and construction performance bond of the cemetery, mausoleum, or columbarium. The letter or audited financial statement must, at a minimum, review whether the amounts in the entity's permanent care and improvement fund and construction performance bond comply with the requirements of this chapter. The independently audited financial statement or the certified letter must be filed with the county auditor of the county in which the cemetery, mausoleum, or columbarium is situated. There shall be paid to the county auditor a filing fee of $15 for each certified letter or independently audited financial statement.

Subd. 2. **Penalty.** 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.

History: *1988 c 509 s 11*

306.95 DUTIES OF THE COUNTY AUDITOR.

Subdivision 1. **Notification.** Any county auditor finding evidence of violations of this chapter when reviewing reports or bonds filed by any person, firm, partnership, association, or corporation operating a cemetery, mausoleum, or columbarium must notify the county attorney in a timely manner of such finding.

Subd. 2. **Annual letter.** Every county auditor must file an annual letter by May 31 with the county attorney disclosing whether the county auditor has detected any indications of violations of this chapter in the reports or bonds which were filed or should have been filed. If the county auditor has not detected from the information supplied to the county auditor any such indications, that fact must be reported to the county attorney in the annual letter.

History: *1988 c 509 s 12; 1Sp2003 c 1 art 2 s 82*

306.97 [Repealed, 1Sp2003 c 1 art 2 s 136]

306.99 WINTER BURIALS.

Each municipal, town, or other cemetery governed by this chapter or other law shall, so far as possible, provide for burials at all times of year including winter. A cemetery may make an additional charge for the actual cost of a burial during difficult weather.

History: *1993 c 100 s 2*

306.991 GREEN BURIALS IN PUBLIC CEMETERIES.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Drainage system" has the meaning given in section 103E.005, subdivision 12.

(c) "Green burial" has the meaning given in section 149A.02, subdivision 42.

(d) "Natural watercourse" has the meaning given in section 103G.005, subdivision 13.

(e) "Ordinary high-water level" has the meaning given in section 103G.005, subdivision 14.

(f) "Water supply well" has the meaning given in section 103I.005, subdivision 20a.

Subd. 2. **Green burial requirements.** A municipality, town, or other cemetery governed by this chapter that allows for green burials must comply with the requirements of this section.

Subd. 3. **Green burial plot locations.** (a) Green burial plots must meet the following criteria:

(1) be set back 50 feet from property lines;

(2) maintain at least 3-1/2 feet clearance above the ordinary high-water level;

(3) not be in standing water;

(4) not be within zone 1 groundwater source protection zones around a spring, a water supply well, or a shaft drilled into the ground meant to extract water; and

(5) not be within flood-prone areas.

(b) Green burial plot locations must be a certain distance from water sources. Green burial plot locations must be:

(1) 50 feet from water supply wells and shafts drilled into the ground used to extract water;

(2) 100 feet from other springs or watercourses; and

(3) 33 feet from drainage systems.

Subd. 4. **Exception.** A property with green burial plots in a designated location on or before July 1, 2025, does not need to comply with the requirement of subdivision 3, paragraph (a), clause (1).

Subd. 5. **Burial depth.** (a) Green burial plots must be at a minimum depth of 3-1/2 feet from the base of the grave to the soil horizon.

(b) Green burials must have 3-1/2 feet of cover.

Subd. 6. **Burial density.** Green burial plots must be a maximum of 300 burials per acre over a 100-year period.

History: *1Sp2025 c 3 art 19 s 9*

306.992 SCATTERING OF HYDROLYZED OR CREMATED REMAINS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Cremated remains" has the meaning given in section 149A.02, subdivision 7.

(c) "Hydrolyzed remains" has the meaning given in section 149A.02, subdivision 24a.

Subd. 2. **Designated location.** A municipality, town, or other cemetery governed by this chapter that allows for scattering of hydrolyzed remains or cremated remains must designate a location within the cemetery for the scattering of hydrolyzed remains or cremated remains.

History: *1Sp2025 c 3 art 19 s 10*