CHAPTER 307

PRIVATE CEMETERIES

307.01	PLAT AND RECORD.	307.082	CIVIL ACTIONS.
307.02	EFFECT OF RECORDED PLAT.	307.09	EXEMPTIONS.
307.03	RELIGIOUS CORPORATIONS MAY ACQUIRE EXISTING CEMETERIES.	307.10	VACATION; CHANGE OF NAME.
307.04	CONVEYANCE OF LOTS.	307.11	ABANDONED LOTS; RECOVERY.
307.05	GIFTS FOR PROPRIETARY CARE OF LOTS.	307.115	CORRECTION OF INTERMENT ERRORS.
307.06	TRANSFER TO ASSOCIATION; HOW EFFECTED.	307.12	RELOCATION.
307.07	EFFECT OF TRANSFER.	307.14	GREEN BURIALS IN PRIVATE CEMETERIES.
307.08	DAMAGES; ILLEGAL MOLESTATION OF HUMAN REMAINS; BURIALS; CEMETERIES; PENALTY; ASSESSMENT.	307.15	SCATTERING OF HYDROLYZED OR CREMATED REMAINS.

307.01 PLAT AND RECORD.

Any private person and any religious corporation may establish a cemetery on the person's or corporation's own land in the following manner: The land shall be surveyed and a plat thereof made. A stone or other monument shall be established to mark one corner of such cemetery, and its location shall be designated on the plat. The plat and the correctness thereof shall be certified by the surveyor, whose certificate shall be endorsed thereon, and with such endorsement shall be filed for record with the county recorder in the county where the cemetery is located, showing the area and location of the cemetery. Any person or association owning such private cemetery may subdivide or rearrange the same, from time to time, as may be necessary in the conduct of the business, but no plat of such subdivision or rearrangement shall interfere with the rights and privileges of the several lot owners of such cemetery without their consent, nor need same be filed in the office of the county recorder; provided, that a plat of the same shall be kept for public inspection at such cemetery; and, provided, further, that there shall be placed at the corner of each lot of such subdivision or rearrangement cement or other nondestructible markers three inches or more in diameter and eight inches or more in length, one of such markers showing the number of the lot.

History: *(7625) RL s 2960; 1923 c 360 s 1; 1976 c 181 s 2; 1986 c 444*

307.02 EFFECT OF RECORDED PLAT.

When such plat has been recorded, every donation or grant of lands therein to the public, to any religious corporation, or to any individual, shall be deemed a conveyance of such lands, subject to the conditions and restrictions, if any, contained therein. Every conveyance of such lots shall be expressly for burial purposes, and the lands designated on the plat as streets, alleys, ways, commons, or other public uses shall be held by the owner of the cemetery in trust for the uses and purposes thereon indicated.

History: *(7626) RL s 2961*

307.03 RELIGIOUS CORPORATIONS MAY ACQUIRE EXISTING CEMETERIES.

Any religious corporation, or two or more together, may acquire, by gift or purchase, the cemetery lands and property of any cemetery association or private cemetery, and every such association, and the owner of any private cemetery, are hereby empowered to convey to religious corporations any cemetery land or property.

History: *(7627) RL s 2962*

307.04 CONVEYANCE OF LOTS.

Every religious corporation owning such cemetery may sell and convey lots therein for burial purposes only. Deeds thereof may be executed by the treasurers of such corporations, or by one or more of the trustees thereunto authorized by resolution duly adopted by its board of trustees.

History: *(7628) RL s 2963*

307.05 GIFTS FOR PROPRIETARY CARE OF LOTS.

Gifts, grants and bequests of personal property to any trust company, or to one or more individuals and their successors, in trust for the purpose of perpetual care, maintenance, and adornments of lots in private cemeteries and the walks, monuments, and structures thereon are permitted. They shall not be deemed invalid as violating any existing law against perpetuities or suspension of the power of alienation; and, in furtherance thereof, any trust company or individual trustee and the trustee's successors may take and hold in trust the title to any one or more of such lots in such private cemetery in perpetuity.

History: *(7629) 1919 c 22 s 1; 1986 c 444*

307.06 TRANSFER TO ASSOCIATION; HOW EFFECTED.

Any private cemetery established, platted, and recorded under the laws of this state may consolidate with and transfer its property, for cemetery purposes only, to any cemetery association or corporation organized under the laws of this state which is contiguous to, or adjacent to, such cemetery corporation.

To so consolidate and transfer its property it shall be necessary:

(1) that a resolution be passed by a two-thirds vote of the lot owners and members of such private cemetery, represented, present, and voting at a special meeting called for that purpose, which resolution shall recite what cemetery corporation or association it is proposed to consolidate with and transfer its property to, and the terms and conditions thereof; and 30 days' notice of such meeting shall be previously given by mail to each lot owner of such private cemetery whose address can be determined using reasonable diligence of the time and place when such meeting is to be held, reciting the purpose thereof, which notice shall be signed by at least five lot owners; and

(2) that the resolution shall be signed and acknowledged by the presiding officer and secretary of such meeting and shall be recorded with the county recorder of the county in which the private cemetery is situated.

History: *(7630) 1905 c 38 s 1; 1976 c 181 s 2; 1984 c 543 s 17; 1985 c 248 s 51; 2005 c 4 s 43*

307.07 EFFECT OF TRANSFER.

When such resolution shall have been passed and certified to by the presiding officer and secretary of such meeting and recorded in the office of the county recorder, as aforesaid, and the terms and conditions of consolidation shall have been accepted by the board of directors or trustees of such cemetery corporation, such private cemetery shall become a part of such cemetery corporation or association, and subject thereafter to all the rules and regulations and laws governing such cemetery corporation or association. It shall be lawful for the owners of such private cemetery to transfer and convey to such cemetery corporation or association all unsold lots in such private cemetery to such cemetery corporation or association to be used for burial purposes only, and any such conveyance heretofore made is hereby legalized and such cemetery

corporation or association shall hold in trust, to and for the uses and purposes aforesaid, all streets, alleys, ways, and commons, and the other public uses, in such private cemetery in lieu of the owner thereof.

History: *(7631) 1905 c 38 s 2; 1976 c 181 s 2; 2005 c 4 s 44*

307.08 DAMAGES; ILLEGAL MOLESTATION OF HUMAN REMAINS; BURIALS; CEMETERIES; PENALTY; ASSESSMENT.

Subdivision 1. **Legislative intent; scope.** It is a declaration and statement of legislative intent that all human burials, human remains, and human burial grounds shall be accorded equal treatment and respect for human dignity without reference to their ethnic origins, cultural backgrounds, or religious affiliations. The provisions of this section shall apply to all human burials, human remains, or human burial grounds found on or in all public or private lands or waters in Minnesota. Within the boundaries of Tribal Nation reservations, nothing in this section should be interpreted to conflict with federal law, including the Native American Graves Protection and Repatriation Act (NAGPRA), United States Code, title 25, section 3001 et seq., and its implementing regulations, Code of Federal Regulations, title 43, part 10.

Subd. 2. **Felony; gross misdemeanor.** (a) A person who intentionally, willfully, or knowingly does any of the following is guilty of a felony:

(1) destroys, mutilates, or injures human burials, human burial grounds, or associated grave goods; or

(2) without the consent of the appropriate authority, disturbs human burial grounds or removes human remains or associated grave goods.

(b) A person who, without the consent of the appropriate authority and the landowner, intentionally, willfully, or knowingly does any of the following is guilty of a gross misdemeanor:

(1) removes any tombstone, monument, or structure placed in any public or private cemetery or assessed human burial ground; or

(2) removes any fence, railing, natural stone, or other work erected for protection or ornament, or any tree, shrub, or plant within the limits of a public or private cemetery or assessed human burial ground; or

(3) discharges any firearms upon or over the grounds of any public or private cemetery or assessed burial ground.

(c) A person who intentionally, willfully, or knowingly fails to comply with any other provision of this section is guilty of a misdemeanor.

Subd. 3. **Protective posting.** Upon the agreement of the appropriate authority and the landowner, an authenticated or recorded human burial ground may be posted for protective purposes every 75 feet around its perimeter with signs listing the activities prohibited by subdivision 2 and the penalty for violation of it. Posting is at the discretion of the Indian Affairs Council in the case of American Indian burials or at the discretion of the state archaeologist in the case of non-American Indian burials. This subdivision does not require posting of a burial ground. The size, description, location, and information on the signs used for protective posting must be approved by the appropriate authority and the landowner.

Subd. 3a. **Cemeteries; records and condition assessments.** (a) Cemeteries shall be assessed according to this subdivision.

(b) The state archaeologist shall implement and maintain a system of records identifying the location of known, recorded, or suspected cemeteries. The state archaeologist shall provide access to the records as provided in subdivision 11.

(c) The cemetery condition assessment of non-American Indian cemeteries is at the discretion of the state archaeologist based on the needs identified in this section or upon request by an agency, a landowner, or other appropriate authority.

(d) The cemetery condition assessment of American Indian cemeteries is at the discretion of the Indian Affairs Council based on the needs identified in this section or upon request by an agency, a landowner, or other appropriate authority. If the Indian Affairs Council has possession or takes custody of remains they may follow United States Code, title 25, sections 3001 to 3013.

(e) The cemetery condition assessment of cemeteries that include American Indian and non-American Indian remains or include remains whose ancestry cannot be determined shall be assessed at the discretion of the state archaeologist in collaboration with the Indian Affairs Council based on the needs identified in this section or upon request by an agency, a landowner, or other appropriate authority.

(f) The state archaeologist and the Indian Affairs Council shall have 90 days from the date a request is received to begin a cemetery condition assessment or provide notice to the requester whether or not a condition assessment of a cemetery is needed.

(g) The state archaeologist and the Indian Affairs Council may retain the services of a qualified professional archaeologist, a qualified forensic anthropologist, or other appropriate experts for the purpose of gathering information that the state archaeologist or the Indian Affairs Council can use to assess or identify cemeteries. If probable American Indian cemeteries are to be disturbed or probable American Indian remains analyzed, the Indian Affairs Council must approve the professional archaeologist, qualified anthropologist, or other appropriate expert.

Subd. 4. [Repealed by amendment, 2007 c 115 s 1]

Subd. 5. **Cost.** The cost of condition assessment, recording, surveying, and marking burial grounds and the cost of identification, analysis, rescue, and reburial of human remains on public lands or waters shall be the responsibility of the state or political subdivision controlling the lands or waters. On private lands or waters these costs may be borne by the state, or the landowner upon mutual agreement with the state.

Subd. 6. [Repealed by amendment, 2007 c 115 s 1]

Subd. 7. **Remains found outside of recorded cemeteries.** (a) All unidentified human remains or burials found outside of recorded cemeteries or unplatted graves or burials found within recorded cemeteries and in contexts which indicate antiquity greater than 50 years shall be treated with the utmost respect for all human dignity and dealt with according to the provisions of this section.

(b) If such burials are not American Indian or their ethnic identity cannot be ascertained, as determined by the state archaeologist, they shall be dealt with in accordance with provisions established by the state archaeologist and other appropriate authority.

(c) If such burials are American Indian, as determined by the state archaeologist and Indian Affairs Council, efforts shall be made to follow procedures as defined in United States Code, title 25, section 3001 et seq., and its implementing regulations, Code of Federal Regulations, title 43, part 10, within reservation boundaries. For burials outside of reservation boundaries, the procedures defined in United States Code,

title 25, section 3001 et seq., and its implementing regulations, Code of Federal Regulations, title 43, part 10, are at the discretion of the Indian Affairs Council.

Subd. 7a. **Landowner responsibilities.** Application by a landowner for permission to develop or disturb nonburial areas within assessed or recorded burial grounds shall be made to:

(1) the state archaeologist and other appropriate authority in the case of non-American Indian burials; and

(2) the Indian Affairs Council and other appropriate authority in the case of American Indian burials.

(b) Landowners with assessed or suspected human burial grounds on their property are obligated to inform prospective buyers of the burial ground.

Subd. 8. **Burial ground relocation.** No non-American Indian burial ground may be relocated without the consent of the appropriate authority. No American Indian burial ground may be relocated unless the request to relocate is approved by the Indian Affairs Council. When a burial ground is located on public lands or waters, any burial relocations must be duly licensed under section 138.36 and the cost of removal is the responsibility of and shall be paid by the state or political subdivision controlling the lands or waters. If burial grounds are assessed on private lands, efforts may be made by the state to purchase and protect them instead of removing them to another location.

Subd. 9. **Interagency cooperation.** (a) The state archaeologist and the Indian Affairs Council shall enter into a memorandum of understanding to coordinate their responsibilities under this section.

(b) The Department of Natural Resources, the Department of Transportation, and all other state agencies and local governmental units whose activities may be affected, shall cooperate with the state archaeologist and the Indian Affairs Council to carry out the provisions of this section.

Subd. 10. **Construction and development plan review.** When human burials are known or suspected to exist, on public lands or waters, the state or political subdivision controlling the lands or waters or, in the case of private lands, the landowner or developer, shall submit construction and development plans to the state archaeologist for review before plans are finalized and prior to any disturbance within the burial area. If the known or suspected burials are thought to be American Indian, plans shall also be submitted to the Indian Affairs Council. The state archaeologist and the Indian Affairs Council shall review the plans within 45 days of receipt and make recommendations for the preservation in place or removal of the human burials or remains, which may be endangered by construction or development activities.

Subd. 11. **Burial sites data.** Burial sites data under the authority of the Office of the State Archaeologist or Indian Affairs Council are security information for purposes of section 13.37. Persons who gain access to this data are subject to liability under section 13.08 and the penalty established by section 13.09 if they improperly use or further disseminate the data. Use of this information must be approved by the appropriate authority.

Subd. 12. **Right of entry.** The state archaeologist or designee may enter on property for the purpose of assessing burial sites. The Indian Affairs Council or a designated representative of the Indian Affairs Council may enter on property for the purpose of assessing or identifying American Indian cemeteries. Only after obtaining permission from the property owner or lessee, descendants of persons buried in burial grounds covered by this section may enter the burial grounds for the purpose of conducting religious or commemorative ceremonies. This right of entry must not unreasonably burden property owners or unnecessarily restrict their use of the property.

Subd. 13. **Definitions.** As used in this section, the following terms have the meanings given.

(a) "Abandoned cemetery" means a cemetery where the cemetery association has disbanded or the cemetery is neglected and contains marked graves older than 50 years.

(b) "Appropriate authority" means:

(1) the trustees when the trustees have been legally defined to administer burial grounds;

(2) the Indian Affairs Council in the case of American Indian burial grounds lacking trustees;

(3) the county board in the case of abandoned cemeteries under section 306.243; and

(4) the state archaeologist in the case of non-American Indian burial grounds lacking trustees or not officially defined as abandoned.

(c) "Artifacts" means natural or artificial articles, objects, implements, or other items of archaeological interest.

(d) "Assess" means to establish the presence of or high potential of human burials or human skeletal remains being located in a discrete area and attempt to determine the ethnic, cultural, or religious affiliation of individuals interred.

(e) "Burial" means the organic remnants of the human body that were intentionally interred as part of a mortuary process.

(f) "Burial ground" means a discrete location that is known to contain or has high potential to contain human remains based on physical evidence, historical records, or reliable informant accounts.

(g) "Cemetery" means a discrete location that is known to contain or intended to be used for the interment of human remains.

(h) "Disturb" means any activity that harms the physical integrity or setting of a human burial or human burial ground.

(i) "Grave goods" means objects or artifacts directly associated with human burials or human burial grounds that were placed as part of a mortuary ritual at the time of interment.

(j) "Human remains" means the body of a deceased person in whole or in part, regardless of the state of decomposition, not including isolated teeth.

(k) "Identification" means to analyze organic materials to attempt to determine if they represent human remains and to attempt to establish the ethnic, cultural, or religious affiliations of such remains.

(l) "Marked" means a burial that has a recognizable tombstone or obvious grave marker in place or a legible sign identifying an area as a burial ground or cemetery.

(m) "Qualified physical anthropologist" means a specialist in identifying human remains who holds an advanced degree in anthropology or a closely related field.

(n) "Qualified professional archaeologist" means an archaeologist who meets the United States Secretary of the Interior's professional qualification standards in Code of Federal Regulations, title 36, part 61, appendix A, or subsequent revisions.

(o) "Recorded cemetery" means a cemetery that has a surveyed plat filed in a county recorder's office.

(p) "State" or "the state" means the state of Minnesota or an agency or official of the state acting in an official capacity.

(q) "Trustees" means the recognized representatives of the original incorporators, board of directors, or cemetery association.

(r) "Person" means a natural person or a business and includes both if the natural person is engaged in a business.

(s) "Business" means a contractor, subcontractor, supplier, consultant, or provider of technical, administrative, or physical services organized as a sole proprietorship, partnership, association, corporation, or other entity formed for the purpose of doing business for profit.

History: *(7632) RL s 2964; 1976 c 48 s 1; 1980 c 457 s 1; 1983 c 282 s 1-4; 1986 c 463 s 1; 1989 c 335 art 1 s 199; 1993 c 326 art 4 s 9; 1999 c 86 art 1 s 64-67; 1Sp2003 c 8 art 2 s 17; 2007 c 115 s 1; 2010 c 392 art 1 s 14; 2013 c 134 s 30; 2013 c 142 art 3 s 36; 2021 c 31 art 2 s 16; 2023 c 62 art 2 s 108; 2024 c 123 art 17 s 30*

307.082 CIVIL ACTIONS.

Subdivision 1. **Who may bring.** An action under this section may be maintained by the attorney general; a state agency or political subdivision; an individual residing within this state; or a partnership, corporation, association, company, or other entity with shareholders, members, partners, or employees residing within this state.

Subd. 2. **Action.** A person or entity listed in subdivision 1 may maintain a civil action seeking a temporary or permanent injunction, damages, or other appropriate relief against a person who is alleged to have committed a violation of section 307.08, subdivision 2. The action must be brought within two years after the alleged violation is discovered and reported to the state archaeologist or the Indian Affairs Council. The action must be filed in either the district court of the county in which the subject burial ground is located or in which the defendant resides.

History: *1993 c 288 s 1; 1994 c 469 s 1*

307.09 EXEMPTIONS.

Subdivision 1. **Extent of exemptions.** All lands, not exceeding 100 acres in extent, and in the case of cemeteries owned and managed by religious corporations, or corporations solely owned and controlled by and in the interest of any religious denomination, 300 acres in extent, so laid out and dedicated as a private cemetery, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale on execution, or to be applied in payment of the debts of any owner thereof, so long as the same remains appropriated to the use of a cemetery; and no road or street shall be laid through the same without the consent of the owners.

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

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

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

History: *(7633) RL s 2965; 1913 c 137 s 1; 1927 c 295 s 3; 1969 c 980 s 2*

307.10 VACATION; CHANGE OF NAME.

Upon application of the owners of such cemetery, the district court of the county in which it is situate may alter or vacate the same, or any part thereof, as in the case of town plats. Upon like application, and upon such notice as the court may direct, it may change the name of such cemetery.

History: *(7634) RL s 2966*

307.11 ABANDONED LOTS; RECOVERY.

Sections 306.21; 306.22; 306.23; 306.24 and 306.241 apply to private cemeteries subject to the provisions of this chapter.

History: *1976 c 203 s 1*

307.115 CORRECTION OF INTERMENT ERRORS.

Section 306.155 applies to private cemeteries subject to this chapter. Nothing in section 306.155 shall exempt cemeteries from complying with chapter 149A.

History: *2003 c 48 s 2; 1Sp2003 c 23 s 2*

307.12 RELOCATION.

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

History: *1993 c 100 s 3*

307.14 GREEN BURIALS IN PRIVATE 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 person who owns a 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 11*

307.15 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 person who owns a 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 or cremated remains.

History: *1Sp2025 c 3 art 19 s 12*