

## CHAPTER 307

## PRIVATE CEMETERIES

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**NOTE:** For definitions, see section 300.02.

**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 AUTHORIZED FOR PROPRIETARY CARE OF LOTS IN CEMETERIES.**

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 filed 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*

**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 filed for record 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*

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

Subdivision 1. It is a declaration and statement of legislative intent that all human burials and human skeletal remains 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 or human skeletal remains found on or in all public or private lands or waters in Minnesota.

Subd. 2. A person who intentionally, willfully, and knowingly destroys, mutilates, injures, or removes human skeletal remains or human burials is guilty of a felony. A person who intentionally, willfully, or knowingly removes any tombstone, monument, or structure placed in any public or private cemetery or unmarked human burial ground, or any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of the cemetery or burial ground, and a person who, without authority from the trustees, state archaeologist, or Indian affairs intertribal board, discharges any firearms upon or over the grounds of any public or private cemetery or authenticated and identified Indian burial ground, is guilty of a gross misdemeanor.

Subd. 3. Every authenticated and identified 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 Indian burials or at the discretion of the state archaeologist in the case of non-Indian burials.

Subd. 3a. The state archaeologist shall authenticate all burial sites for purposes of this section and may enter on property for the purpose of authenticating burial sites. Only after obtaining written permission from the property owner or lessee, descendants of persons buried in burial sites covered by this section may enter the burial sites for the purpose of conducting religious ceremonies. This right of entry must not unreasonably burden property owners or unnecessarily restrict their use of the property.

Subd. 4. The state shall retain the services of a qualified professional archaeologist, approved by the state archaeologist and the Indian affairs council, for the purpose of gathering information to authenticate or identify Indian burial grounds when requested by a concerned scientific or contemporary Indian ethnic group, when Indian burials are known or suspected to exist on public lands or waters controlled by the state or political subdivision.

Subd. 5. The cost of authentication, identification, marking, and rescue of unmarked or unidentified burial grounds or burials shall be the responsibility of the state. The data collected by this activity that has common value for natural resource planning must be provided and integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by the state.

Subd. 6. The size, description and information on the signs must be approved by the Minnesota state historical society.

Subd. 7. All unidentified human remains or burials found outside of platted, recorded, or identified cemeteries and in contexts which indicate antiquity greater than 50 years shall be dealt with according to the provisions of this section. If such burials are not 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. If such burials are Indian, as determined by the state archaeologist, efforts shall be made by the state archaeologist and the Indian affairs council to ascertain their tribal identity. If their probable tribal identity can be determined, such remains shall at the discretion of the state archaeologist and Indian affairs council, be turned over to contemporary tribal leaders for disposition. If it is deemed desirable by the state archaeologist or the Indian affairs council, such remains shall be studied by a qualified professional archaeologist before being delivered to the tribal leaders. If tribal identity cannot be determined, the Indian remains must be dealt with in accordance with provisions established by the state archaeologist and the Indian affairs council.

Subd. 8. No authenticated and identified Indian burial ground may be relocated unless the request to relocate is approved by the Indian affairs intertribal board. When the Indian burial ground is located on public lands or waters, the cost of removal is the responsibility of and shall be paid by the state or political subdivision controlling the lands or waters. If large Indian burial grounds are involved, efforts shall be made by the state to purchase and protect them instead of removing them to another location.

Subd. 9. 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 intertribal board to carry out the provisions of this section.

Subd. 10. When Indian burials are known or suspected to exist, on public lands or waters, the state or political subdivision controlling the lands or waters shall submit construction and development plans to the state archaeologist and the Indian affairs intertribal board for review prior to the time bids are advertised. The state archaeologist and the Indian affairs intertribal board shall promptly review the plans and make recommendations for the preservation or removal of the human burials or remains, which may be endangered by construction or development activities.

**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*

### 307.09 EXEMPTIONS.

Subdivision 1. 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. 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*