

TITLE 13: CORPORATIONS

CHAPTER 83: CEMETERY CORPORATIONS

Subchapter 2: Burying Grounds

Article 2: DUTIES OF TOWN OR COUNTY

§1101. MAINTENANCE AND REPAIRS; MUNICIPALITY

1. Grave sites of veterans in ancient burying grounds. In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality in which that burying ground is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep in good condition all graves, headstones, monuments and markers designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground.

[2013, c. 524, §1 (AMD) .]

1-A. Grave sites of persons who are not designated as veterans in ancient burying grounds. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality in which an ancient burying ground is located may keep the grass, weeds and brush suitably cut and trimmed from May 1st to September 30th of each year on all graves, headstones, monuments and markers in the ancient burying ground not designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's functions regarding an ancient burying ground.

[2013, c. 524, §1 (NEW) .]

2. Grave sites of veterans in public burying grounds. A municipality, cemetery corporation or cemetery association owning and operating a public burying ground shall, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, keep the grave, headstone, monument or marker designating the burial place of any veteran of the Armed Forces of the United States in that public burying ground in good condition and repair from May 1st to September 30th of each year.

A municipality in which a public burying ground is located may, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons,

adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept. The standards at a minimum must detail how to maintain the grave, grass and headstones.

If a municipality does not adopt standards, the municipality, cemetery corporation or cemetery association shall apply the following standards of good condition and repair:

A. [2013, c. 524, §1 (RP).]

B. [2013, c. 524, §1 (RP).]

C. [2013, c. 524, §1 (RP).]

D. Ensure that grass is suitably cut and trimmed; [2013, c. 524, §1 (AMD).]

E. Keep a flat grave marker free of grass and debris; and [2013, c. 524, §1 (AMD).]

F. Keep the burial place free of fallen trees, branches, vines and weeds. [2013, c. 524, §1 (AMD).]

[2013, c. 524, §1 (AMD) .]

SECTION HISTORY

1977, c. 255, §1 (AMD). 1999, c. 700, §1 (AMD). 2013, c. 421, §1 (RPR). 2013, c. 524, §1 (AMD).

§1101-A. DEFINITION

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 421, §1 (AMD).]

1. Ancient burying ground. "Ancient burying ground" means a private cemetery established before 1880.

[1999, c. 700, §2 (NEW) .]

2. Columbarium. "Columbarium" means a structure or room or space in a mausoleum or other building containing niches or recesses for disposition of cremated human remains.

[2003, c. 421, §1 (NEW) .]

3. Community mausoleum. "Community mausoleum" means an aboveground structure designed for entombment of human remains of the general public, as opposed to the entombment of the remains of family members in a privately owned, family mausoleum of no more than 6 crypts.

[2003, c. 421, §1 (NEW) .]

4. Public burying ground. "Public burying ground" means a burying ground or cemetery in which any person may be buried without regard to religious or other affiliation and includes a cemetery owned and operated by a municipality, a cemetery corporation or a cemetery association.

[2013, c. 524, §2 (NEW) .]

SECTION HISTORY

1999, c. 700, §2 (NEW). 2003, c. 421, §1 (AMD). 2013, c. 524, §2 (AMD).

§1101-B. ANCIENT BURYING GROUNDS

1. Access to ancient burying grounds on privately owned land. The owner of an ancient burying ground shall provide a municipality or its caretaker designated pursuant to section 1101 access necessary to perform the duties pursuant to section 1101 and Title 30-A, section 2901. Any unreasonable denial to provide access may result in the owner being held responsible for any fines, court costs and attorney's fees incurred by municipalities in legally obtaining access or for failing to meet the requirements of section 1101.

[2013, c. 421, §2 (AMD) .]

2. Maintenance by landowner. A person who owns a parcel of land that contains an ancient burying ground and chooses to deny access to the municipality or its caretaker designated pursuant to section 1101 shall assume the duties as described in section 1101 and Title 30-A, section 2901, subsection 1. Maintenance of an ancient burying ground by the owner exempts the municipality from performing the duties as described in section 1101.

A municipality or its caretaker designated pursuant to section 1101 to carry out the municipality's functions regarding an ancient burying ground must have access to any ancient burying ground within the municipality in order to determine if the ancient burying ground is being maintained in good condition and repair. If an ancient burying ground or a veteran's grave within an ancient burying ground is not maintained in good condition and repair, the municipality may take over the care or appoint a caretaker to whom it delegates the municipality's functions regarding an ancient burying ground.

[2013, c. 524, §3 (AMD) .]

SECTION HISTORY

1999, c. 700, §2 (NEW). 2013, c. 421, §2 (AMD). 2013, c. 524, §3 (AMD).

§1101-C. NOTICE OF RESPONSIBILITY

When a municipality fails without good reason to maintain the good condition and repair of a grave, headstone, monument or marker or fails to keep the grass suitably cut and trimmed on any such grave pursuant to section 1101 and at least one of the municipal officers has had 14 days' actual notice or knowledge of the neglected condition, a penalty of not more than \$100 may be assessed on the municipality. [1999, c. 700, §2 (NEW).]

SECTION HISTORY

1999, c. 700, §2 (NEW).

§1101-D. UNORGANIZED TOWNSHIPS

If an ancient burying ground or a public burying ground as described in section 1101 is located in an unorganized township, the county in which the township is located is subject to sections 1101, 1101-B and 1101-C. [1999, c. 700, §2 (NEW).]

SECTION HISTORY

1999, c. 700, §2 (NEW).

§1101-E. GRAVES ON LAND OWNED BY FEDERAL GOVERNMENT

Veterans' graves as described in section 1101 that are located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of section 1101. [1999, c. 700, §2 (NEW).]

SECTION HISTORY

1999, c. 700, §2 (NEW).

§1102. -- NEGLECT

If such officers, treasurer or committee neglect so to apply such fines, they each forfeit the amount thereof, in a civil action, to any person suing therefor.

§1103. -- UNINCORPORATED PLACES

(REPEALED)

SECTION HISTORY

1983, c. 471, §1 (RP).

Article 3: EXEMPTION FROM ATTACHMENT

§1141. GROUNDS INALIENABLE; DESCRIPTION RECORDED

When any persons appropriate for a burying ground a piece of land containing not more than 1/2 of an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked and occupied as a burying ground. They shall cause a written description of it, under their hands, attested by 2 disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies or by the clerk of the town where it is situated.

§1142. FAMILY BURYING GROUNDS

When a person appropriates for a family burying ground a piece of land containing not more than 1/4 of an acre, causes a description of it to be recorded in the registry of deeds of the same county or by the clerk of the town where it is situated and substantially marks the bounds of the burying ground or encloses it with a fence, it is exempt from attachment and execution. No subsequent conveyance of it is valid while any person is interred in the burying ground; but it must remain to the person who appropriated, recorded and marked that burying ground and to that person's heirs as a burial place forever. If property surrounding a burying ground appropriated pursuant to this section is conveyed, the property is conveyed by the person who appropriated the property or by an heir of that person and the conveyance causes the burying ground to be inaccessible from any public way, the conveyance is made subject to an easement for the benefit of the spouse, ancestors and descendants of any person interred in the burying ground. The easement may be used only by persons to walk in a direct route from the public way nearest the burying ground to the burying ground at reasonable hours. [1991, c. 412, §1 (AMD).]

SECTION HISTORY

1991, c. 412, §1 (AMD).

§1143. LOTS

Lots in public or private cemeteries are exempt from attachment and levy on execution and from liability to be sold by executors and administrators of insolvent estates for the payment of debts and charges of administration. Only one lot shall be so exempt for any one person.

Article 5: CONVEYANCE TO TOWN

§1221. PROCEEDINGS

Any private cemetery or burying ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated may, by vote of such town within one month after the recording of such agreement by the town clerk, become public and subject to the law relating to public cemeteries or burying grounds, provided such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying ground.

§1222. ACCEPTANCE; EXEMPTION FROM LIABILITY; TRUST FUNDS FOR REPAIRS

Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding 1/2 acre, to be forever held, kept and used for a private or family burying ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying ground, are forever inalienable and indivisible and exempt from liability for debt. Such city, town, corporation, company or trustee may accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee

becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefor may be appointed by the probate court testamentary trustee for the purpose of holding forever, in accordance with this section and the terms of the devise, any fund devised for the purposes aforesaid. Any such city, town, cemetery corporation, trust company, or trustee failing to furnish proper care and attention to any burial lot, the perpetual care whereof has been provided for as above, shall be punished by a fine of not less than \$50 nor more than \$100, to be recovered by complaint or indictment. The District Court and the Superior Court shall have concurrent jurisdiction. Of all fines provided for under this section and recovered on complaint, 1/2 shall go to the prosecutor and 1/2 to the county where the city, town, cemetery corporation, trust company or trustee committing the offense is situated. Nothing herein contained shall be construed to compel any such city, town, cemetery corporation, trust company or trustee to expend in any one year upon any such lot more than the income from any such fund.

§1223. INVESTMENT OF FUNDS

Cemetery trust funds of any cemetery corporation or association, trust company, church, religious or charitable society, or other trustee, shall be invested in the manner provided in Title 30-A, chapter 223, subchapter III-A, and, unless the instrument or order creating the trusts prohibits, may be combined with other similar trust funds in the manner provided in Title 30-A, section 5654, and the annual income only shall be expended in performance of the requirements of the trust. [1987, c. 737, Pt. C, §§24, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §8, 10 (AMD).]

SECTION HISTORY

1987, c. 737, §§C24,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8, C10 (AMD).

§1224. RECORDING OF ACCEPTANCE

A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee and recorded in the registry of deeds with the conveyance.

Subchapter 5: PROTECTION AND PRESERVATION

§1371. APPROVAL FOR REPAIR, MAINTENANCE AND REMOVAL

1. Prior authorization or approval for repair, maintenance or removal. Any person may repair, maintain or remove, subject to the restrictions of subsection 2 or 3, any tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead, after obtaining written approval of the owner or operator of the cemetery or burial ground, if an owner or operator exists, and one of the following, in the following order of priority.

A. The person must first seek the authorization of the owner of the burial lot or a lineal descendant of the deceased buried there, if the owner or a lineal descendant is reasonable to locate and notify. [2015, c. 294, §1 (AMD).]

A-1. If an owner or lineal descendant listed in paragraph A cannot reasonably be located and notified, the person shall seek the authorization of a next of kin, if reasonable to locate and notify, of the deceased buried there. [2015, c. 294, §1 (NEW).]

B. If none of the persons listed in paragraph A or A-1 can reasonably be located and notified, the person shall obtain the written approval of the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [2015, c. 294, §1 (AMD).]

[2015, c. 294, §1 (AMD) .]

2. Conditions on removal for repair, restoration or preservation. Removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, is permitted only for the purpose of preservation. A tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, may not be removed from the confines of the cemetery or burial ground, except that a person who has obtained authorization or approval described in subsection 1 may remove all or a portion of a memorial for a period of no longer than 6 months for the purpose of repair, restoration or preservation, but only when repair, restoration or preservation can not reasonably be accomplished on the site of the cemetery or burial ground. Prior to removal of the memorial, a notice must be submitted to the municipality, or to the county in the case of unorganized territory, stating the location of the burial ground, the identification of the memorial, the authority requesting the removal, the site to which the memorial will be temporarily removed, the proposed date of removal and the proposed date of replacement in the burial ground.

[2015, c. 294, §1 (AMD) .]

3. Permanent removal of memorial. If a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead is in such poor condition that it cannot be preserved in its original location, that memorial may be removed by a person who has obtained authorization or approval described in subsection 1 to another location accessible to the public. Prior to removal of the memorial, a notice must be submitted to the municipality, or to the county in the case of a memorial in unorganized territory, stating the location and identification of the memorial, the authority requesting the removal and the site to which the memorial will be moved and providing documentation of the reason the memorial cannot be preserved in its original location.

When possible, a replacement or replica of the removed memorial must be placed in the original location along with information as to the location of the original memorial. If such placement is not possible, a sign must be placed recording the new location of the memorial.

[2015, c. 294, §1 (NEW) .]

All costs associated with actions taken pursuant to this section must be paid by the person or entity that requests the repair, maintenance or removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure in the burial lot or cemetery. [2015, c. 294, §1 (NEW).]

The owner, operator or caretaker of a burial lot or a cemetery association that authorizes removal of a memorial pursuant to this section is not responsible or liable for the location or care of the memorial. [2015, c. 294, §1 (NEW).]

SECTION HISTORY

1987, c. 326, §1 (NEW). 1997, c. 193, §1 (AMD). 2015, c. 294, §1 (AMD).

§1371-A. LIMITATIONS ON CONSTRUCTION AND EXCAVATION NEAR BURIAL SITES

1. Known burial sites. Construction or excavation near a known burial site or within the boundaries of an established cemetery must comply with any applicable land use ordinance concerning burial sites or established cemeteries, whether or not the burial site or established cemetery is properly recorded in the deed to the property. In the absence of local ordinances, construction or excavation may not be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established cemetery, whichever is the greater, whether or not the burial site or established cemetery is properly recorded in the deed to the property, except:

A. When the construction or excavation is performed pursuant to a lawful order or permit allowing the relocation of bodies; or [2009, c. 2, §27 (COR).]

B. When necessary for the construction of a public improvement, as approved by the governing body of a municipality or, in the case of a state highway, by the Commissioner of Transportation. [2009, c. 2, §28 (COR).]

C. [2009, c. 310, §1 (NEW); T. 13, §1371-A, sub-§1, ¶C (RP).]

A municipality may enforce this subsection or any local ordinance concerning burial sites or established cemeteries pursuant to Title 30-A, section 4452, including the assessment of civil penalties.

In the event of any violation of this subsection, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

[2009, c. 2, §§27, 28 (COR) .]

2. Undocumented burial site. The following procedures apply to construction or excavation that threatens an undocumented or unmarked burial site.

A. Whenever any person has knowledge that excavation or other construction activity may disturb or is disturbing a burial site, that person shall notify the local code enforcement officer by providing an affidavit and any other evidence of the location of the burial site. [1991, c. 412, §2 (NEW).]

B. Upon receipt of proper notification, the code enforcement officer shall issue a stop-work order to the person or entity responsible for the activity that threatens to disturb the burial site. [1991, c. 412, §2 (NEW).]

C. Before the construction activity may continue, the excavator or person who owns the land shall notify the Director of the Maine Historic Preservation Commission and the president of any local historical society of the probable location of the burial site. The excavator or the person who owns the land shall also arrange, at that person's own expense, for appropriate investigation to determine the existence and location of graves. [1991, c. 412, §2 (NEW).]

D. When the investigation is complete, if no human remains are discovered, the person responsible for the investigation shall notify the code enforcement officer of the results and the code enforcement officer shall revoke the stop-work order if satisfied that the investigation is complete and accurate. [1991, c. 412, §2 (NEW).]

E. If a burial site is discovered, excavation or construction may not continue except in accordance with subsection 1 and other applicable provisions of state law. [1991, c. 412, §2 (NEW).]

[1991, c. 412, §2 (NEW) .]

3. Application. This section applies only to burial sites and established cemeteries containing the bodies of humans.

[2007, c. 112, §3 (AMD) .]

SECTION HISTORY

1991, c. 412, §2 (NEW). 2007, c. 112, §§2, 3 (AMD). RR 2009, c. 2, §§27, 28 (COR). 2009, c. 310, §1 (AMD). MRSA T. 13, §1371A, sub1, ¶C (AMD).

§1372. INVENTORIES OF CEMETERIES OR BURIAL GROUNDS

A municipality or, in the case of unorganized territory, a county may contract with a cemetery association or historical society to undertake, complete and keep current an inventory of cemeteries and burial grounds located in that municipality or county. [1987, c. 326, §1 (NEW).]

SECTION HISTORY

1987, c. 326, §1 (NEW).

§1373. AUTHORITY TO MAINTAIN

A municipality may authorize any cemetery association or historical society to maintain any cemetery or burial ground owned, maintained or operated by the municipality. [1987, c. 326, §1 (NEW).]

SECTION HISTORY

1987, c. 326, §1 (NEW).