

# Cemeteries

## Powers of Township Trustees

**Section 359.28. Condemnation.** The township trustees are hereby empowered to condemn, purchase and pay for out of the general fund, or the specific fund voted for such purpose, and enter upon and take, and lands within the territorial limits of such township for the use of cemeteries, a community center, or juvenile playgrounds, in the same manner as is now provided for cities.

**Section 359.29. Gifts and Donations.** Civil townships are hereby authorized and empowered to receive by gift, devise, or bequest, money or property for the purpose of establishing and maintaining libraries, township halls, cemeteries, or for any other public purpose. All such gifts, devises, or bequests shall be effectual only when accepted by resolution of the board of trustees of such township.

(Suggestion: Be careful when accepting cemeteries as gifts, because such cemetery then becomes property of the township and may require maintenance.)

**Section 359.31. Power and Control.** They shall control any such cemeteries, or appoint trustees for the same, or sell the same to any private corporation for cemetery purposes.

**Section 359.32. Sale of lots – gifts.** They shall have authority to provide for the sale of lots or portions thereof, in any cemetery under their control, and make rules in regard thereto, and may provide for perpetual upkeep by the establishment of a perpetual upkeep fund from the proceeds of sale of lots, and may accept gifts, devise or bequest, made to them for that purpose.

**Section 359.37 Regulations.** The trustees shall have power, subject to the bylaws and regulations of such cemetery, to enclose, improve, and adorn the ground of such cemetery; to construct avenues in the same; to erect proper buildings for the use of said cemetery; to prescribe rules for the improving or adorning the lots therein, or for the erection of monuments or other memorials of the dead upon such lots; and to prohibit any use, division, improvement or adornment of a lot which they may deem improper.

The trustees...shall have authority to sell and dispose of any lands or parcels of lands heretofore dedicated for cemetery purposes and which are no longer necessary for such purposes, for the reason that no burials are being made in such cemetery, provided that any portion of said cemetery in which burials have been made shall be kept and maintained by said trustees.

**Section 317.5. Weeds in abandoned cemeteries.** The weed commissioner shall control the weeds growing in abandoned cemeteries in the county as needed. Spraying for control of weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

## Taxes for Cemeteries

**Section 359.30. Cemetery and park tax.** They shall, at the regular meeting in November, levy a tax sufficient to pay for any lands so condemned or purchased, or for the necessary improvement and maintenance of cemeteries thus established, and for the necessary improvement and maintenance of public parks acquired by gift, devise, or bequest under section 359.29, or for the maintenance and improvement of cemeteries so established in adjoining townships, in case they deem such action advisable.

**Section 359.33. Tax for non-owned cemetery.** They may levy a tax not to exceed 6 cents per \$1,000 of assessed value of taxable property to improve and maintain any cemetery not owned by the township, provided the same is devoted to general public use.

**Section 359.34. Scope of levy.** The levy authorized in sections 359.30 and 359.33 may be extended to property within the limits of any city so far as same is situated within the township, unless such city is already maintaining a cemetery, or has levied a tax in support thereof. The said tax may be so expended for the support and maintenance of any such cemetery after the same has been abandoned and is no longer used for the purpose of interring the dead.

**Section 359.35. Cemetery funds – use.** Cemetery tax funds of a township may be used for the maintenance and support of cemeteries in adjoining counties and townships and in cities, if such cemeteries are utilized for burial purposes by the people of the township and when any such cemetery has been utilized for more than twenty-five years and has been maintained by township funds, the township where the cemetery is located shall continue to improve and maintain the same.

## Joint Cemetery Boards

**Section 359.36. Joint Boards.** A city council and the trustees of a township may join in the common purpose of improving, maintaining, and supporting a township cemetery. In such case the two official bodies shall constitute a joint cemetery board and shall have equal voting power.

## Cemetery Personnel

**Section 359.38. Watchmen appointed.** Such trustees, directors, or other officers may appoint as many day and night watchmen of their grounds as they may think expedient, and such watchmen, and also their sextons, superintendents, gardeners, and agents, stationed upon or near said grounds, are hereby authorized to take and subscribe to an oath of office as provided in section 63.10.

**Section 359.39. Ex officio police officers.** Upon the taking of such oath, such watchmen, sextons, superintendents, gardeners, and agents shall have and exercise all powers of police officers within and adjacent to the cemetery grounds, and each shall have power to arrest any and all persons engaged in violating the laws of this state, and to bring such person so offending before any judicial magistrate, to be dealt with according to law.

## Records of Cemeteries

**Section 359.40. Cemeteries – plats – records.** Where there is located in any township one or more cemeteries, the owner of the same, or any party owning an interest therein, may cause the same to be surveyed, platted, and laid out into subdivisions and lots, numbering the same by progressive numbers, giving the length and breadth, also the location with reference to known permanent monuments to be made. The plat shall accurately describe all the subdivisions of that tract of land used as a cemetery, and shall be recorded in the office of the county recorder, and filed with and recorded by the township clerk, and preserved by the township clerk among the records of the office.

**Section 359.41. Conveyance of lots.** All conveyances of subdivisions or lots of a cemetery thus platted shall be by deed from the proper owner, which deed shall be recorded with the township clerk in a book kept by him or her for that purpose, for the recording of which the said clerk shall be entitled to a fee of fifty cents for each instrument recorded, to be paid by the party desiring the record made.

## Cemetery Management

**Section 566.19. Settlement of estates – maintenance fund.** The court in which the estate of a deceased person is administered, before final distribution, may allow and set apart from the estate, a sum sufficient to provide an income adequate to pay for the perpetual care and upkeep of the cemetery lot upon which the body of the deceased is buried, except where perpetual care has otherwise been provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

## Abandoned Lots

**Section 566.20. Reversion.** The ownership or right in or to an unoccupied cemetery lot or portion thereof shall upon abandonment revert to the person or corporation having ownership and charge of the cemetery containing such lots.

**Section 566.21. Presumption of abandonment.** The continued failure by the owner to maintain or care for an unoccupied cemetery lot or space not under perpetual care, or to pay the annual care fee, for a period of ten years shall create the presumption that the lot or space has been abandoned. A lot with empty space under perpetual care which has not had a burial for seventy-five years shall create a presumption that the empty space has been abandoned.

**Section 566.22. Notice of abandonment.** Abandonment shall not be deemed complete unless after such ten period there shall have been given by the reversionary owner to the recorded owner, or if he or she be deceased or his or her whereabouts unknown, to the heirs of such deceased, notice declaring the lot to be abandoned.

**Section 566.23. Service of notice.** The notice may be served personally on the owner or his or her heirs, or may be served by the mailing of the notice by certified mail to the owner, or his or her heirs as the case may be, to the last known address. In the event that the address of the owner or his or her heirs cannot be ascertained, then notice of such abandonment shall be by one publication in the official newspaper of the county in which the cemetery is located.

**Section 566.24. Overcoming presumption of abandonment.** If within one year from the time of serving the notice, the recorded owner or the owner's heirs pay the past due annual care charges against the lot, then the presumption of abandonment shall no longer exist and the recorded owner may be required to make full payment for future perpetual care.

**Section 566.25. Reversioner's right to sell.** In case the abandonment has been complete as herein provided the reversionary owner of the abandoned lot or portion thereof may sell the same and convey the title thereto.

**Section 566.26. Use of funds.** Any funds realized from the sale of all or part of an unoccupied lot not under perpetual care which has reverted shall be allocated to the perpetual care fund and to the paying the costs of cemetery operation.

## Pioneer Cemeteries

**Section 335.325. Control and maintenance of pioneer cemeteries – Cemetery Commission.**

1. ... "pioneer cemetery" means a cemetery where there have been six or fewer burials in the preceding fifty years.
2. Each county board of supervisors may adopt an ordinance assuming jurisdiction and control of pioneer cemeteries in the county. The board shall exercise the powers and duties of township trustees relating to the maintenance and repair of cemeteries

in the county as provided in sections 359.28 through 359.41 except that the board shall not certify a tax levy pursuant to section 359.30 or 359.33 and except that the maintenance and repair of all cemeteries under the jurisdiction of the county including pioneer cemeteries shall be paid from the county general fund. The maintenance and improvement program for a pioneer cemetery may include restoration and management of native prairie grasses and wildflowers.

3. In lieu of management of the cemeteries, the board of supervisors may create, by ordinance, a cemetery commission to assume jurisdiction and management of pioneer cemeteries in the county.

**Section 359.28. Condemnation...** the costs of management, repair, and maintenance of pioneer cemeteries shall be paid from the county general fund. The township trustees are hereby empowered to condemn, or purchase and pay for out of the general fund, or the specific fund voted for such purpose, and enter upon and take, any lands within the territorial limits for the use of cemeteries ... however, the board of supervisors or a cemetery commission appointed by the board of supervisors shall control and maintain pioneer cemeteries as defined in section 331.325.