

## **Statutes Concerning Cemetery Associations**

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### **Issue**

Identify state statutes governing cemetery associations. This report updates [OLR report 2007-R-0541](#).

The Office of Legislative Research is not authorized to provide legal opinions and this report should not be considered one.

### **Summary**

This report identifies and summarizes state statutes governing cemetery associations. Cemetery associations may acquire, own, manage, and control cemeteries. They must be organized in accordance with state non-profit corporation laws. The law authorizes cemetery associations to enact bylaws governing various aspects of burial plot use. In addition to state statutes and bylaws, cemetery associations may also be affected by town ordinances and wills. Some of the identified laws also apply to other burial ground authorities, such as towns and ecclesiastical societies, but this report does not address these other authorities.

Table 1 provides statutory citations, descriptions, and summaries of Connecticut laws concerning cemetery associations. It is not intended to be an exhaustive list of all laws affecting cemetery associations.

**Table 1: Statutes Concerning Cemetery Associations**

<b>Citation</b>	<b>Description</b>	<b>Summary</b>
<a href="#">§ 19a-295</a>	Ownership and control	Cemetery associations may acquire, own, manage, and control cemeteries.
<a href="#">§ 19a-296(a)</a>	Organization	Cemetery associations must be organized in accordance with the non-profit corporation laws (see CGS §§ <a href="#">33-1025</a> to <a href="#">33-1047</a> ). The law prohibits them from being organized to speculate in cemetery lots and property, or from operating for private gain, either directly or indirectly, by association members.
<a href="#">§§ 19a-296(b) &amp; (d)</a>	Annual meeting and financial statement	<p>The board of directors or board of trustees of any cemetery association must hold an annual association meeting. At this meeting, the board must accept an annual financial statement. The board must include a financial statement in the minutes of the annual meeting at which the statement was accepted, and retain the minutes for at least 20 years.</p> <p>Any interested party may petition the probate court to require disclosure of the minutes of the association's annual meeting, including any included financial statement. The court may, after hearing, with notice to all interested parties, grant the petition if it finds that the (1) petitioner has an interest in the minutes sufficient to warrant disclosure, and (2) petition is not for the purpose of harassment.</p>
<a href="#">§ 19a-296(c)</a>	Conflict of interest	No officer, director, or trustee of a cemetery association may serve as an officer, director, or trustee of any company that manages or operates any aspect of the cemetery.
<a href="#">§ 19a-297</a>	Bylaws. Appointment of sextons	<p>Cemetery associations may enact bylaws providing for the care and management of all burial lots, and the protection of all shrubs, trees, fences, and monuments thereon, but the bylaws cannot require or result in the removal or banishing of any undamaged U.S. flag or armed forces service marker, including flagholders provided by veterans organizations, from any grave site, or restrict the placement of U.S. flags on the graves of veterans from the Friday before Memorial Day in each year until the Monday after the fourth of July.</p> <p>Cemetery associations may appoint superintendents and sextons for its cemeteries. Superintendents and sextons have the exclusive right to direct the opening of graves. Anyone who violates the bylaws is subject to a fine up to \$10. The members of a cemetery association may amend its articles of association or its bylaws, by a majority vote, at any meeting called for that purpose.</p>
<a href="#">§ 19a-298</a>	Cemetery associations with capital stock organized prior to 1855	Cemetery associations having capital stock and organized under law prior to 1855 may, when the principal and interest of the subscriptions for capital stock have been repaid and no dividends have been paid for 65 years, amend the articles of association by a majority vote of the stock present and voting at a special meeting of such association called for the purpose.
<a href="#">§ 19a-299</a>	Trust funds for care of cemeteries	Cemetery associations may receive and hold in trust donations, the income of which is to be used wholly or in part for the care or improvement of their cemeteries and burial lots or of private lots within the cemeteries or elsewhere. All donations must be invested as the law requires for the investment of trust funds, except when otherwise authorized by the donors.

Table 1 (continued)

<b>Citation</b>	<b>Description</b>	<b>Summary</b>
<a href="#">§ 19a-300</a>	Funds for care of cemetery lots	Any sum of at least \$100 declared by a written instrument to be intended for the perpetual care, maintenance, improvement, or embellishment of any cemetery in Connecticut, or of any lot or plot in it, may be deposited with the state treasurer. Each depositor must file a copy of such instrument with the state treasurer and the secretary of the state when making the deposit. The state treasurer must invest the money, in bonds or other state obligations, or other securities in which he is authorized to invest money on behalf of the state. The law requires that on February first and August first each year the state treasurer must pay the accrued interest to the treasurer of the town in which the cemetery is located. This money must be spent as stated in the copy of the instrument and in the same manner as the income of funds donated directly to towns for the care and upkeep of cemeteries.
<a href="#">§ 19a-301(a)</a>	Establishment and management of perpetual funds	Any cemetery association may, by vote of the directors or members, set aside surplus funds as a perpetual fund in accordance with the statutes concerning the investment of trust funds. A committee of at least three people elected by the association must control, manage, and supervise the fund, and any donations. The cemetery association must meet at least once annually. The treasurer of the association is, ex officio, the treasurer of the committee, and must post a surety bond to the satisfaction of the committee. The treasurer must spend the fund's money for the management, care, and maintenance of any cemetery owned or controlled by the cemetery association, or for the purpose set forth in the instrument or declaration of trust regulating the use of such donation or fund, at the times and in the manner designated by the association. The treasurer must annually, by July first, report to the association the income received, to whom it has been paid, the amount and condition of the fund, and how it is invested. A copy of such report must be filed with the probate court for the district within which the cemetery owned or controlled by the association is located. Any treasurer who fails to file the report with the probate court is subject to a fine up to \$50.
<a href="#">§ 19a-301(b) - (d)</a>	Perpetual funds accounting	Any interested party may petition the probate court to require an accounting by the treasurer. The court may, after hearing, with notice to all interested parties, grant the petition and require an accounting on finding that (1) the petitioner has an interest in the fund sufficient to entitle him to an accounting (2) cause has been shown that an accounting is necessary and (3) the petition is not for the purpose of harassment.
<a href="#">§ 19a-302</a>	Takeover of fund. Appointment of cemetery committee	If an association does not comply with its obligations regarding a perpetual fund, the selectmen of the town in which the cemetery is located must take over the care of the fund and file an annual report with the probate court. The law authorizes the selectmen to appoint a cemetery committee consisting of between three and seven people who are residents of the town. The committee has all of the powers and duties of a committee established under <a href="#">CGS § 19a-301</a> .

Table 1 (continued)

<b>Citation</b>	<b>Description</b>	<b>Summary</b>
<a href="#">§ 19a-306</a>	Cemeteries in adjoining towns	When a cemetery association owns or manages a cemetery or cemeteries in two adjoining towns, or in the town next adjoining the town in which the association is located, a certificate of the registrar of either town in which any person dies is sufficient to allow the association to bury the deceased person in any of the cemeteries owned or managed by it.
<a href="#">§ 19a-307</a>	Sale of abandoned or unused lots	A cemetery association may sell the unused portions of burial plots, other than space for a surviving spouse, when charges have not been paid for at least 10 years. It must first send notice, by registered or certified mail, to the titleholder and any known beneficiary. The notice must be sent to that person's last known address, or if he or she cannot be located, by publishing a notice in a local newspaper. The sale's proceeds go first toward the unpaid charges; the remainder is deposited in a perpetual fund for uncared-for plots as designated by the cemetery association.
<a href="#">§ 19a-308</a>	Care of neglected cemeteries	The law authorizes the selectmen of any town in which there is a burial ground or cemetery containing more than six places of interment that is not under the control or management of any currently functioning cemetery association, and which has been neglected to annually clear it of weeds, briars, and bushes; repair its fences or walls; keep it in orderly and decent condition; and straighten its memorial stones.
<a href="#">§ 19a-308a</a>	Abandoned cemeteries. Acquisition by municipality	Municipalities may acquire title to "abandoned cemeteries." Before doing so, they must use due diligence to identify any owners of the cemetery or any of its lots or grave sites and must notify them of its intention to acquire the cemetery. If it cannot locate them, it must publish notice of its intent in a newspaper. Any owner who receives the notice may reassert his or her right of ownership. Any owner who reasserts his or her rights must promptly comply with any municipal ordinances concerning the cemetery, lot, or grave site. If a municipality receives no objection during the redemption period, title to the property vests in the municipality.
<a href="#">§ 19a-309</a>	Headstones at soldiers' graves	The law prohibits a cemetery association from making or enforcing any bylaw, order, or regulation prohibiting the erection of any tombstone or headstone at the grave of any soldier, sailor, or marine. Each association or officer who violates this section is subject to a \$50 fine.
<a href="#">§ 19a-310</a>	Approval of vaults above ground by Department of Public Health (DPH)	Construction of any vault, crypt, columbarium, or mausoleum must be within the confines of an established cemetery containing at least five acres, which has been in existence and operation for a period of at least five years immediately preceding construction. If the cemetery contains less than five acres, the appropriate town executive or zoning authority must approve the construction. Prior to construction of any vault, crypt, columbarium, or mausoleum for public use, the plans and specifications must be approved by DPH. DPH review and approval fee is \$1,250.
<a href="#">§ 19a-311</a>	Inspection. Burial prohibited until certificate obtained	Any vault, crypt, niche, mausoleum, columbarium, or structure must be erected under the supervision of an inspector appointed by DPH. No structure, and no addition or alteration of a structure, may be used for interring a body until DPH issues a certificate of compliance with <a href="#">CGS §§ 19a-310</a> and <a href="#">19a-312</a> . The certificate must be filed in the office of the town clerk of the town in which the structure is located.

Table 1 (continued)

<b>Citation</b>	<b>Description</b>	<b>Summary</b>
<a href="#">§ 19a-312</a>	Sale of crypts. Maintenance. DPH oversight	<p>Each mausoleum and columbarium must have an established and maintained fund for perpetual care and maintenance. The fund comes from a portion of the sale of each as specified in law.</p> <p>DPH may deem any structure containing one or more deceased bodies to be a public health threat. If the owner fails to remove or remedy the structure, then the appropriate court may order the owner to remove the deceased body or bodies for interment elsewhere at the owner's expense. If no owner is located, the removal and interment is at the expense of the cemetery association in charge of the cemetery.</p>
<a href="#">§ 19a-313</a>	Burials above ground restricted	A deceased person may be buried, interred, or entombed in any burying ground or in any vault, niche, crypt, columbarium, mausoleum, or structure wholly or partially above the surface of the ground if such burying ground or structure is located within the confines of an established cemetery which is owned, managed, or controlled by a cemetery association or otherwise authorized.
<a href="#">§ 19a-314</a>	Penalty	Any person or association who violates any provision of CGS §§ <a href="#">19a-296</a> , <a href="#">19a-307</a> , <a href="#">19a-310</a> , <a href="#">19a-311</a> , or <a href="#">19a-312</a> is subject to a fine up to \$500, imprisonment of up to six months, or both.
<a href="#">§ 19a-314a</a>	Disclosure of dispute resolution procedure	A cemetery association must disclose any dispute resolution procedure to each consumer, in writing, at the time of the sale of any item or service. The disclosure must indicate that the consumer may contact DPH or the local public health director with any complaints concerning violations of certain laws relating to cemeteries.
<a href="#">§ 19a-315a</a>	Use of ancient burial place	A municipality may not use any ancient burial place for any purpose other than a burial ground. No portion of an ancient burial place may be taken for public use without the approval of the General Assembly. If any ancient burial place is appropriated for any other use and the bodies or the grave markers are removed, the cemetery association or other burial ground authority must preserve a record of the removal.
<a href="#">§ 19a-315b</a>	Protection of grave markers	No one may destroy, injure, or remove a grave marker except in accordance with the law. A grave marker may be removed for the purpose of reproduction, preservation, or display in an accredited museum with the owner's consent or the consent of a lineal descendant of the deceased, whose qualifications for giving consent is determined by the burial ground authority. If the owner or qualified lineal descendant is unknown or does not respond within 30 days, then a grave marker may be removed with the consent of the burial ground authority and an order of the probate court for the district in which the burial lot is located.
<a href="#">§ 19a-315c</a>	Maintenance of burial places	A cemetery association is authorized to properly maintain an ancient burial place, cemetery, or burial place they oversee including repairing, rehabilitating, repositioning, or resetting grave markers and renovating a burial ground as a whole. The association must post notice for at least 90 days if it plans a site-wide renovation project and notify the local probate court and the Department of Economic and Community Development. The probate court may order a hearing to determine whether the renovation is necessary.

Table 1 (continued)

<b>Citation</b>	<b>Description</b>	<b>Summary</b>
<a href="#">§ 19a-315d</a>	Places and manner of burial	No person is allowed to bury the body of a deceased person less than 350 feet from any residential dwelling unless a public highway intervenes between the place of burial and the dwelling, or unless the body is encased in a burial vault made of concrete or other impermeable material, except (1) in a cemetery established on or before November 1, 1911; (2) in a cemetery that, when established, was more than 350 feet from any dwelling house; or (3) with written approval of the DPH commissioner, in a plot of land adjacent to a cemetery that has been made a part of the cemetery. The written approval must contain a detailed description of the land adjacent to the cemetery and be recorded in the land records.
<a href="#">§ 7-71</a>	Report name of sexton	The secretary or committee of each cemetery association must report the name of the sexton in charge of each cemetery to the registrar of the town in which the cemetery is situated.
<a href="#">§§ 12-81 and 12-88</a>	State-mandated property tax exemptions	Certain donations held in a trust by a cemetery association are exempt from property taxes. Certain real property held by a cemetery association is also exempt from property tax.
<a href="#">§ 21-58</a>	Prohibited advertisement locations	Advertisements and signs shall not be displayed within 100 feet of a cemetery.
<a href="#">§ 25-41</a>	Cemetery not to be within one-half mile of reservoir	No cemetery or place of sepulture may be located or established within one-half mile of any reservoir from which residents of a town, city, or borough are supplied with water, unless a court finds it necessary and not a public health threat.
<a href="#">§ 33-264g</a>	Receipt of funds by cemetery associations	Any cemetery association organized for mutual or public benefit and not for the purpose of deriving financial profit from its operations, has the power to receive and hold funds in any amount derived by gift or devise.
<a href="#">§ 47-18</a>	Ownership of historic memorials	The title and ownership of all memorials, tablets, and markers designating any historic place or in commemoration of any historic event in cemeteries belongs to the association erecting or placing them.
<a href="#">§ 48-18</a>	Mode of taking land to enlarge cemetery	The owner of a cemetery who wants to enlarge its limits by adding land, the title to which he cannot otherwise acquire, may file a complaint for the right to take the same to the Superior Court for the judicial district in which such land is situated. If granted, the land must be held by the cemetery's owner as a public burying ground for public use.

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