

1 **CEMETERY MAINTENANCE DISTRICT**

2 **AMENDMENTS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Eli H. Anderson**

6 **This act modifies the Cemeteries Code by renaming the municipal cemeteries chapter and**
7 **adding cemetery maintenance districts to the scope of the chapter. The act repeals the**
8 **criminal penalty provisions. The act updates the language of the chapter and makes**
9 **technical changes.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **8-5-1**, as enacted by Chapter 132, Laws of Utah 1985

13 **8-5-2**, as enacted by Chapter 132, Laws of Utah 1985

14 **8-5-3**, as enacted by Chapter 132, Laws of Utah 1985

15 **8-5-5**, as last amended by Chapter 9, Laws of Utah 2001

16 **8-5-6**, as enacted by Chapter 132, Laws of Utah 1985

17 **8-5-7**, as enacted by Chapter 132, Laws of Utah 1985

18 **8-5-8**, as enacted by Chapter 132, Laws of Utah 1985

19 REPEALS:

20 **8-3-4**, Utah Code Annotated 1953

21 *Be it enacted by the Legislature of the state of Utah:*

22 Section 1. Section **8-5-1** is amended to read:

23 **CHAPTER 5. RIGHTS AND TITLE TO CEMETERY LOTS**

24 **8-5-1. Unused or unkept lots -- Notice procedures.**

25 (1) If a municipality or cemetery maintenance district owns a cemetery and has conveyed
26 cemetery lots or parcels by deed with or without restrictions, and the grantee, or persons claiming
27 through the grantee, for more than 60 years:



28 (a) have not used portions of the lots or parcels for purposes of burial and have not
29 provided for the care of the lots or parcels beyond that uniformly provided for all lots of the
30 cemetery, and during the 60-year period have not given the municipality or cemetery maintenance
31 district written notice of any claim or interest in the lots or parcels; or

32 (b) have not used a portion of the lots or parcels for purposes of burial and have not kept
33 the lots or parcels free of weeds or brush, but have allowed it to remain entirely unimproved for
34 more than 20 years, and the lots or parcels are located in the portion of the cemetery where they
35 adjoin or are adjacent to improved parts of the cemetery and by reason of their unimproved
36 [~~conditions~~] condition detract from the appearance of the cemetery, interfere with its harmonious
37 improvements, and furnish a place for the growth of weeds and brush, then the municipality or
38 cemetery maintenance district shall demand of the grantee or persons claiming through the grantee
39 either of the following:

40 (i) that they file with the municipality or cemetery maintenance district a written notice of
41 claim or interest in and to the lots or parcels recorded by evidence of their claim of ownership
42 within 50 days after the service of a copy of the notice of demand; or

43 (ii) that they keep the premises clear of weeds and in a condition of harmony with other
44 adjoining lots.

45 (2) The municipality or cemetery maintenance district shall serve a copy of the demand
46 or notice required by Subsection (1) on the grantee or persons claiming through the grantee in
47 accordance with the Utah Rules of Civil Procedure.

48 Section 2. Section **8-5-2** is amended to read:

49 **8-5-2. Action in district court for title to lots.**

50 If either the grantee, or person claiming through the grantee, fails to comply with the
51 demand or notice, the municipality or cemetery maintenance district may bring an action in the
52 district court of the county in which the cemetery is located against all parties who have not
53 responded to the notice for the purpose of terminating the rights of the parties in the lots or parcels
54 and restoring the lots or parcels to the municipality or cemetery maintenance district free of any
55 right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or assigns.
56 Any action to reclaim title to grave sites, parcels, or lots shall be brought and determined in the
57 same manner as actions concerning other real property. The portion of any grave site, lot, or parcel
58 in which a body is buried [~~shall~~] may not be included in any action to revest title to the lot, site,

59 or parcel in the municipality or cemetery maintenance district, and the grave site in which a body
 60 is interred shall remain undisturbed together with any adjoining property so as to allow the proper
 61 approach to the grave site.

62 Section 3. Section **8-5-3** is amended to read:

63 **8-5-3. Abandonment -- Standards -- Prima facie evidence.**

64 The fact that the grantee or holder of a lot or parcel in a cemetery has not used portions of
 65 the lots or parcels for the purpose of burial for more than 60 years~~[, and during the time]~~ shall be
 66 prima facie evidence that the grantee or holder had abandoned the lots or parcels if during that time
 67 the grantee or holder:

68 (1) has not provided the care to the lots or parcels provided uniformly to all lots or parcels
 69 within the cemetery~~;~~;

70 (2) has not given to the municipality or cemetery maintenance district a written notice of
 71 claim or interest in the lots or parcels~~;~~; or

72 (3) has not kept the lots or parcels free of weeds or brush~~[, shall be prima facie evidence~~
 73 ~~that the grantee or holder has abandoned the lots or parcels].~~

74 Section 4. Section **8-5-5** is amended to read:

75 **8-5-5. Proceeds of resale of lots.**

76 The proceeds from the subsequent resale of any lot or parcel, title to which has been
 77 revested in the municipality or cemetery maintenance district under Section 8-5-2 or 8-5-6, less
 78 the costs and expenses incurred in the proceeding, shall become part of the permanent care and
 79 improvement fund of the municipality or cemetery maintenance district, subject to subsequent
 80 disposition under Title 10, Chapter [6] 5, Uniform Fiscal Procedures Act for Utah [Cities] Towns,
 81 Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, or Title 17A, Chapter 1, Part
 82 4, Uniform Fiscal Procedures for Special Districts Act.

83 Section 5. Section **8-5-6** is amended to read:

84 **8-5-6. Alternative council or board procedures for notice -- Termination of rights.**

85 (1) As an alternative to the procedures set forth [~~above~~] in Sections 8-5-1 through 8-5-4,
 86 a municipal council or cemetery maintenance district board may pass a resolution demanding that
 87 the owner of a lot, site, or portion of the cemetery, which has been unused for burial purposes for
 88 more than 60 years, file with the county recorder, city recorder₂, or town clerk notice of any claim
 89 to the lot, site, or [~~parcel~~] portion of the cemetery.

90 (2) The municipal council or cemetery maintenance district board shall then cause a copy
91 of the resolution to be personally served on the owner in the same manner as personal service of
92 process in a civil action. The resolution [~~must~~] shall notify the owner that the owner [~~must~~] shall,
93 within 60 days after service of the resolution on the owner, express interest in maintaining the
94 cemetery lot, site, or portion of the cemetery and submit satisfactory evidence of an intention to
95 use the lot, site, or portion of the cemetery for a burial.

96 (3) If the owner cannot be personally served with the resolution of the municipal council
97 or cemetery maintenance district board as required in Subsection (2), the municipal council [~~must~~]
98 or cemetery maintenance district board shall publish its resolution for three successive weeks in
99 a newspaper of general circulation within the county and mail a copy of the resolution within 14
100 days after the publication to the owner's last known address, if available.

101 (4) If, for 30 days after the last date of service or publication of the municipal council's or
102 cemetery maintenance district board's resolution, the owner or person with a legal interest in the
103 cemetery lot fails to state a valid interest in the use of the cemetery lot, site, or portion of the
104 cemetery for burial purposes, the owner's rights are terminated and that portion of the cemetery
105 shall be vested in the municipality or cemetery maintenance district.

106 Section 6. Section **8-5-7** is amended to read:

107 **8-5-7. Sale of only right to be buried.**

108 Municipalities and cemetery maintenance districts shall sell only the right to be buried in
109 the [~~municipal~~] cemetery and all cemetery lots or parcels sold [~~after the effective date of this act~~]
110 by a municipality after April 29, 1985, or by a cemetery maintenance district after June 1, 2001
111 shall be rights to be buried only. Nothing in this section shall prevent municipalities or cemetery
112 maintenance districts from imposing additional terms on the sale of rights to burial.

113 Section 7. Section **8-5-8** is amended to read:

114 **8-5-8. Municipal and maintenance district cemeteries -- Rights of lot holders --**
115 **Compensation -- Perpetual care charges.**

116 (1) The owner, grantee, or person claiming through the grantee shall have the right, on
117 presentation of the certificate of title or right to burial to the municipality or cemetery maintenance
118 district, for any lot or parcel which has [~~been~~] reverted to the municipality or cemetery
119 maintenance district, at the option of the municipality or cemetery maintenance district, to:

120 (a) be compensated for the lot or parcel at the reasonable value of the lot or parcel as of

121 the date the certificate is presented to the municipality[;] or cemetery maintenance district;

122 (b) receive a right to burial to another lot or parcel if the right to burial or title to the lot
123 or parcel has been sold by the municipality[;] or cemetery maintenance district; or

124 (c) receive the right to burial to the lot or parcel if the municipality or cemetery
125 maintenance district has not sold the right to burial to the lot or parcel.

126 (2) Nothing in this section prevents a municipality or cemetery maintenance district from
127 collecting unpaid perpetual care charges from a person claiming title or the right to burial.

128 Section 8. **Repealer.**

129 This act repeals:

130 Section **8-3-4, Violation of chapter a misdemeanor.**

Legislative Review Note
as of 11-19-01 9:46 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel