



Vermont Bar Association
139th Annual Meeting Seminar Materials

**Friday the 13th:
Cemetery Art & Legal Issues**

**October 13, 2017
Hilton Burlington
Burlington, VT**

Speakers:

**Dan Barlow, Public Policy Mgr, VBSR
Dan Richardson, Esq.**

Baisley v. Missisquoi Cemetery Association

167 Vt. 473,

~ Three young boys use a ladder to climb a tree that was adjacent to a cemetery in order to attempt to build a treehouse. The branch the youngest boy was in broke and he fell on the cemetery's metal fence, which impaled him through the chest and quickly killed him. The family of the boy sued the Missisquoi Cemetery Association and the abutting landowners. The landowners settled, but the Association moved for summary judgment. The lower court ruled in the MCA's favor, stating that landowners owe a minimal duty of care to trespassers, and thus the MCA was indisputably not liable. The family appealed to the Supreme Court.

~The Court identified the following three issues and gave the following ruling on each.

- 1) Summary judgement finding MCA not liable was inappropriate. Decedent boy was not a trespasser at the time of contact, since his contact with the fence occurred after he had left the cemetery via climbing the tree (the fact that the boy climbed a ladder whose base was planted in the cemetery did not change the ruling). Since the purpose of fences is to create a barrier to entry, necessarily implying the possibility of contact with those on abutting land, a defendant landowner has a duty of ordinary care in regards to their fencing. In other words, the exact same accident could have occurred if the boy had never touched foot in the cemetery property. Thus, where there is no settled "rule of diligence" (id. at 480), the question of whether the cemetery was liable under the reasonably prudent person standard was left to the jury. Case remanded on this issue.
- 2) Summary judgement finding that communications between the cemetery groundskeeper and the CMA's attorney were not discoverable was correct. Following *Upjohn*, communications between an employee of the client and the attorney are privileged where, as here, the groundskeeper was the only employee in charge of the cemetery, and thus his action or inaction were central to the case. Upheld.
- 3) Summary judgement finding that plaintiff's attorney could not interview the groundskeeper without the defense attorney present was correct. As the only employee in charge of the cemetery, the groundskeeper was a party to the case for purposes of the "no contact" rule. The groundskeeper's statements would likely be admissible against his employer, defendant's lawyers would need to know what the groundskeeper would say in order to prepared a good defense, and plaintiffs were able to gather the necessary underlying information to bring suit. Upheld.

75 Vt. 48 **Hunt v. Tolles, August 1902.**

William “Consul” Jarvis deeded land in 1813 to “the residents of the Third and Fourth school districts in the town of Weathersfield, their heirs and assigns forever,” for the sole purpose using the land as a cemetery. In the deed, Consul Jarvis reserved a small plot for his family and descendants. Despite their being no administrators for either school district, nor any cemetery officials for the town, the land was used in an orderly fashion. By the early 1900’s however, the cemetery had become overgrown in several parts. Weathersfield’s first selectman published notice in church of a meeting at the cemetery, and a group gathered to decide how best to manage the plant growth. The group implemented their decisions that day, resulting in the cutting of some trees on the Jarvis family plot. Daughter and Granddaughter of Consul Jarvis sued for damages.

The Court found that the original deed’s language was too vague to convey title to individual residents of the Third and Fourth School district. It would be impractical in the extreme, almost 100 years later, to ascertain exactly who the residents of Weathersfield were in 1813, and who all their heirs and assigns would be at that point. The deed also did not assign the land to Weathersfield or its residents, so the Court found that even in equity, the selectman and the assembled group were not within their jurisdiction to conduct the work they did. But since the deed dedicated the land to an identifiable public use, and had been used for that purpose since the date of the faulty conveyance, the Court decided it was within the court of chancery’s jurisdiction to assign trustees to facilitate the use of the land in the future. The Court awarded \$50 in damages from the defendant’s (Selectmen of the Town) to be paid to the new trustees of the cemetery for its future preservation, and stated that any further maintenance work be done under the guidance of the Trustees only.

Edgecumbe v. City of Burlington, 1873

The City of Burlington, recently empowered by statute, took land abutting its existing cemetery by eminent domain. The City promised the original landowner, Edgecumbe, to reimburse him the price of the land. The city then transferred the enlarged cemetery to the newly incorporated Green Mountain Cemetery Association. Landowner died shortly thereafter, passing to certain relatives title to his land, which would have included title to the land taken by the City. The City paid the price for the land, with interest, but only after three months, rather than the 10 days ordered by statute. Edgecumbe's beneficiaries sued, arguing that the City's

- 1) failure to pay the price in the allotted statutory time, or
- 2) the fact that the City acquired the land only to transfer it to an Association which could not itself use eminent domain,
- 3) or both,

invalidated the seizure and the land should be returned, with damages.

The Court found that because the statute provided for suit to recover the price of the land if it was not paid within 10 days, the statute evidently contemplated the possibility that the land acquisition would still be valid even if the price were not paid on time. The Court also found that the Association was constrained by the document which transferred the land into its care. This document restricted the Association to use the land only for maintaining it as a public burial ground, the same constraints placed upon the City by the statute. Thus the Court found the land acquisition legal in every respect and dismissed the case.

Sheldon v. Town of Stockbridge, 1895

Decedent left to the town of Stockbridge 1,000 dollars with the purpose of creating a fund which could maintain the cemetery. The stipulation of the gift was such that the initial principle would be left untouched and the Town could only use interest off the principle for maintaining the cemetery. Sheldon, an heir and potential beneficiary if the Town could not take, challenged the gift on the basis that a town does not have the power to require a fund be kept intact. The court found the Town could accept the gift, because towns have the ability to raise funds for the purposes specified: maintenance of cemeteries. The Court also specified that when the Stockbridge voted to accept the gift, it bounded the Town to the terms of the gift.

68 Vt. 488, Woodstock Burial Ground Association. V. Hager, 1896

Mr. Hager owned a lot in a cemetery controlled by the Woodstock Burial Ground Association. The Association brought an action of nuisance against Mr. Hager for having an unkempt and unsightly lot. The court found that having an unsightly or disfigured cemetery lot did not constitute a nuisance, since “No fanciful notions are recognized. The law does not cater to men's tastes, nor consult their convenience merely. It guards and upholds their material rights” id at 488. The cemetery association had no claim against Mr. Hager, and the case was dismissed.

Spafford v. Town of Norwich, 1899

One night, grave robbers removed the body of Joseph S. Murdock from the New Cemetery at Norwich. The Selectmen of the Town of Norwich offered a \$1,000 dollar reward to anyone who might return the corpse. Spafford, seeing the posters hung offering the reward, diligently investigated. Finding the corpse, he returned the same to the Town and demanded the reward offered. The Selectmen refused. Spafford sued for damages, based on his relying on the Town's promise as published in the poster.

The Court found that Spafford had no access to relief based on reliance, since the Town had no authority to raise or expend money for purposes of criminal prosecution. As a citizen, it was Spafford's duty to know the law.

81 Vt. 31, Town of Morristown v. Town of Hardwick, 1908

At this time, towns were required to care for poor person residing within a town's limits. If town A did not have enough money to support the poor person, and the person needing support had not yet achieved legal residence, Town A could recover from the Town where the poor person was still a resident for the expenses.

A woman, deemed a pauper and receiving Morristown's support, passed away in while living in Morristown (presumably in its poor house). Morristown paid for the expenses of the woman's burial and then filed action for reimbursement by the Town of Hardwick for the expenses, since the woman was technically a legal resident of Hardwick.

The Court looked at the statute, and found that the responsibility went only as far as supporting a poor person during life. The responsibility to bury someone who dies in one's care comes from common law, and thus could not be implied into the care required by statute. Thus, Morristown was responsible for the woman's burial by common law, and could not use the statute to recover from Hardwick.

West's Vermont Statutes Annotated

Title Eighteen. Health

Part 7. Cemeteries

Chapter 121. Cemeteries (Refs & Annos)

Subchapter 1. General Provisions

18 V.S.A. § 5300

§ 5300. Statutory purposes

[Currentness](#)

The statutory purpose of the exemption for cemeteries in [sections 5317](#) and [5376](#) of this title is to lower the cost of establishing and maintaining cemeteries.

Credits

[2013, Adj. Sess., No. 200](#), § 11, eff. July 1, 2014.

18 V.S.A. § 5301

§ 5301. Application of chapter

[Currentness](#)

This chapter shall be applicable to all agencies now engaged in, or which shall hereafter engage in any business of a cemetery within this state, and to all property used or intended to be used for the permanent disposition of the human dead.

Credits

Formerly: V.S. 1947, § 4005; P.L. 1933, § 3838; 1933, No. 49, § 1.

18 V.S.A. § 5302

§ 5302. Definitions

[Currentness](#)

As used in this chapter and unless otherwise required by the context:

(1) “Agencies” mean town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, and any person, firm, corporation or unincorporated association heretofore engaged in the business of a cemetery.

- (2) “Cemetery” means any plot of ground used, or intended to be used, for the burial or disposition permanently of the remains of the human dead in a grave, a mausoleum, a columbarium, a vault, or other receptacle.
- (3) “Cemetery association” means any corporation now or hereafter organized which is or shall be authorized by its articles to conduct the business of a cemetery.
- (4) “Columbarium” means a structure or room or other space in a building or structure of durable and lasting fireproof construction, containing niches, used, or intended to be used, to contain cremated human remains.
- (5) “Community mausoleum” means a structure or building of durable and lasting construction, used or intended to be used, for the permanent disposition in crypts or spaces therein of the remains of deceased persons, provided such crypts or spaces and their use for the purposes aforesaid, are available to or may be obtained by individuals or the public for a price in money or its equivalent.
- (6) “Cremated remains” means remains of a deceased person after incineration in a crematory.
- (7) “Cremation” means the reducing of the remains of deceased persons, by the use of retorts, to cremated remains and the disposal thereof in a columbarium, niche, mausoleum, grave, or in any other manner not contrary to law.
- (8) “Crematory” means a building or structure containing one or more retorts, used or intended to be used, for the reducing of the bodies of deceased persons to cremated remains.
- (9) “Crypt” means the chamber in a mausoleum of sufficient size to contain the remains of deceased persons.
- (10) “Ecological land management practices” means utilization of land stewardship decision-making processes that account for the best available understanding of ecosystem functions and biological diversity.
- (11) “Natural burial ground” means a cemetery maintained using ecological land management practices and without the use of vaults for the burial of unembalmed human remains or human remains embalmed using nontoxic embalming fluids and that rest in either no burial container or in a nontoxic, nonhazardous, plant-derived burial container or shroud.
- (12) “Niche” means a recess in a columbarium, used, or intended to be used, for the permanent disposition of the cremated remains of one or more deceased persons.
- (13) “Temporary receiving vault” means a vault or crypt in a structure of durable and lasting construction, used or intended to be used for the temporary deposit of the remains of a deceased person for a period of time not exceeding one year.

Credits

2015, No. 24, § 1, eff. July 1, 2015.

Formerly: V.S. 1947, § 4006; 1947, No. 202, § 4007; P.L. 1933, § 3839; 1933, No. 49, § 2.

18 V.S.A. § 5303

§ 5303. Policy declared

[Currentness](#)

The object, purposes, and activities of a cemetery shall be restricted to those acts only that are necessary to enable it to accomplish the purposes for which it is created. It shall not be conducted for the purpose of private gain either directly or indirectly to any of the members of the agencies engaged in such business. Lawfully organized cemeteries may be conducted and operated by those agencies now engaged in their conduct and operation, by churches, by religious and ecclesiastical societies, by cemetery associations incorporated as hereinafter provided, and by no others. However, this chapter is not intended to apply to any agency organized, existing, and operating the business of a cemetery prior to June 1, 1933, under any existing law, nor to affect any vested rights acquired thereunder. Insofar, however, as the provisions of this chapter do not violate any vested rights, so acquired, it shall apply to all such agencies.

Credits

Formerly: V.S. 1947, § 4007; 1947, No. 202, § 4008; P.L. 1933, § 3840; 1933, No. 49, § 3.

18 V.S.A. § 5304

§ 5304. Limitation of powers

[Currentness](#)

The business of cemeteries shall not include among its corporate powers, either by express grant or as an incident thereto, the right to engage in any business enterprise or occupation such as is usually pursued by private individuals. Nevertheless, this provision shall not exclude the right of cemeteries to sell corner posts and other implements to define the boundaries of lots or other subdivisions of such cemeteries, and articles incident to the care and maintenance of lots and burial spaces, and the right of cemeteries to furnish or sell materials necessary for a complete cemetery burial service.

Credits

Formerly: V.S. 1947, § 4008; P.L. 1933, § 3841; 1933, No. 49, § 4.

18 V.S.A. § 5305

§ 5305. Right to make rules and regulations

[Currentness](#)

The right of an agency engaged in the business of a cemetery, community mausoleum, or columbarium to make rules and regulations for the use, care, management, and protection thereof is hereby affirmed, and such agencies may by rule or regulation determine who may be buried or deposited therein.

Credits

Formerly: V.S. 1947, § 4009; 1947, No. 202, § 4010; P.L. 1933, § 3842; 1933, No. 49, § 5.

18 V.S.A. § 5306

§ 5306. Perpetual care funds

[Currentness](#)

An agency engaged in the cemetery business shall have the right to acquire by gift, devise, or otherwise, land and property of every name and nature and to set aside surplus funds, to be held in trust as a perpetual care fund, the income thereof to be used according to the directions of the trust, where such directions are given, and where no specific directions are given, or, where given, and the purpose is incapable of performance, or there is a surplus of income after the directions of the trust have been fully complied with and performed, to use the same for the purpose of building, repairing, maintaining, adorning, and beautifying buildings or parts thereof, fences, graves, vaults, mausoleums, monuments, walks, cemetery lots, grounds, drives, or avenues, as the interests of the lot owners and cemetery shall appear. The duty upon all agencies organized to establish a perpetual care fund according to the terms hereinafter set forth is hereby imposed.

Credits

Formerly: V.S. 1947, § 4012; 1947, No. 202, § 4013; P.L. 1933, § 3845; 1933, No. 49, § 8.

18 V.S.A. § 5307

§ 5307. Rule against perpetuities

[Currentness](#)

A trust having one or more purposes provided under this chapter shall not be declared invalid by reason of indefiniteness as to the termination thereof, nor by the rule against perpetuities.

Credits

Formerly: V.S. 1947, § 4013; P.L. 1933, § 3846; 1933, No. 49, § 9.

18 V.S.A. § 5308

§ 5308. Custodian of funds; bond

[Currentness](#)

When such funds are not deposited with a bank chartered by the state or a national bank, the custodian or depository thereof, unless otherwise directed by the terms of the trust or other provisions of this chapter, shall be the treasurer of the agency owning, operating, or controlling the cemetery in which lots or burial spaces are sold, or in which mausoleums or columbariums are located, who shall furnish and file with such agency, at its expense, a good and sufficient bond or bonds with surety or sureties approved by the probate division of the superior court, indemnifying and securing such agency against loss occasioned by the failure of the treasurer to properly protect, preserve, and administer such funds under his or her control. Such funds shall be invested and the income therefrom expended upon the written orders of the directors or trustees of such agency.

Credits

[2009, Adj. Sess., No. 154](#), § 238a(b)(9), eff. Feb. 1, 2011.

Formerly: V.S. 1947, § 4014; P.L. 1933, § 3847; 1933, No. 49, § 10.

18 V.S.A. § 5309

§ 5309 Investment of funds

[Currentness](#)

The principal sum of such funds shall be invested in bonds of the United States or the state of Vermont, or in the bonds or in notes issued in anticipation of taxes and authorized by vote of any town, village, or city in this state, or loaned upon first mortgage on real estate in this state a sum not in excess of 60 percent of the value of such real estate, or upon collateral of any of the above securities of equal value with the loan, or in shares of a savings and loan association of this state or share accounts of a federal savings and loan association with its principal office in this state and to the extent to which the withdrawal or repurchase value of such shares or accounts may be insured by the Federal Savings and Loan Insurance Corporation, or stock in a federal bank, a safe deposit company, or a national bank or state bank or trust company organized and doing business in the United States. Up to 35 percent of the association's assets may be invested in common or preferred stocks of corporations organized and existing under the laws of any state of the United States of America, or may be invested in the manner required for the investment of trust funds, unless otherwise authorized by the donor. No assets of the association may be loaned to a member, officer, trustee, or director of any such cemetery agency.

Credits

1979, Adj. Sess., No. 144.

Formerly: 1953, No. 179; V.S. 1947, § 4015; 1947, No. 202, § 4016; 1943, No. 45, § 2; 1939, No. 68, § 1; P.L. 1933, § 3848; 1933, No. 49, § 11.

18 V.S.A. § 5310

§ 5310. Plats

[Currentness](#)

An agency engaged in any business of a cemetery, community mausoleum, or columbarium shall cause to be made a plat of its grounds, showing the part thereof improved or in use, and that part held for future cemetery use. The plat of the improved part shall show the land laid out in sections, lots, driveways, walks, and paths, sections to be designated by symbols, and the lots shall be numbered. All additions to such improved areas, and all new cemetery grounds hereafter established, shall be platted in the manner provided above. It is further provided that in case of a community mausoleum or columbarium, every agency shall cause to be made a plat thereof on which shall be set forth the sections, halls, rooms, corridors, elevators, or other subdivisions thereof with their descriptive names and numbers. The agency making such plat shall file the same for record in the office of the town clerk of the town in which the cemetery, community mausoleum, or columbarium is located.

Credits

Formerly: V.S. 1947, § 4016; P.L. 1933, § 3849; 1933, No. 49, § 12.

18 V.S.A. § 5311

§ 5311. Recording of plats

[Currentness](#)

It shall be the duty of the town clerk to receive and insert or bind in a book provided for that purpose all original plats or photostatic copies thereof, made in accordance with the provisions of this chapter, of such cemetery, community mausoleum, or columbarium, which shall constitute the recording thereof. The fees therefor shall not exceed the cost of the work of such recording, plus \$3.00. The making or recording of a cemetery plat by any agency other than those specified in this chapter, or the recording of any cemetery plat which does not conform to and with the provisions of this chapter shall be void and of no effect.

Credits

Formerly: V.S. 1947, § 4017; P.L. 1933, § 3849; 1933, No. 49, § 12.

18 V.S.A. § 5312

§ 5312. Limitation of sales

[Currentness](#)

A lot, section, subdivision, crypt, niche, or any part of the cemetery, community mausoleum, or columbarium shall not be sold, contracted for sale, or offered for sale, until and unless a plat shall be made and recorded in accordance with the terms of this chapter.

Credits

Formerly: V.S. 1947, § 4018; 1947, No. 202, § 4019; P.L. 1933, § 3850; 1933, No. 49, § 13.

18 V.S.A. § 5313

§ 5313. Records; burial records open to public

[Currentness](#)

An agency engaged in the business of a cemetery, community mausoleum, or columbarium shall provide and maintain a suitable place of deposit for the records and files of such cemetery, community mausoleum, or columbarium, of such character as will safely keep and preserve such records and files from loss and destruction, and it shall make and file proper records in such place. The record of burials, interments, and cremations shall at all reasonable times be open to the public.

Credits

Formerly: V.S. 1947, § 4019; 1947, No. 202, § 4020; P.L. 1933, § 3851; 1933, No. 49, § 14.

18 V.S.A. § 5314

§ 5314. Sale of property for interment purposes; disposition of receipts

[Currentness](#)

After recording the plat as hereinbefore provided, and subject to the further provisions of this chapter relating to the sale of lots, crypts, and niches, the sale of lots, crypts, and niches may be made for the sole purpose of interments under such rules and regulations as may be imposed by the agency owning the cemetery, community mausoleum, or columbarium, and no part of the proceeds from such sales, or other income shall ever be divided among its members, but they shall be used exclusively for the purposes of the cemetery, community mausoleum, or columbarium, or placed in the perpetual care fund thereof, the income thereof to be so used.

Credits

Formerly: V.S. 1947, § 4020; 1947, No. 202, § 4021; P.L. 1933, § 3852; 1933, No. 49, § 15.

18 V.S.A. § 5315

§ 5315. Sale of property for other than burial purposes; disposition of proceeds

[Currentness](#)

Either before or after the recording of the plat, as hereinbefore provided, whenever it is determined that such lands acquired for cemetery purposes, except those acquired by condemnation proceedings, are unsuitable for burial purposes, such lands may be sold for purposes other than interment, and conveyed in fee simple in such manner and upon such terms as may be provided by the agencies owning the same. The proceeds thereof shall be applied to the purchase of other lands or to general cemetery purposes. When such sales are made, the land so sold shall be returned by the agencies to the tax lists for taxation. In the case of land acquired by condemnation proceedings, it shall be disposed of under the law governing the disposal of land acquired by condemnation proceedings.

Credits

Formerly: V.S. 1947, § 4021; 1947, No. 202, § 4022; P.L. 1933, § 3853; 1933, No. 49, § 16.

18 V.S.A. § 5316

§ 5316. Encumbrance of cemetery property prohibited

[Currentness](#)

A public mausoleum, crematorium, columbarium, the land or lot or right of burial shall not be mortgaged, pledged, or in any manner encumbered by the agency owning or controlling the same.

Credits

Formerly: V.S. 1947, § 4087; 1947, No. 202, § 4087; P.L. 1933, § 3915; 1933, No. 49, § 36.

18 V.S.A. § 5317

§ 5317. Tax exemptions

[Currentness](#)

Except as otherwise provided in this chapter, all cemetery lands, buildings, and property, and the proceeds thereof, as defined in this chapter, which have been platted and devoted to or held exclusively for cemetery purposes, including donations or gifts and held in trust or otherwise, and all other funds held for the improvement, maintenance, repair, and ornamentation of such cemetery, together with the income therefrom and all other revenues and income shall be exempt from taxation.

Credits

Formerly: V.S. 1947, § 4022; 1947, No. 202, § 4023; P.L. 1933, § 3854; 1933, No. 49, § 17; G.L. 1917, § 4824; P.S. 1906, § 4189; R. 1906, § 4045; 1898, No. 67, § 1; V.S. 1894, §§ 3595, 3619; R.L. 1880, §§ 3201, 3211; 1876, No. 90; 1863, No. 23, § 3.

18 V.S.A. § 5318

§ 5318. Public use of cemetery for other purposes

[Currentness](#)

A public highway or railroad shall not be laid through such burial ground without the consent of the town, association, or the general assembly, and no portion of such burial ground shall be taken for public use without special authority from the general assembly.

Credits

Formerly: V.S. 1947, § 4023; P.L. 1933, § 3855; 1933, No. 49, § 17; G.L. 1917, § 4824; P.S. 1906, § 4189; R. 1906, § 4045;

1898, No. 67, § 1; V.S. 1894, §§ 3595, 3619; R.L. 1880, §§ 3201, 3211; 1876, No. 90; 1863, No. 23, § 3.

18 V.S.A. § 5319

§ 5319. Disposition of remains of dead

[Currentness](#)

(a) The permanent disposition of human remains shall be by interment in the earth or deposit in a chamber, vault, or tomb formed wholly or partly above the surface of the ground of a cemetery conducted and maintained pursuant to the laws of the State, or by deposit in a crypt of a mausoleum or by cremation. However, this shall not be construed to prevent a private individual from setting aside a portion of his or her premises owned in fee by him or her, and using the premises as a burial space for the members of his or her immediate family, so long as his or her use for such purpose is not in violation of the health laws and regulations of the State and the town in which the land is situated.

(b)(1) Interment of any human body in the earth shall not be made unless the distance from the bottom of the outside coffin or body shall be at least three and one-half feet below the natural surface of the ground. Nothing in this subdivision shall be construed to prohibit the interment of a human body at a depth greater than three and one-half feet below the surface of the ground.

(2) The burial boundaries of a new or expanded cemetery shall be located:

(A) not less than 200 feet up gradient of a drilled bedrock well or a drilled well in a confined aquifer that is part of an exempt or permitted potable water supply or a transient noncommunity public water system source;

(B) not less than 500 feet up gradient from any other groundwater source that is part of an exempt or permitted potable water supply or a transient noncommunity public water system;

(C) not less than 150 feet cross or down gradient from any groundwater source that is part of an exempt or permitted potable water supply or transient noncommunity public water system;

(D) outside zone one or two of the source protection area for an existing or permitted public community water system;

(E) outside the source protection area for an existing or permitted nontransient, noncommunity public water system;

(F) outside a river corridor as defined in [10 V.S.A. § 1422](#) and delineated by the Agency of Natural Resources; and

(G) outside a flood hazard area as defined in [10 V.S.A. § 752](#), and delineated by the Federal Emergency Management

Agency, National Flood Insurance Program.

(c) No deposit of the remains of the human dead shall be made in a single chamber, vault, or tomb wholly or partly above the surface of the ground unless the part thereof below the natural surface of the ground be of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, be waterproof and air tight, and can be sealed permanently so as to prevent all escape of effluvia. That portion of the same above the natural surface of the ground shall be constructed of natural stone of a standard not less than that required by the U.S. government for monuments erected in national cemeteries, of durability sufficient to withstand all conditions of weather, and of a character to ensure its permanence.

(d) The remains of a human body after cremation may be deposited in a niche of a columbarium, in a crypt of a mausoleum, be buried or disposed of in any manner not contrary to law.

Credits

2015, No. 24, § 2, eff. July 1, 2015; 2017, No. 19, § 1, eff. July 1, 2017.

Formerly: V.S. 1947, § 4089; P.L. 1933, § 3917; 1933, No. 49, § 38.

18 V.S.A. § 5320

§ 5320. Temporary vaults

[Currentness](#)

A town may construct and maintain, on land owned by such town, temporary receiving vaults for the temporary disposition of dead bodies, if approved by a majority of voters present and voting at an annual or special town meeting duly warned for that purpose. Such temporary disposition shall be for a period not to exceed one year.

Credits

Formerly: V.S. 1947, § 4090; 1947, No. 46, § 1.

18 V.S.A. § 5321

§ 5321. Improvement of private burial grounds; duties of officers

[Currentness](#)

When the use and care of a private burial ground has been abandoned and such ground becomes unsightly from any cause, or when headstones or monuments have been displaced, the selectmen or board of cemetery commissioners having charge of the public cemeteries in the town where such burial ground is located, on written request of three legally qualified voters of such town, shall forthwith cause a notice to be published once a week on the same day of the week for three successive weeks in some newspaper circulating therein, calling upon any person interested in such burial ground to cause the same to be put in proper condition within three months from the date of such notice. At the expiration of such time, if such demand is not complied with, the selectmen or board shall proceed then and thereafter as if such ground were a public burial place.

Credits

1989, Adj. Sess., No. 142, § 9.

Formerly: V.S. 1947, § 4064; P.L. 1933, § 3896; G.L. 1917, § 4819; P.S. 1906, § 4188; 1906, No. 115, § 1.

18 V.S.A. § 5322

§ 5322. Temporary access to cemeteries

[Currentness](#)

(a) Any person wishing to have a temporary right of entry over private land in order to enter a graveyard enclosure to which there is no public right-of-way may apply in writing to the selectmen or cemetery commissioners, as the case may be, state the reason for such request and the period of time for which such right is to be exercised. The applicant shall also notify in writing an owner or occupier of the land over which the right-of-way is desired. If the selectmen or cemetery commissioners find that the request is reasonable, they shall issue a permit for a temporary right of entry designating the particular place where, and the manner in which, the land may be crossed. The owner or occupier of the land may recommend a place of crossing which, if reasonable, shall be the place designated by the selectmen or cemetery commissioners.

(b) An owner or occupier of the land who refuses to comply with a permit issued under subsection (a) of this section may be liable for reasonable costs and attorney fees expended to enforce the permit.

Credits

1989, Adj. Sess., No. 142, § 10; [1993, Adj. Sess., No. 128](#), § 1.

18 V.S.A. § 5323

§ 5323. Natural burial grounds; exemptions

[Currentness](#)

(a) A natural burial ground shall not be subject to the following provisions of this chapter:

(1) [section 5310](#) of this title with regard to the method of platting so as to allow the use of any nonstandard method of locating human remains that enables demarcation in the town land record of the exact location and identity of each buried body, such as by mapping, surveying, or use of a global positioning system;

(2) [section 5362](#) of this title;

(3) [section 5364](#) of this title, to the extent that selectboard members or cemetery commissioners need not maintain or repair a fence around a public natural burial ground so long as the perimeter of the natural burial ground is marked in a less obtrusive manner, such as by survey markers; and

(4) [section 5371](#), unless the regulations governing a particular natural burial ground require a marker on a person's grave, in which case the selectboard members of the town or the aldermen of a city where the person is buried shall cause to be erected on the person's grave a marker in keeping with the regulations of that natural burial ground.

(b)(1) A person shall not construct improvements on property used as a natural burial ground, except for improvements that serve as a winter storage facility or that are either educational or devotional in nature and maintain the character of the land.

(2) A deed transferring rights in property used as a natural burial ground shall set forth the prohibition in subdivision (1) of this subsection.

Credits

[2015, No. 24](#), § 3, eff. July 1, 2015.

West's Vermont Statutes Annotated

Title Eighteen. Health

Part 7. Cemeteries

Chapter 121. Cemeteries (Refs & Annos)

Subchapter 2. Town Cemeteries

18 V.S.A. § 5361

§ 5361. Appropriations and regulations by towns

[Currentness](#)

A town may vote sums of money necessary for purchasing, holding, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectmen may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Credits

Formerly: V.S. 1947, § 4024; P.L. 1933, § 3856; G.L. 1917, § 4782; P.S. 1906, § 4152; V.S. 1894, § 3583; R.L. 1880, § 3192; G.S. 1862, 18, §§ 1, 2; 1856, No. 50, § 1; 1850, No. 25; R.S. 1840, 13, § 76.

18 V.S.A. § 5362

§ 5362. Repair; expense; notice

[Currentness](#)

(a) When lots or walks in a public burial ground become unsightly with weeds or by an unchecked growth of grass or from any other cause, or when headstones or monuments have become displaced or out of repair, the selectboard or board of cemetery commissioners shall cause such lots and walks to be cleared of weeds and grass, the headstones or monuments to be replaced or repaired, or other disfigurements removed, and may draw orders on the town treasurer for the expenses incurred.

(b) When a headstone or monument is to be replaced, the selectboard or board of cemetery commissioners shall notify relatives of the deceased, if known, of the date of the removal and that the relative may claim the removed headstone or monument within 30 days after the date of the notice.

Credits

[1993, Adj. Sess., No. 128, § 2](#); [2015, Adj. Sess., No. 85, § 1](#), eff. May 4, 2016.

Formerly: 1951, No. 78; V.S. 1947, § 4025; P.L. 1933, § 3857; 1933, No. 157, § 3592; 1927, No. 83; 1923, No. 86, § 4; G.L. 1917, § 4783; 1917, No. 138, § 1; P.S. 1906, § 4153; V.S. 1894, § 3584; 1886, No. 96, § 1; 1882, No. 51, § 1.

18 V.S.A. § 5363

§ 5363. Penalty

[Currentness](#)

A selectman, cemetery commissioner, or trustee, who violates a provision of this chapter, or willfully neglects any of the duties imposed by this chapter, for which other penalties are not provided, shall be fined not more than \$200.00.

Credits

1989, Adj. Sess., No. 142, § 11.

Formerly: V.S. 1947, § 4026; P.L. 1933, § 3858; G.L. 1917, § 4784; P.S. 1906, § 4154; 1904, No. 87, § 1; V.S. 1894, § 3585; 1882, No. 51, § 2.

18 V.S.A. § 5364

§ 5364. Fences; penalty

[Currentness](#)

When the selectmen or cemetery commissioners neglect to keep in repair the fence around a public burial ground, the town may be prosecuted for such neglect and fined not more than \$400.00. The fine shall be expended in repairing the fences around such burial grounds under the direction of a commissioner appointed by the court.

Credits

1989, Adj. Sess., No. 142, § 12.

Formerly: V.S. 1947, § 4027; P.L. 1933, § 3859; G.L. 1917, § 4785; P.S. 1906, § 4155; V.S. 1894, § 3586; R.L. 1880, § 3193; G.S. 1862, 18, § 3; 1857, No. 35, § 1.

18 V.S.A. § 5365

§ 5365. Damages for want of fence; liability

[Currentness](#)

When a person or estate is damaged by cattle, horses, sheep, or swine breaking into a public burial ground and injuring a grave, headstone, monument, shrubbery, or flowers, for want of a legal fence around such burial ground, such person or estate may recover of the town double the amount of damages, in a civil action.

Credits

Formerly: V.S. 1947, § 4028; 1947, No. 202, § 4029; P.L. 1933, § 3860; 1933, No. 157, § 3595; G.L. 1917, § 4786; 1908,

No. 62; P.S. 1906, § 4156; V.S. 1894, § 3587; R.L. 1880, § 3194; G.S. 1862, 18, § 4; 1857, No. 35, § 2.

18 V.S.A. § 5366

§ 5366. Not liable until notified

[Currentness](#)

A town shall not be charged for not keeping in repair the fence around a burial ground, or be liable for damage done, unless the selectmen, or cemetery commissioners, as the case may be, had notice in writing 20 days previous that the fence was out of repair.

Credits

1989, Adj. Sess., No. 142, § 13.

Formerly: V.S. 1947, § 4029; P.L. 1933, § 3861; G.L. 1917, § 4787; P.S. 1906, § 4157; V.S. 1894, § 3588; R.L. 1880, § 3195; G.S. 1862, 18, § 4; 1857, No. 35, § 3.

18 V.S.A. § 5367

§ 5367. Duties of selectboard

[Currentness](#)

When a town neglects to place one or more of its public burial grounds under the charge of a board of cemetery commissioners, the selectmen shall have power to sell and convey lots in such burial grounds. They shall apply the proceeds of such sales and accept for the town and use legacies, bequests, and gifts for improving and embellishing the grounds.

Credits

Formerly: V.S. 1947, § 4030; P.L. 1933, § 3862; 1933, No. 157, § 3597; G.L. 1917, § 4788; P.S. 1906, § 4158; V.S. 1894, § 3589; R.L. 1880, § 3196; 1864, No. 76.

18 V.S.A. § 5368

§ 5368. Exceptions

[Currentness](#)

[Sections 5361-5367](#) of this title shall not apply to a burial ground which is subject to other control than that of the selectmen or the board of cemetery commissioners.

Credits

Formerly: V.S. 1947, § 4031; P.L. 1933, § 3863; G.L. 1917, § 4789; P.S. 1906, § 4159; V.S. 1894, § 3590; R.L. 1880, § 3197; G.S. 1862, 18, § 5; 1857, No. 35, § 4.

18 V.S.A. § 5369

§ 5369. Removal

[Currentness](#)

When it is impracticable to preserve a burial ground in proper condition, and the removal of the remains of the dead therein is required, the selectmen, in their discretion, may cause such remains to be removed and interred in a more suitable public burial ground.

Credits

Formerly: V.S. 1947, § 4032; P.L. 1933, § 3864; 1933, No. 157, § 3599; G.L. 1917, § 4790; P.S. 1906, § 4160; V.S. 1894, § 3591; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

18 V.S.A. § 5370

§ 5370. Notice; headstones

[Currentness](#)

When remains of the dead are removed, the selectmen, if necessary, shall cause suitable headstones or monuments to be erected to the memory of the deceased, or to designate the place of interment. Such remains shall not be so removed if there are known kindred of the deceased residing in the state, until after 30 days' notice of the intention so to do. When kindred do not reside in the state, and known kindred reside without the state, then the remains shall not be so removed, until after 60 days' notice to one of such kindred. Such notice shall be given personally or by registered mail.

Credits

Formerly: V.S. 1947, § 4033; P.L. 1933, § 3865; 1933, No. 157, § 3600; G.L. 1917, § 4791; P.S. 1906, § 4161; V.S. 1894, § 3592; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

18 V.S.A. § 5371

§ 5371. Town or city to furnish headstone

[Currentness](#)

In case of the burial of a person not having known estate, and not having a suitable marker or headstone erected at his or her grave within three years from the date of such burial, the selectmen of the town or the aldermen of a city, as the case may be, wherein such person is buried, shall cause to be erected at such person's grave, at the expense of such town or city, a suitable marker or headstone with the inscription thereon of the name of the deceased and dates of his or her birth and death, if the same are known.

Credits

Formerly: V.S. 1947, § 4034; P.L. 1933, § 3866; G.L. 1917, § 4028; 1910, No. 113.

18 V.S.A. § 5372

§ 5372. Appropriation for cemetery associations

[Currentness](#)

At a legal meeting of the voters thereof, when an article for such purpose has been duly inserted in the warning for such meeting, a town may appropriate such sums of money as it deems necessary for an incorporated cemetery association owning or in control of a cemetery in such town, for the purposes of such cemetery.

Credits

Formerly: V.S. 1947, § 4035; P.L. 1933, § 3867; G.L. 1917, § 4029; 1912, No. 123.

18 V.S.A. § 5373

§ 5373. Cemetery commissioners

[Currentness](#)

When a town votes to place its public burial grounds under the charge of cemetery commissioners, it shall elect separately a board of three or five cemetery commissioners, who shall have the care and management of such burial ground and exercise all the powers, rights and duties with respect to such care and management and all responsibility on the part of the selectmen shall cease.

Credits

Formerly: 1953, No. 53; V.S. 1947, § 4036; P.L. 1933, § 3868; 1933, No. 157, § 3603; 1931, No. 91; G.L. 1917, § 4792; P.S. 1906, § 4162; V.S. 1894, § 3593; R.L. 1880, § 3199; 1863, No. 23, § 1.

18 V.S.A. § 5374

§ 5374. Term

[Currentness](#)

The commissioner first chosen shall hold office five years, the next four years, the next three years, the next two years, and the last one year. When the term of office of each commissioner expires, a successor shall be chosen for five years. Vacancies in the board may be filled by the remaining commissioners until the next annual meeting. However, a town so voting at an annual town meeting may limit the number of the board to three members and the term of office to three years.

Credits

Formerly: V.S. 1947, § 4037; 1947, No. 202, § 4038; P.L. 1933, § 3869; 1933, No. 157, § 3604; 1931, No. 91; G.L. 1917, § 4792; P.S. 1906, § 4162; V.S. 1894, § 3593; R.L. 1880, § 3199; 1863, No. 23, § 1.

18 V.S.A. § 5375

§ 5375. Laying out and improving grounds; burial without charge

[Currentness](#)

The board of cemetery commissioners may set apart such portion of the burial grounds placed under its charge as it deems proper, as a place for the burial of persons without charge therefor, under such regulations as it prescribes. It may lay out the remaining unoccupied portions in suitable lots, with necessary paths, avenues or other reserved places, and may plant and embellish the same with trees, shrubs, and flowers.

Credits

Formerly: V.S. 1947, § 4038; P.L. 1933, § 3870; 1933, No. 157, § 3605; G.L. 1917, § 4793; P.S. 1906, § 4163; V.S. 1894, § 3594; R.L. 1880, § 3200; 1863, No. 23, § 2.

18 V.S.A. § 5376

§ 5376. Sale of lots; tax exemption

[Currentness](#)

The board, by one of the commissioners appointed by it for that purpose, in the name of the town, by deed, may grant and convey lots in such burial grounds to be used for the burial of the dead and on which tombs, cenotaphs, and other monuments are to be erected. Such lots shall be exempt from taxation. The deeds thereof shall be recorded in the office of the town clerk of the town wherein such lots lie.

Credits

Formerly: V.S. 1947, § 4039; 1947, No. 202, § 4040; P.L. 1933, § 3871; 1933, No. 157, § 3606; G.L. 1917, § 4794; P.S. 1906, § 4164; 1898, No. 67, § 1; V.S. 1894, §§ 3595, 3619; R.L. 1880, §§ 3201, 3211; 1876, No. 90; 1863, No. 23, § 3.

18 V.S.A. § 5377

§ 5377. Proceeds of sale; expenditure

[Currentness](#)

The proceeds of such sale of lots shall be paid into the town treasury, and kept separate from other funds of the town, and subject to the order of the board. Such proceeds, with the income thereof, shall be devoted to maintaining, improving, and embellishing such burial grounds. If the town so votes, the board may sell lots upon condition that the proceeds therefrom shall be paid into the town treasury in trust, and the income thereof be expended in caring for such lots and the structures thereon. The board shall fix the prices for such lots and make regulations in respect to the sale and care thereof.

Credits

Formerly: V.S. 1947, § 4040; 1947, No. 202, § 4041; P.L. 1933, § 3872; 1933, No. 157, § 3607; G.L. 1917, § 4795; 1912, No. 155; P.S. 1906, § 4165; V.S. 1894, § 3596; R.L. 1880, § 3202; 1863, No. 23, § 4.

18 V.S.A. § 5378

§ 5378. Bylaws and regulations

[Currentness](#)

The board may make necessary bylaws and regulations in respect to such burial grounds, and interment of the dead not inconsistent with law, and may alter the same. Such bylaws and regulations shall be recorded in the office of the town clerk. A bylaw or regulation shall not be adopted to restrain a person in the free exercise of his or her religious sentiments as to the burial of the dead.

Credits

Formerly: V.S. 1947, § 4041; P.L. 1933, § 3873; 1919, No. 124, § 1; G.L. 1917, § 4796; P.S. 1906, § 4166; V.S. 1894, § 3597; R.L. 1880, § 3205; 1863, No. 23, § 2.

18 V.S.A. § 5379

§ 5379. Report of cemetery commissioners

[Currentness](#)

The board shall submit annually a written report to the town auditors as to the condition and needs of the burial grounds under its charge and of its doings, including a detailed statement of its receipts and expenditures and of the amount and disposition of the funds in its hands or subject to its control.

Credits

Formerly: V.S. 1947, § 4042; P.L. 1933, § 3874; 1933, No. 157, § 3609; G.L. 1917, § 4797; P.S. 1906, § 4167; V.S. 1894, § 3598; R.L. 1880, § 3206; 1863, No. 23, § 7.

18 V.S.A. § 5380

§ 5380. Auditors

[Currentness](#)

The town auditors shall audit such statement, file it in the office of the town clerk and include the whole or a summary thereof in their annual report.

18 V.S.A. § 5381

§ 5381. Transfer of care from commissioners to selectmen

[Currentness](#)

By vote, a town may take its burial grounds out of the charge of the board of cemetery commissioners and place the same under the charge of the selectmen. When a town so votes, the office of cemetery commissioners shall terminate.

Credits

Formerly: V.S. 1947, § 4044; P.L. 1933, § 3876; 1933, No. 157, § 3611; 1921, No. 144, § 1; G.L. 1917, § 4798; P.S. 1906, § 4168; V.S. 1894, § 2599; R.L. 1880, § 3207; 1863, No. 23, § 1.

18 V.S.A. § 5382

§ 5382. Town trust funds--Acceptance of property

[Currentness](#)

A town may take and hold in trust grants, gifts, or bequests of property and apply the same, or the income thereof, for the care, improvement, or embellishment of its burial grounds, or a part thereof, or for the erection, preservation, or removal of a monument, fence, or other structure in or around the same according to the terms of the grant, gift, or bequest.

Credits

Formerly: V.S. 1947, § 4045; P.L. 1933, § 3877; 1933, No. 157, § 3612; G.L. 1917, § 4799; P.S. 1906, § 4169; V.S. 1894, § 3600; 1888, No. 11, § 2; R.L. 1880, § 3203; 1863, No. 23, § 5.

18 V.S.A. § 5383

§ 5383. Acceptance of money in trust

[Currentness](#)

A town may vote to receive and hold money in trust, the income of which is to be used for the care and improvement of its burial grounds, or of private lots within such burial grounds or elsewhere.

Credits

Formerly: V.S. 1947, § 4046; P.L. 1933, § 3878; G.L. 1917, § 4801; P.S. 1906, § 4171; V.S. 1894, § 3602; 1894, No. 136, § 1.

18 V.S.A. § 5384

§ 5384. Payment to treasurer; record; investment

[Currentness](#)

(a) Unless otherwise directed by the donor, all monies received by a town for cemetery purposes shall be paid to the town treasurer who shall give a receipt therefor, which shall be recorded in the office of the town clerk in a book kept for that purpose. In such book shall also be stated the amount received from each donor, the time when, and the specific purpose to which the use thereof is appropriated.

(b)(1) All monies so received by the town may be invested and reinvested by the treasurer, with the approval of the selectboard, by deposit in:

(A) banks chartered by the State;

(B) national banks;

(C) bonds of the United States or of municipalities whose bonds are legal investment for banks chartered by the State;

(D) bonds or notes legally issued in anticipation of taxes by a town, village, or city in this State, or first mortgages on real estate in Vermont;

(E) the shares of an investment company or an investment trust, such as a mutual fund, closed-end fund, or unit investment trust, that is registered under the federal Investment Company Act of 1940,¹ as amended, if such fund has been in operation for at least five years and has net assets of at least \$100,000,000.00; or

(F) shares of a savings and loan association of this State, or share accounts of a federal savings and loan association with its principal office in this State, when and to the extent to which the withdrawal or repurchase value of such shares or accounts are insured by the Federal Savings and Loan Insurance Corporation.

(2)(A) However, in a town that elects trustees of public funds, cemetery funds shall be invested by the trustees in any of the securities enumerated in this section, and the income thereof paid to the proper officers as the same falls due.

(B) Investment income shall be expended for the purpose and in the manner designated by the donor. The provisions of this section as to future investments shall not require the liquidation or disposition of securities legally acquired and held.

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, [14 V.S.A. § 3415](#) (delegation of investment functions). An agent

exercising a delegated management or investment function may invest cemetery funds only in the securities enumerated in this section.

Credits

2017, No. 26, § 1, eff. July 1, 2017.

Formerly: 1957, No. 194, § 2; 1951, No. 69, § 2; V.S. 1947, § 4047; 1947, No. 202, § 4048; 1943, No. 45, § 3; 1939, No. 68, § 2; P.L. 1933, § 3879; 1933, No. 157, § 3614; 1931, No. 92; 1925, No. 76; 1923, No. 86, § 1; G.L. 1917, §§ 4800, 4802; P.S. 1906, §§ 4170, 4172; 1904, No. 88, § 1; V.S. 1894, §§ 3601, 3603; 1894, No. 136, § 2; 1888, No. 11, § 2; R.L. 1880, § 3204; 1863, No. 23, § 6.

18 V.S.A. § 5385

§ 5385. Accounts; expenditures

Currentness

The town treasurer shall keep a separate account of each such trust fund unless the same is in charge of the trustees of public funds. The income therefrom shall be subject to the order of the selectmen or board of cemetery commissioners as the case may be. Such boards shall expend such income pursuant to the conditions of the trust. When such boards neglect to expend the income pursuant to the conditions of the trust, the town may be indicted for such neglect and upon conviction be fined not more than \$100.00.

Credits

Formerly: V.S. 1947, § 4048; 1947, No. 202, § 4049; P.L. 1933, § 3880; 1933, No. 157, § 3615; 1927, No. 84; 1923, No. 86, § 2; 1921, No. 145; G.L. 1917, § 4803; 1912, No. 156, § 1; P.S. 1906, § 4173; 1896, No. 78, § 1; V.S. 1894, § 3604; 1894, No. 136, § 3.

18 V.S.A. § 5386

§ 5386. Report

Currentness

The town treasurer or trustees of public funds shall annually report the condition of such funds to the town.

Credits

Formerly: V.S. 1947, § 4049; P.L. 1933, § 3881; 1933, No. 157, § 3616; G.L. 1917, § 4804; 1912, No. 156, § 2; P.S. 1906, § 4174; V.S. 1894, § 3605; 1894, No. 136, § 4.

18 V.S.A. § 5387

§ 5387. Money received prior to 1895

[Currentness](#)

Sections 5383-5386 of this title shall not be construed to affect the action of a town in respect to money received in trust for the purpose named by the donor, prior to February 1, 1895.

Credits

Formerly: V.S. 1947, § 4050; P.L. 1933, § 3882; G.L. 1917, § 4805; P.S. 1906, § 4175; V.S. 1894, § 3606; 1894, No. 136, § 5.

[West's Vermont Statutes Annotated](#)

[Title Eighteen. Health](#)

[Part 7. Cemeteries](#)

[Chapter 121. Cemeteries \(Refs & Annos\)](#)

[Subchapter 3. Cemetery Associations](#)

18 V.S.A. § 5431

§ 5431. Cemetery associations; corporations

[Currentness](#)

Every cemetery established after June 1, 1933, which is not owned and operated by a town or by a religious or ecclesiastical society shall be established, owned, and operated by a corporation as hereinafter prescribed.

Credits

Formerly: V.S. 1947, § 4065; 1947, No. 202, § 4066; P.L. 1933, § 3897; 1933, No. 49, § 18.

18 V.S.A. § 5432

§ 5432. Organization and operation

[Currentness](#)

Such corporation shall be organized, and the affairs of the corporation shall be governed and controlled under the provisions of 11 V.S.A. chapter 1, under those sections thereof which provide for the organization and management of corporations not for profit.

Credits

Formerly: V.S. 1947, § 4066; P.L. 1933, § 3898; 1933, No. 49, § 19.

18 V.S.A. § 5433

§ 5433. Authority; powers

[Currentness](#)

Upon filing the articles of incorporation, the incorporators and other members, if any, from the date of such filing, shall be and constitute a body corporate with perpetual succession and with capacity to perform all acts within the state not repugnant to law or the provisions of this chapter.

Credits

Formerly: V.S. 1947, § 4067; P.L. 1933, § 3899; 1933, No. 49, § 20.

18 V.S.A. § 5434

§ 5434. Penalty for doing business as a cemetery association without authority

[Currentness](#)

A person, firm, corporation, or association, or a trust, trustee or trustees of any person, firm, corporation, or association, who, without authority of this chapter so to do, shall exercise or attempt to exercise any powers, privileges, or franchises which are specified or may be granted under this chapter to incorporated cemetery associations, or who shall by any device attempt to evade the provisions of this chapter applicable to cemetery associations in respect to the sale of burial lots or burial spaces and the disposition of the proceeds thereof, shall be fined not less than \$1,000.00 nor more than \$10,000.00, and may be enjoined from further doing of such acts at the suit of any taxpayer of the state. However, the provisions of this section shall not affect or impair the rights of a person, firm, corporation, or association or a trust, trustee or trustees of such person, firm, corporation, or association under any existing contract or contracts between such parties and incorporated cemetery associations, nor shall the performance of the provisions of such contract or contracts subject parties thereto to the penalties imposed by this section.

Credits

Formerly: V.S. 1947, § 4068; P.L. 1933, § 3900; 1933, No. 49, § 21.

18 V.S.A. § 5435

§ 5435. Sales of lots, crypts, and niches; how income applied; rules

[Currentness](#)

(a) The income of a cemetery association whether derived from the sale of lots, burial spaces, crypts, or niches, from donations or otherwise, shall be exclusively applied to paying for the land or other cemetery property, laying out, preserving, protecting, and embellishing the cemetery and avenues leading thereto, the erection of buildings necessary for cemetery purposes, the establishing of a fund to care permanently for the cemetery, the repair and upkeep of mausoleums, vaults, columbariums, crypts, and niches therein, and to paying the necessary expenses of the cemetery association. A debt shall not be contracted in anticipation of future receipts, except for the original purchase of the land, community mausoleum, or columbarium, laying out, enclosing, and embellishing the grounds and avenues therein and to a sum not exceeding \$50,000.00 in the whole, to be paid out of future income. No part of the proceeds from the sale of lots, burial spaces, crypts,

or niches, or other income of such association, shall ever be divided among its members. All its income shall be used exclusively for the purposes of the association, as provided in this chapter or invested in a fund the income of which shall be so used. Such association may adopt such reasonable rules and regulations as it deems expedient for disposing of and conveying burial lots, spaces, crypts, and niches.

(b) At a regular meeting or at a special meeting duly called for that purpose, a cemetery corporation may adopt bylaws respecting improvements upon its lots and grounds as to the embellishment and beautifying of the same. It may also provide that the cost of such improvements be paid out of the regular funds of the corporation.

Credits

Formerly: V.S. 1947, §§ 4063, 4070; 1947, No. 202, § 4071; P.L. 1933, §§ 3895, 3902; 1933, No. 49, § 23; G.L. 1917, § 4818; 1917, No. 106.

18 V.S.A. § 5436

§ 5436. Perpetual care fund

[Currentness](#)

A cemetery association, established prior to June 1, 1933, may create a perpetual care fund out of surplus money on hand or which has been given to it by will, deed, or otherwise. A cemetery association established after such date, shall create such a perpetual care fund by applying thereto from the initial proceeds received from the sale of lots or burial spaces a sum which shall be equivalent to and not less than 20 percent of the sale price of each lot or burial space so sold, and such association may at any time increase the same by the addition of surplus money or property received by it by will, deed, or otherwise.

Credits

Formerly: V.S. 1947, § 4071; 1947, No. 202, § 4072; P.L. 1933, § 3903; 1933, No. 49, § 24.

18 V.S.A. § 5437

§ 5437. Investment

[Currentness](#)

A cemetery association shall invest such trust funds and shall expend the income therefrom in accordance with the provisions of [section 5309](#) of this title.

Credits

Formerly: V.S. 1947, § 4072; 1939, No. 68, § 3; P.L. 1933, § 3904; 1933, No. 49, § 25.

18 V.S.A. § 5438

§ 5438. Cemetery accounts; annual reports

Currentness

(a) A cemetery association shall keep and maintain adequate and correct accounts of its business transactions, which at all reasonable times shall be open to the inspection of every member of such corporation. It shall keep separate and apart from its other funds all moneys and property received by it for the perpetual care of the cemetery, community mausoleum, or columbarium which is owned by it or for the lots therein, and it shall keep accurate accounts of such perpetual care funds separate and apart from its accounts of other funds.

(b) The treasurer of such corporation shall make, sign, and file at the annual meeting a report countersigned by the president, concerning the affairs of the corporation and the perpetual care funds, which report shall contain, among other things, a statement as to the amount of the treasurer's bond and a true statement of the total amount of the fund or funds received and set apart for the perpetual care of the lots, cemetery, community mausoleum, and columbarium. Such report shall contain a list of the securities in which such fund or funds are invested, the income received therefrom, all disbursements from such income, and the balance of money or property held and on hand in such fund or funds, and copies thereof shall forthwith be filed with the town clerk of the town, and with the probate division of the superior court for the district wherein the cemetery, community mausoleum, or columbarium is situated.

Credits

[2009, Adj. Sess., No. 154](#), § 238a(b)(9), eff. Feb. 1, 2011.

Formerly: 1953, No. 22; V.S. 1947, § 4073; 1947, No. 202, § 4074; P.L. 1933, § 3095; 1933, No. 49, § 26.

18 V.S.A. § 5439

§ 5439. Dissolution of cemetery associations

Currentness

A cemetery association, which is not owned and operated by a church or by a religious or ecclesiastical society, may be dissolved under the provisions of 11B V.S.A. chapter 14. Upon dissolution, all lands owned or held by it for cemetery purposes and all perpetual care funds, trust funds, and all other property held or owned by it, less dissolution expenses, may be transferred to the town in which the lands are located, and thereafter these lands may become public burial grounds, and the town shall hold the perpetual care funds and trust funds in trust for the care, improvement, and embellishment of the lots therein, according to the terms upon which they were held by the association.

Credits

1975, No. 74.

Formerly: V.S. 1947, § 4074; 1947, No. 52, § 1.

18 V.S.A. § 5440

§ 5440. Merger of cemetery associations

(a) An incorporated cemetery association or society, whether chartered by special act of the general assembly or organized under articles of association, may merge with another incorporated association or society in the same town, thereby forming a new corporation under such name as may be designated in the articles of association hereinafter referred to.

(b) Such merger shall be made by vote of a majority of the trustees or directors of each corporation. When so made, certified copies of the proceedings shall be forwarded to the secretary of state.

(c) The trustees of each such corporation may authorize the secretary thereof to sign the name of such corporation to the articles of association of the new corporation, and authorize one or more other persons to sign such articles of association. Such articles shall be filed with the secretary of state. The articles shall set forth the name of the new corporation and they shall conform generally to the provisions of 11B V.S.A. chapter 1. When such articles are filed and recorded by the secretary of state, all right, title and interest in all property owned by each, and in trust funds held by each, shall vest in such new corporation, and the corporate functions of each of the corporations so merged shall cease after such new corporation has completed its organization.

Credits

Formerly: V.S. 1947, §§ 4075-4077; 1947, No. 202, § 4075; 1937, No. 60, §§ 1-3.

[West's Vermont Statutes Annotated](#)

[Title Eighteen. Health](#)

[Part 7. Cemeteries](#)

[Chapter 121. Cemeteries \(Refs & Annos\)](#)

[Subchapter 4. Acquisition of Property by Towns and Associations](#)

18 V.S.A. § 5481

§ 5481. Acquisition of land and property--Purchase or gift

The right to acquire land and property for cemetery purposes, either by purchase or gift by towns, churches, religious or ecclesiastical societies, and cemetery associations is hereby affirmed under the conditions and restrictions set forth in this chapter.

Credits

Formerly: V.S. 1947, § 4010; P.L. 1933, § 3843; 1933, No. 49, § 6.

18 V.S.A. § 5482

§ 5482. Eminent domain

Currentness

The right to acquire land and property for cemetery purposes by condemnation proceedings by towns and cemetery associations is hereby granted under the conditions and restrictions set forth in this chapter.

Credits

Formerly: V.S. 1947, § 4011; P.L. 1933, § 3844; 1933, No. 49, § 7.

18 V.S.A. § 5483

§ 5483. Acquisition of land by town

Currentness

When it is necessary to enlarge a public burial ground or to establish a new one, three or more freeholders of the town may apply in writing to the selectmen, setting forth such necessity with a description of the land necessary for the purpose. The selectmen shall thereupon proceed as in case of an application by three or more freeholders to lay out a highway.

Credits

Formerly: V.S. 1947, § 4051; P.L. 1933, § 3883; G.L. 1917, § 4806; P.S. 1906, § 4176; V.S. 1894, § 3607; R.L. 1880, § 3208; 1869, No. 28; G.S. 1862, 18, §§ 9, 10; 1858, No. 4, §§ 1, 2.

18 V.S.A. § 5484

§ 5484. Acquisition of gravel by town or association

Currentness

(a) When public necessity requires that a burial ground be raised or portions thereof filled up with gravel or earth, and the town or association owning or managing the same cannot agree with the owner of such gravel or earth for its purchase, three or more owners of lots in such burial ground may apply in writing to the selectmen, setting forth such necessity. The selectmen shall thereupon proceed as in case of an application to them by three or more freeholders to lay out a highway. If in their opinion such necessity exists, they shall authorize, in writing, such town or association to take and remove such gravel or earth, use the same for the purposes aforesaid, and appraise the damage to the owner thereof.

(b) Before such town or association takes or removes gravel or earth, as provided in subsection (a) of this section, it shall pay or tender to the owner the amount of damages as appraised by the selectmen.

Credits

Formerly: V.S. 1947, §§ 4052, 4053; P.L. 1933, §§ 3884, 3885; 1933, No. 157, §§ 3619, 3620; G.L. 1917, §§ 4807, 4808;

P.S. 1906, §§ 4177, 4178; V.S. 1894, §§ 3608, 3609; 1888, No. 120, §§ 1, 2.

18 V.S.A. § 5485

§ 5485. Appeal to Superior Court

[Currentness](#)

When, in accordance with the provisions of this chapter, a person owning or having an interest in lands taken for a burial ground or gravel or earth for the same is dissatisfied with such taking or with the damages awarded to him or her by the selectmen in such proceedings, he or she may petition the superior court of the county in which such lands lie in the same manner as in case of an appeal as to the laying out of a highway by selectmen, and thereupon the same proceedings shall be had on such petition.

Credits

1973, Adj. Sess., No. 193, § 3.

Formerly: V.S. 1894, § 4054; P.L. 1933, § 3886; 1933, No. 157, § 3621; G.L. 1917, § 4809; P.S. 1906, § 4179; 1906, No. 114, § 1; V.S. 1894, § 3610; 1888, No. 120, § 3; 1884, No. 83, § 2; R.L. 1880, § 3209; G.S. 1862, 18, §§ 11, 12, 13; 1858, No. 4, §§ 3, 4, 5.

18 V.S.A. § 5487

§ 5487. Acquisition of land by cemetery associations generally

[Currentness](#)

A cemetery association may acquire by gift, purchase at its fair cash market value, or devise, such lands as may be necessary for its cemetery purposes. If the consent of the selectmen and local board of health is first had and obtained in writing, such association may devote the same to such cemetery purposes. When it is necessary to acquire lands by condemnation proceedings, such proceedings shall be taken therefor as provided in [sections 5488-5494](#) of this title.

Credits

Formerly: V.S. 1947, § 4069; 1947, No. 202, § 4070; P.L. 1933, § 3901; 1933, No. 49, § 22.

18 V.S.A. § 5488

§ 5488. Enlargement of cemeteries by associations--Petition to superior court to acquire land

[Currentness](#)

When an incorporated cemetery association wishes to enlarge the limits of its burial ground, and votes to purchase additional land for burial purposes and the owner of such land refuses to convey the same to such cemetery association for a reasonable compensation, the trustees or president of such association, by a petition in writing, may apply to the superior court in the county in which such burial ground is located for the appointment of commissioners.

Credits

1973, Adj. Sess., No. 193, § 3.

Formerly: V.S. 1947, § 4056; P.L. 1933, § 3888; G.L. 1917, § 4811; P.S. 1906, § 4181; V.S. 1894, § 3612; 1888, No. 121, § 1; 1884, No. 83, § 1.

18 V.S.A. § 5489

§ 5489. Service of petition; appointment of commissioners

[Currentness](#)

The petition with a citation shall be served on the owner of such land like a summons. On such application, the court may appoint three disinterested persons residing in some other town as commissioners.

Credits

Formerly: V.S. 1947, § 4057; 1945, No. 29, § 41; P.L. 1933, § 3889; G.L. 1917, § 4812; P.S. 1906, § 4182; V.S. 1894, § 3613; 1888, No. 121, § 2.

18 V.S.A. § 5490

§ 5490. Notice; hearing

[Currentness](#)

The commissioners shall appoint a time and place for examination of the premises and appraisal of the damages. They shall give six days' notice thereof to the president or to one or more of the trustees of such association, and to the owner or occupant of such land either personally or by written notice left at the residence of such owner or occupant, and shall examine the premises and inquire into the public necessity and convenience of such enlargement.

Credits

Formerly: V.S. 1947, § 4058; P.L. 1933, § 3890; 1933, No. 157, § 3625; G.L. 1917, § 4813; P.S. 1906, § 4183; V.S. 1894, § 3614; 1888, No. 121, § 3.

18 V.S.A. § 5491

§ 5491. Survey; damages

[Currentness](#)

When the commissioners decide that public necessity and convenience require the enlargement of such burial grounds, and

the amount needed, they shall cause the same to be surveyed, and shall ascertain what damages will be sustained by the owner of such land.

Credits

Formerly: V.S. 1947, § 4059; P.L. 1933, § 3891; G.L. 1917, § 4814; P.S. 1906, § 4184; V.S. 1894, § 3615; 1888, No. 121, § 4.

18 V.S.A. § 5492

§ 5492. Report, filing

[Currentness](#)

When the commissioners have completed their inquiries, they shall make report, stating their doings and decision, with their survey and appraisal of damages. Such report shall be returned to and filed in the office of the clerk of the court within 30 days after the completion of such inquiry.

Credits

Formerly: V.S. 1947, § 4060; 1945, No. 29, § 42; P.L. 1933, § 3892; G.L. 1917, § 4815; P.S. 1906, § 4185; V.S. 1894, § 3616; 1888, No. 121, § 5; 1884, No. 83, § 4.

18 V.S.A. § 5493

§ 5493. Judgment on report; costs

[Currentness](#)

The court may accept or reject the report, render judgment thereon, tax costs as it deems just, and issue execution for damages and costs.

Credits

Formerly: V.S. 1947, § 4061; P.L. 1933, § 3893; G.L. 1917, § 4816; P.S. 1906, § 4186; V.S. 1894, § 3617; 1888, No. 121, § 6; 1884, No. 83, § 3.

18 V.S.A. § 5494

§ 5494. Title to lands taken

[Currentness](#)

Such cemetery association shall not take possession of such lands until the damages and costs are paid. When so paid, a valid title to the lands so taken shall vest in such association, and the same may be used for burial purposes.

Credits

Formerly: V.S. 1947, § 4062; P.L. 1933, § 3894; G.L. 1917, § 4817; P.S. 1906, § 4187; V.S. 1894, § 3618; 1888, No. 121, § 7.

West's Vermont Statutes Annotated
Title Eighteen. Health
Part 7. Cemeteries
Chapter 121. Cemeteries (Refs & Annos)
Subchapter 5. Ownership of Cemetery Lots

18 V.S.A. § 5531

§ 5531. Disposal of lot by will; descent; burial rights of husband and wife

[Currentness](#)

(a) The owner of a cemetery lot may dispose of same by will to any one of his or her relatives who may survive him or her, or to any agency owning and conducting the cemetery in which the lot is situated, in trust, for the use and benefit of any person or persons designated in such will. When no express disposition or other mention is made in a will of a cemetery lot owned by the testator at his or her decease, and wherein he or she or any member of his or her family is buried, the ownership of the lot shall not pass from his or her lawful heirs by any residuary or other general clause of the will, but shall descend to his or her heirs, as if he or she had died intestate.

(b) A wife shall be entitled to a right of interment for her own body in any burial lot or tomb of sufficient size and space to permit such interment, of which her husband was seized at any time during coverture, which shall be exempt from the operation of the laws regulating conveyance, descent and devise, but may be released by her in the same manner as dower. A husband shall have the same rights in the burial lot or tomb of his wife as a wife has in that of her husband. A husband or wife living separate from the other, and owning a burial lot or tomb in which the other but for this section would have no right of burial or interment, at least 30 days before the death of the other, may file with the agency conducting the cemetery in which such burial lot or tomb is located a written objection to the interment of the other and thereupon there shall be no right of interment of such husband or wife under this section.

(c) The probate division of the superior court shall have jurisdiction to determine all questions arising under the provisions of this section.

(d) Nothing contained in this section shall be construed as a limitation of the right of any agency owning and conducting a cemetery, either by rule and regulation, or by deed or contract, to define or limit the persons or classes of persons having the right of burial upon any lot in the cemetery of such agency, or to prohibit or restrict the resale of any such lot or burial space.

Credits

[2009, Adj. Sess., No. 154, § 149, eff. Feb. 1, 2011.](#)

Formerly: V.S. 1947, § 4088; P.L. 1933, § 3916; 1933, No. 49, § 37.

18 V.S.A. § 5532

§ 5532. Escheat of cemetery lots--Definition

[Currentness](#)

For the purposes of sections 5532-[5537](#) of this title, the term “agency” shall mean town cemeteries, religious, or ecclesiastical society cemeteries, and any person, firm, corporation, or unincorporated association engaged in the business of a cemetery.

Credits

Formerly: 1949, No. 88, § 1.

18 V.S.A. § 5533

§ 5533. Escheat when owner’s whereabouts unknown

[Currentness](#)

When the whereabouts of a person or his or her heirs, having legal title or color of title to a wholly unoccupied burial lot in any cemetery has been unknown for 20 years, such lot shall escheat to the agency upon petition brought by the agency and hearing and judgment had thereon as provided in [sections 5534-5537](#) of this title.

Credits

Formerly: 1949, No. 88, § 2.

18 V.S.A. § 5534

§ 5534. Petition; hearing

[Currentness](#)

The cemetery commissioners or other proper officers may file a petition in behalf of the agency with the probate division of the superior court of the district where said agency is located for an inquisition in the premises. The probate division of the superior court shall thereupon appoint a time and place of hearing and deciding on such petition, and cause a notice thereof to be published in some newspaper circulating in the vicinity where the cemetery is located.

Credits

[2009, Adj. Sess., No. 154](#), § 238a(b)(9), eff. Feb. 1, 2011.

Formerly: 1949, No. 88, § 3.

18 V.S.A. § 5535

§ 5535. Notice; publication

[Currentness](#)

Such notice shall recite the substance of the facts set forth in the petition, and the time and place at which persons claiming the burial lot may appear and be heard before the court, and shall be published at least three weeks successively, the last of which publications shall be not less than six months before the time appointed by the court for making the inquisition.

Credits

Formerly: 1949, No. 88, § 4.

18 V.S.A. § 5536

§ 5536. Order

[Currentness](#)

If sufficient cause is not shown to the contrary, at the time appointed for that purpose, the court shall order and decree that such lot shall escheat to the agency.

Credits

Formerly: 1949, No. 88, § 5.

18 V.S.A. § 5537

§ 5537. Heirs

[Currentness](#)

If an heir or other person entitled to such lot appears within 17 years from the date of such decree and files a claim with the probate division of the superior court which made such decree, and establishes his or her claim to such lot, he or she shall have possession of the same, or if sold, the agency shall be accountable for the avails of such sale, without interest, to the persons entitled thereto, after deducting charges and costs incurred by the agency in connection therewith. A claim not made within 17 years shall be barred.

Credits

2009, Adj. Sess., No. 154, § 238a(b)(9), eff. Feb. 1, 2011.

Formerly: 1949, No. 88, 6.

[West's Vermont Statutes Annotated](#)

[Title Eighteen. Health](#)

[Part 7. Cemeteries](#)

[Chapter 121. Cemeteries \(Refs & Annos\)](#)

[Subchapter 6. Community Mausoleums and Columbariums](#)

18 V.S.A. § 5571

§ 5571. Location

[Currentness](#)

A community mausoleum, as hereinbefore defined, other than structures containing crypts erected or controlled by churches and religious societies and used only as a repository for the remains of the clergy or dignitaries of such churches or religious societies and every columbarium or other structure intended to hold or contain the bodies or remains of the dead, the spaces, crypts, or niches of which are available to the public, shall be located only within the confines of an established cemetery, containing not less than five acres, and which shall have been in existence and operation for a period of at least five years immediately preceding the time of the erection thereof.

Credits

Formerly: V.S. 1947, § 4078; P.L. 1933, § 3906; 1933, No. 49, § 27; G.L. 1917, § 4820; 1915, No. 239, § 1.

18 V.S.A. § 5572

§ 5572. Plats

[Currentness](#)

Before commencing the building, construction, or erection of any such building, the agency constructing the same shall make and file a plat of such structure in accordance with the provisions of [sections 5310](#) and [5311](#) of this title.

Credits

Formerly: V.S. 1947, § 4079; P.L. 1933, § 3907; 1933, No. 49, § 28.

18 V.S.A. § 5573

§ 5573. Construction requirements

[Currentness](#)

A community mausoleum or columbarium, the crypts or niches of which are available to the public, shall be constructed and erected only with the consent and approval of the state board of health. Before commencing the building, construction, or erection of any such structure, full detailed plans and specifications shall be presented to the state board of health. The approval of such plans and specifications shall be evidenced by a certificate in writing, signed by the state board of health. A community mausoleum, columbarium, or any structure intended to hold or contain permanently the bodies of the dead, and to which the public shall have access, shall not be constructed or erected. A building not used for the permanent disposition of the human dead shall not be altered or changed for such use or used for such purposes, and an addition shall not be made to any existing community mausoleum or columbarium, unless constructed of such material and workmanship as will ensure its

durability and permanence as well as the safety, convenience, comfort, and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science.

Credits

1959, Adj. Sess., No. 329, § 27.

18 V.S.A. § 5574

§ 5574. Inspection

[Currentness](#)

The state board of health shall have supervisory control over the construction of any such community mausoleum or columbarium. The state board of health shall require compliance in all respects with the approved plans and specifications. Such board shall appoint an inspector who shall be experienced in modern mausoleum construction and engineering science to supervise the erection and construction of such mausoleum and columbarium and to determine the amount of his or her compensation. Such compensation shall be paid by the person, firm, or corporation erecting such community mausoleum or columbarium. A departure from the original plans and specifications shall not be permitted, except upon approval of the state board of health, evidenced in like manner and form as the approval of the original plans and specifications.

Credits

1959, Adj. Sess., No. 329, § 27.

Formerly: V.S. 1947, § 4081; 1947, No. 202, § 4081; P.L. 1933, § 3909; 1933, No. 49, § 30.

18 V.S.A. § 5575

§ 5575. Use before completion prohibited

[Currentness](#)

A community mausoleum, columbarium, crypt, niche, or structure so erected as aforesaid shall not be used for the purpose of depositing therein the remains of any dead body until the same is finally completed, and the maintenance fund required by this chapter has been provided for in accordance with the provisions hereof.

Credits

Formerly: V.S. 1947, § 4802; 1947, No. 202, § 4082; P.L. 1933, § 3910; 1933, No. 49, § 31.

18 V.S.A. § 5576

§ 5576. Sales before the completion of building; bond

[Currentness](#)

A crypt or room in a community mausoleum, or niche in a columbarium, shall not be sold or offered for sale, before such structure is entirely completed, unless and until the agency selling such crypts or niches enters into an agreement whereby it agrees to refund to each and every purchaser of crypts, rooms, and niches all sums of money paid by each, together with legal interest thereon, in the event it fails to complete such mausoleum or columbarium within a reasonable time thereafter, which agreement shall be entered into with a bank or trust company as trustee for the purchasers of crypts, rooms, and niches. The agency shall also deposit with the trustee a good and sufficient bond or other security which shall guarantee the faithful performance of the agreement. The selection of the bank or trust company, the trust agreement, and the bond or other security herein provided for shall be submitted to and be subject to the approval of the probate division of the superior court of the district wherein such community mausoleum or columbarium is located.

Credits

[2009, Adj. Sess., No. 154](#), § 238a(b)(9), eff. Feb. 1, 2011.

Formerly: V.S. 1947, § 4083; 1947, No. 202, § 4083; P.L. 1933, § 3911; 1933, No. 49, § 32.

18 V.S.A. § 5576, VT ST T. 18 § 5576

18 V.S.A. § 5577

§ 5577. Mausoleum becoming untenable

[Currentness](#)

If, in the opinion of the state board of health, a mausoleum, vault, crypt, or structure containing one or more deceased human bodies becomes a menace to public health, and the owner or owners thereof fail to remedy or remove the same to the satisfaction of the state board of health, a court of competent jurisdiction may order the person, firm, or corporation owning such structure to remove the body or bodies for interment in some suitable cemetery at the expense of the person, firm, or corporation owning such mausoleum, vault, or crypt. When such person, firm, or corporation can not be found in the county where such mausoleum, vault, or crypt is located, then such removal and interment shall be at the expense of the cemetery or cemetery association, city or town where such mausoleum, vault, or crypt is situated.

Credits

1959, Adj. Sess., No. 329, § 27.

Formerly: V.S. 1947, § 4084; 1947, No. 202, § 4084; P.L. 1933, § 3912; 1933, No. 49, § 33; G.L. 1917, § 4822; 1915, No. 239, § 3.

18 V.S.A. § 5577, VT ST T. 18 § 5577

The statutes are current through the laws of the First Session of the 2017-2018 Vermont General Assembly (2017).

18 V.S.A. § 5578

§ 5578. Perpetual care funds

[Currentness](#)

There shall be established and maintained a fund for the perpetual care and maintenance of such community mausoleum and columbarium, by applying in the case of a community mausoleum not less than the sum of \$100.00 from the proceeds received from the sale of each crypt and 10 percent of the proceeds received from the sale of each room; and in case of niches in a community mausoleum or columbarium, used as a repository for the remains of deceased persons after cremation, a sum which shall be equivalent to 10 percent of the sale price of each niche. In event sales of crypts or rooms in a community mausoleum, or sales of niches in a community mausoleum or columbarium be made upon partial payments, there shall be set apart and applied to such fund from each such payment such percentage thereof as the amount of the partial payment bears to the total purchase price of such crypt, room, or niche.

Credits

Formerly: V.S. 1947, § 4085; P.L. 1933, § 3913; 1933, No. 49, § 34.

18 V.S.A. § 5579

§ 5579. Penalties

[Currentness](#)

A person who violates a provision of [sections 5571-5578](#) of this title shall be fined not less than \$100.00 nor more than \$500.00 or be imprisoned in the state correctional facility not less than 10 days nor more than three months, or both, for each offense.

Credits

1967, Adj. Sess., No. 345, § 30.

Formerly: V.S. 1947, § 4086; 1947, No. 202, § 4086; P.L. 1933, § 3914; 1933, No. 49, § 35; G.L. 1917, § 4823; 1915, No. 239, § 4.

1 V.S.A. § 317

Historical and Statutory Note

“Sec. 2. IDENTIFYING VERMONT STATE HOSPITAL PATIENTS BURIED IN CEMETERY AND ON HOSPITAL GROUNDS FROM 1891 TO 1913

“Consistent with the goal of Joint Resolution No. R-109 (2013) to preserve the memory of individuals buried in the cemetery and on the grounds of the former Vermont State Hospital in Waterbury, and to enable the identification of individuals buried in unmarked graves so that these individuals will not be left unknown, the State of Vermont shall, upon request and notwithstanding any provision of Vermont law, release records dating from 1891 to 1913 to the extent necessary to assist in the identification of patients buried in the Hospital's cemetery and on its grounds in unmarked graves from 1891 to 1913.”

13 V.S.A. § 3761

§ 3761. Unauthorized removal of human remains

[Currentness](#)

A person who, not being authorized by law, intentionally excavates, disinters, removes or carries away a human body, or the remains thereof, interred or entombed in this state, or intentionally excavates, disinters, removes or carries away an object interred or entombed with a human body in this state, or knowingly aids in such excavation, disinterment, removal or carrying away, or is accessory thereto, shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both.

Credits

1989, Adj. Sess., No. 142, § 1.

Formerly: V.S. 1947, § 8376; P.L. 1933, § 8516; G.L. 1917, § 6935; P.S. 1906, § 5821; 1904, No. 140, § 6; 1902, No. 114, § 7; 1898, No. 116, § 2; V.S. 1894, § 5004; 1884, No. 85, § 4; R.L. 1880, § 4194; G.S. 1862, 117, § 17; R.S. 1840, 99, § 14; 1830, No. 9; 1828, No. 5; R. 1804, Jan., p. 58.

13 V.S.A. § 3762

§ 3762. Search for concealed bodies

[Currentness](#)

Upon the complaint and oath of a person made to him or her in writing that the remains of a dead person have been disinterred and removed and that the complainant has reason to believe that the remains of such dead person are secreted in a dwelling house or other building, a district judge shall issue a warrant, directed to any sheriff or constable, commanding him or her to make search in such place for such dead person. The officer serving such process shall not be liable for executing such warrant, whether the body of such dead person is found or not.

Credits

1965, No. 194, § 10; 1973, Adj. Sess., No. 249, § 48.

Formerly: V.S. 1947, § 8377; P.L. 1933, § 8517; G.L. 1917, § 6936; 1908, No. 62; P.S. 1906, § 5822; V.S. 1894, § 5005; R.L. 1880, § 4195; G.S. 1862, 117, § 18; R.S. 1840, 99, § 15; 1832, No. 14.

13 V.S.A. § 3763

§ 3763. Exception

Currentness

Section 3762 of this title shall not prevent a surgeon or physician from having in his or her possession a dead human subject for anatomical investigation and instruction of students, if such subject was obtained without violating the law of the state.

Credits

Formerly: V.S. 1947, § 8378; P.L. 1933, § 8518; G.L. 1917, § 6937; P.S. 1906, § 5823; V.S. 1894, § 5006; R.L. 1880, § 4196; G.S. 1862, 117, § 19; 1853, No. 28, § 1.

13 V.S.A. § 3764

§ 3764. Cemeteries and monuments--Grave markers and historical tablets

Currentness

A person shall not intentionally and without right or authority excavate, steal, remove, injure or destroy, or procure or cause to be excavated, stolen, removed, injured or destroyed, a gravestone or monument erected to the memory of a deceased person, or erected and intended for such use, or a grave, tomb or burial site, or portion thereof, in which the body or remains of a deceased person is interred, or which is intended for the interment of a deceased person, or a monument, tablet or marker erected for the commemoration of some historical event or place by a historical or patriotic association or society on land on which such association or society has a right to erect the same.

Credits

1989, Adj. Sess., No. 142, § 2.

Formerly: V.S. 1947, § 8379; P.L. 1933, § 8519; 1931, No. 166, § 1; G.L. 1917, § 6938; 1915, No. 91, § 3; 1908, No. 62; P.S. 1906, §§ 5824, 5828; V.S. 1894, §§ 5007, 5011; 1888, No. 119, § 1; R.L. 1880, §§ 4192, 4193; 1878, No. 68, §§ 1, 2; 1863, No. 9; 1863, No. 23, § 8; G.S. 1862, 18, § 7; G.S. 1862, 113, §§ 42, 43, 54; 1859, No. 40; 1854, No. 45, § 2; 1853, No. 31, § 2.

13 V.S.A. § 3766

§ 3766. Grave markers and ornaments

Currentness

(a) A person shall not steal, or cause to be stolen, or intentionally and without lawful authority remove, break down, injure or destroy, or cause to be removed, broken down, injured or destroyed, an ornament, token, flag holder or emblem used to decorate, mark or distinguish the grave or tomb of a deceased person.

(b) A person shall not buy, sell or barter, or cause to be bought, sold or bartered, an ornament, token, flag holder or emblem which has been used to decorate, mark or distinguish the grave or tomb of a deceased person. In a prosecution under this subsection, it shall be an affirmative defense, to be proven by a preponderance of the evidence, that the person did not gain

possession of the ornament, token, flag holder or emblem by unlawful means.

(c) A person shall not steal or cause to be stolen, or intentionally and without lawful authority remove, break down, injure or destroy, or cause to be removed, broken down, injured or destroyed, flowers, trees or any other plant matter used to decorate, mark or distinguish any cemetery property, including the grave or tomb of a deceased person.

Credits

1989, Adj. Sess., No. 142, § 4; [2001, Adj. Sess., No. 99](#), § 1.

Formerly: V.S. 1947, § 8381; P.L. 1933, § 8519; 1931, No. 166, § 1; G.L. 1917, § 6938; 1915, No. 91, § 3; 1908, No. 62; P.S. 1906, §§ 5824, 5828; V.S. 1894, §§ 5007, 5011; 1888, No. 119, § 1; R.L. 1880, §§ 4192, 4193; 1878, No. 68, §§ 1, 2; 1863, No. 9; 1863, No. 23, § 8; G.S. 1862, 18, § 7; G.S. 1862, 113, §§ 42, 43, 54; 1859, No. 40; 1854, No. 45, § 2; 1853, No. 31, § 2.

13 V.S.A. § 3767

§ 3767. Penalties

[Currentness](#)

(a) A person who violates a provision of [sections 3764-3766](#) of this title shall, except as provided in subsection (b) of this section, be imprisoned not more than five years or fined not more than \$5,000.00, or both.

(b) A person who violates subsection 3766(c) of this title shall be imprisoned not more than one year or fined not more than \$500.00, or both.

Credits

1971, Adj. Sess., No. 199, § 15; 1981, Adj. Sess., No. 223, § 23; 1989, Adj. Sess., No. 142, § 5; [2001, Adj. Sess., No. 99](#), § 2.

Formerly: V.S. 1947, § 8382; P.L. 1933, § 8519; 1931, No. 166, § 1; G.L. 1917, § 6938; 1915, No. 91, § 3; 1908, No. 62; P.S. 1906, §§ 5824, 5828; V.S. 1894, §§ 5007, 5011; 1888, No. 119, § 1; R.L. 1880, §§ 4192, 4193; 1878, No. 68, §§ 1, 2; 1863, No. 9; 1863, No. 23, § 8; G.S. 1862, 18, § 7; G.S. 1862, 113, §§ 42, 43, 54; 1859, No. 40; 1854, No. 45, § 2; 1853, No. 31, § 2.

13 V.S.A. § 3769

§ 3769. Civil action

[Currentness](#)

A person who violates a provision of [sections 3764-3766](#) of this title, shall be further liable in a civil action on this statute, in which the plaintiff may recover damages and reasonable attorney's fees. Such action may be brought in the name of the

owner of the property so injured, or in the name of the town in which such burial ground is situated, or in the name of the commissioners, or in the name of the association or corporation which holds lawful possession of such burial ground at the time such damage is committed, or, if the property injured is a gravestone or monument erected to the memory of a deceased person or a grave, tomb or burial site in which the body or remains of a deceased person is interred, in the name of the surviving heirs or descendants of such deceased person, jointly, or in the name of one or more of them for the benefit of all, or in the name of the historical or patriotic association or society erecting such monument, tablet or marker.

Credits

1989, Adj. Sess., No. 142, § 6.

Formerly: V.S. 1947, § 8384; P.L. 1933, § 8521; 1931, No. 166, § 2; G.L. 1917, § 6939; P.S. 1906, § 5825; V.S. 1894, § 5008; R.L. 1880, § 4193; 1878, No. 68, § 1; 1863, No. 23, § 8; G.S. 1862, 18, § 7; G.S. 1862, 113, §§ 42, 43; 1859, No. 40; 1854, No. 45, § 2.

13 V.S.A. § 3770

§ 3770. Use of damages recovered

[Currentness](#)

Such damages, when recovered by a town, association, society, corporation, or by commissioners, shall be expended under the direction of the party recovering the same for the benefit of the property injured.

Credits

Formerly: V.S. 1947, § 8385; P.L. 1933, § 8522; 1931, No. 166, § 2; G.L. 1917, § 6939; P.S. 1906, § 5825; V.S. 1894, § 5008; R.L. 1880, § 4193; 1878, No. 68, § 1; 1863, No. 23, § 8; G.S. 1862, 18, § 7; G.S. 1862, 113, §§ 42, 43; 1859, No. 40; 1854, No. 45, § 2.

13 V.S.A. § 3771

§ 3771. Disturbing a funeral service

[Currentness](#)

(a) As used in this section:

(1) “Funeral service” means the ceremonies, rituals, and memorial services held at a church, mortuary, cemetery, or home in connection with the burial or cremation of a dead person.

(2) “Picketing” means a protest, demonstration or other similar activity directed at a funeral service.

(b) No person shall disturb or attempt to disturb a funeral service by engaging in picketing within 100 feet of the service within one hour prior to and two hours following the publicly announced time of the commencement of the service.

(c) A person who violates this section shall be imprisoned not more than 30 days or fined not more than \$500.00, or both.

Credits

[2005, Adj. Sess., No. 167, § 19.](#)

32 V.S.A. § 3800

§ 3800. Statutory purposes

Currentness

* * *

(e) The statutory purpose of the exemption for cemeteries in subdivision 3802(7) of this title is to lower the cost of establishing and maintaining cemeteries.

32 V.S.A. § 3802

§ 3802. Property tax

Currentness

The following property shall be exempt from taxation:

* * *

(7) Lands used for cemetery purposes and the structures thereon, trust funds and other property belonging to or held by cemetery associations, and the lots of the proprietors thereof.

[West's Vermont Statutes Annotated](#)

[Title Thirty. Public Service](#)

[Part 1. Department of Public Service](#)

[Chapter 3. Public Service Corporations, Other than Railroads; Formation, Financing, Eminent Domain](#)

30 V.S.A. § 118

§ 118. Taking burial grounds; condemnation

[Currentness](#)

When it is necessary that a corporation formed under the provisions of this chapter or a foreign corporation engaged in public

service should acquire or flood land used or set apart for a cemetery or burial ground, either public or private, or should acquire an easement or limited right in such cemetery or burial ground, in order that it may render adequate service to the public in the conduct of its business, or in order that it may build and maintain its storage basins, dams, power houses, or lines, it may condemn such property or right, as provided in this chapter.

Credits

Formerly: V.S. 1947, § 9339; P.L. 1933, § 5963; 1927, No. 87, § 1.

30 V.S.A. § 119

§ 119. Notice to municipality

[Currentness](#)

Notice of such proceedings shall be given to the municipality in which the cemetery is located and such municipality shall be a party to the proceedings for all purposes.

Credits

Formerly: V.S. 1947, § 9340; P.L. 1933, § 5964; 1927, No. 87, § 3.

30 V.S.A. § 120

§ 120. Removal of remains

[Currentness](#)

The remains of the dead in such cemetery shall be removed by the selectboard or board of cemetery commissioners and interred in some suitable cemetery after final judgment and before the exercise of any rights in such cemetery.

Credits

Formerly: V.S. 1947, § 9341; P.L. 1933, § 5965; 1933, No. 157, § 5640; 1927, No. 87, § 4; G.L. 1917, §§ 4790, 4791; P.S. 1906, §§ 4160, 4161; V.S. 1894, §§ 3591, 3592; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

30 V.S.A. § 121

§ 121. Notice to kindred

[Currentness](#)

Before the removal of such remains, the selectboard or board of cemetery commissioners, if there are known relatives of the deceased residing in the State, shall give such relatives 30 days' notice in writing of the intention so to do. If known relatives do not reside in the State but reside without the State, then the remains shall not be so removed until after 60 days' notice in writing thereof has been given to such relatives.

Credits

Formerly: V.S. 1947, § 9342; P.L. 1933, § 5966; 1933, No. 157, § 5641; 1927, No. 87, § 4; G.L. 1917, §§ 4790, 4791; P.S. 1906, §§ 4160, 4161; V.S. 1894, §§ 3591, 3592; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

30 V.S.A. § 122

§ 122. Headstones or monuments erected

Currentness

The selectboard or board of cemetery commissioners shall cause existing headstones or monuments to be removed and reerected to the memory of the deceased. Permanent markers shall be provided to designate the place or reinterment of those not so marked previously.

Credits

Formerly: V.S. 1947, § 9343; P.L. 1933, § 5967; 1933, No. 157, § 5642; 1927, No. 87, § 4; G.L. 1917, §§ 4790, 4791; P.S. 1906, §§ 4160, 4161; V.S. 1894, §§ 3591, 3592; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

30 V.S.A. § 123

§ 123. Expense

Currentness

The entire expense of whatever land may be necessary for the reinterment of such remains and the cost of removal and reerection of headstones or monuments shall be paid by the corporation acquiring such burial ground and the easement therein.

Credits

Formerly: V.S. 1947, § 9344; P.L. 1933, § 5968; 1933, No. 157, § 5643; 1927, No. 87, § 4; G.L. 1917, §§ 4790, 4791; P.S. 1906, §§ 4160, 4161; V.S. 1894, §§ 3591, 3592; R.L. 1880, § 3198; 1878, No. 69; G.S. 1862, 18, § 8; 1857, No. 34.

30 V.S.A. § 124

§ 124. Appeal

Currentness

The judgment and findings of the Board shall be final, except that a party who feels himself or herself aggrieved thereby may appeal to the Supreme Court pursuant to the provisions of [section 12](#) of this title. Such appeal shall suspend execution of the judgment of the Board, but the Supreme Court, or a single Justice in vacation, may vacate the suspension as justice and equity require.

Credits

1959, Adj. Sess., No. 329, § 39(b).

Formerly: V.S. 1947, § 9345; P.L. 1933, § 5969; G.L. 1917, § 4991; 1915, No. 163, § 7; 1908, No. 116, § 12.

Overview of Vermont cemetery history and symbolism

Farm family grave plots, the early development of town and church-owned graveyards, Vermont spirituality reflected in the stonework, the boom and decline of Barre's granite industry.

John Hubbard, aka Black Agnes, in Green Mount Cemetery, Montpelier

The legal battle over his aunt's estate, the erection of his Thanatos statue, birth of the Black Agnes urban legend.

Elia Corti, Hope Cemetery in Barre

The wonder boy of the Barre granite industry, his radical political views, his famous Robert Burns panels, his tragic death outside the Old Labor Hall, his stunning memorial statue carved by his brother and brother-in-law.

Col. James Fisk at Prospect Hill Cemetery, Brattleboro

Vermont's 19th Century Donald Trump, how he caused the 1869 Black Friday financial crisis, why a thousand people turned out for his funeral, his scandalous grave featuring the statues of four naked women holding symbols of his Earthly empire.

Melvin Dwinell in Fairview Cemetery in Calais

The Yankee in the Confederate Army, Vermont boy seeks his fortune in the south, his pro-slavery editorials as a newspaper editor, his war of words with the Burlington Free Press, his death and return to Vermont, who has been placing a Confederate Flag next to his grave?

Vermont State Hospital Cemetery in Waterbury

The horrors of the VSH's earliest days, what happens to patients when they die in state custody, the unmarked graves in the woods of Waterbury, what Vermont is doing to try and right the past.

Modern Vermont cemetery symbolism

Budweiser cans, hunting and fishing, scenes of nature, Ben & Jerry's flavor graveyard, the changing landscape of burials and cemeteries.