

## Article 17.

### Cemeteries.

#### **§ 160A-341. Authority to establish and operate cemeteries.**

A city shall have authority to establish, operate, and maintain cemeteries either inside or outside its corporate limits, may acquire and hold real and personal property for cemetery purposes by gift, purchase, or (for real property) by exercise of the power of eminent domain, may devote any property owned by the city to use as a cemetery, may prohibit burials at any place within the city other than city cemeteries, and may regulate the manner of burial in city cemeteries. Nothing in this section shall confer upon any city authority to prohibit or regulate burials in cemeteries licensed by the State Burial Association Commissioner, or in church cemeteries.

As used in this Article "cemetery" includes columbariums and facilities for cremation. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1969, c. 402; 1971, c. 698, s. 1.)

#### **§ 160A-342. Authority to transfer cemeteries.**

A city may transfer and convey any city cemetery property, together with any accumulated perpetual care trust funds set aside for the maintenance of the cemetery, to any religious organization or cemetery licensed by the State Burial Association Commissioner, upon condition that the transferee will continue use of the property as a cemetery, will perpetually maintain it, and will apply any perpetual care trust funds so transferred only for maintenance of the cemetery. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1969, c. 402; 1971, c. 698, s. 1.)

#### **§ 160A-343. Authority to abandon cemeteries.**

A city shall have authority to abandon any cemetery that has not been used for interment purposes within 10 years. Upon abandonment, all monuments, tombstones, and the contents of all graves within the cemetery shall be transferred at city expense to another city cemetery, or to a cemetery licensed by the State Burial Association Commissioner. After the transfer of monuments, tombstones, and the contents of graves, the city may take possession of, convey, or use the former cemetery property for any lawful purpose. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1969, c. 402; 1971, c. 698, s. 1.)

#### **§ 160A-344. Authority to assume control of abandoned cemeteries.**

(a) Whenever property not under the control or in the possession of any church or religious organization in any city has been heretofore set aside or used for cemetery purposes, and the trustees or owners named in the deed or deeds for the property have died, or are unknown, or the deeds of conveyance have been lost or misplaced and no record of title thereto has been found, and the property has been occupied and used for burial purposes for a time sufficient to identify its use as cemetery property, the city in which the cemetery is located is authorized to take possession of the land and any adjoining land not held by known claimants of title, have the property surveyed and lines established, and to designate and appropriate the property as a city cemetery.

(b) The city may have the land subdivided and laid off into family burial plots, may sell any of the unused lots so laid off to any person for burial purposes, and may use the proceeds of the sale for the improvement and upkeep of the cemetery.

(c) The city may appropriate and use funds for the improvement and maintenance of the cemetery, and all laws and ordinances applicable to city cemeteries shall apply to the cemetery from and after the date that the city assumes control of it. (1971, c. 698, s. 1.)

**§ 160A-345. Authority to condemn cemeteries.**

A city shall have authority to acquire title in fee simple by purchase or exercise of the power of eminent domain to any cemetery, graveyard, or burial place within the city and to operate and maintain the property so acquired as a city cemetery. This section shall not apply to a cemetery licensed by the North Carolina State Burial Association Commissioner, nor to property owned or controlled by any church or religious organization, unless the owner of the property consents to the acquisition. (1951, c. 385, s. 1; 1971, c. 698, s. 1.)

**§ 160A-346. Authority to condemn easements for perpetual care.**

A city shall have authority to acquire an easement for perpetual care by gift, grant, purchase, or exercise of the power of eminent domain in any cemetery, graveyard, or burial place within the city. When a perpetual care easement is acquired under this section, all city ordinances concerning the care and upkeep of city cemeteries shall be applicable to the cemetery, and the income from city perpetual care trust funds may be used to care for and maintain the cemetery. This section shall not apply to a cemetery licensed by the North Carolina State Burial Association Commissioner or to property owned or controlled by any church or religious organization unless the owner of the property consents to the acquisition. (1951, c. 385, s. 2; 1971, c. 698, s. 1.)

**§ 160A-347. Perpetual care trust funds.**

(a) A city is authorized to create a perpetual care trust fund for any cemeteries under its ownership or control, to accept gifts, grants, and devises on behalf of the perpetual care trust fund, to deposit any revenues realized from the sale of lots in or the operation of city cemeteries in the perpetual care trust fund, and to hold and administer the trust fund for the purpose of perpetually caring for and beautifying the city's cemeteries. The city may make contracts with the owners of plots in city cemeteries obligating the city to maintain the plots in perpetuity upon payment of such sums as the council may fix.

(b) The principal of perpetual care trust funds shall be held intact, and the income from such funds shall be used to carry out contracts with plot owners for the perpetual care of the plots, and to maintain and perpetually care for the cemetery.

(c) Perpetual care trust funds shall be kept separate and apart from all other city funds, and shall in no case be appropriated by, lent to, or in any manner used by the city for any purpose other than the perpetual care of city cemeteries. (1917, c. 136, subch. 9, s. 1; C.S., ss. 2810, 2811, 2812; 1927, c. 254; 1971, c. 698, s. 1; 2011-284, s. 113.)

**§ 160A-348. Regulation of city cemeteries.**

A city may by ordinance adopt rules and regulations concerning the opening of graves, the erection of tombstones and monuments, the building of walls and fences, the hours of opening and closing and all other matters concerning the use, operation, and maintenance of city cemeteries. The ordinance may impose a schedule of prices for lots and fees for the opening of graves in the cemetery, but it may not require the owners of plots to purchase monuments, vaults, or other items from the city. (1971, c. 698, s. 1.)

**§ 160A-349. Reserved for future codification purposes.**