

TITLE XXVI

CEMETERIES; BURIALS; DEAD BODIES

CHAPTER 289

CEMETERIES

Section 289:1

289:1 Definitions. – In this chapter, unless the context clearly requires otherwise:

I. "Burial ground" means a private family or religious institution's cemetery, mausoleum, or columbarium on private property and not available for use by the public. For purposes of this paragraph, the term "family" shall mean members of the immediate family and any individuals related by blood or marriage or civil union to members of the immediate family.

II. "Burial space" means a lot in any cemetery, mausoleum, or columbarium as designed and intended for the interment of a human body, bodies, or remains, but presently not used for such purpose.

III. "Cemetery" means any cemetery owned, managed, or controlled by any municipality within this state or owned and managed by any nonprofit cemetery corporation chartered by the state.

Mausoleums and columbariums shall be included within the term "cemetery."

IV. "Cemetery association" means a nonprofit cemetery corporation, the voting members of which are the owners of burial spaces in the cemetery owned and operated by the association.

V. "Cemetery corporation" means a nonprofit corporation organized for the purpose of operating a cemetery.

VI. "Cemetery trustees" means town cemetery trustees elected pursuant to the provisions contained in this chapter.

VII. "Corporate officer" means the elected or appointed managing officer of a nonprofit corporation established to operate a cemetery for public interment.

VIII. "Owner" means any person or persons owning or possessing the privilege, license, or right of interment in any burial space, as determined under RSA 290:24.

Source. 1994, 318:2. 2000, 95:1. 2008, 319:1, eff. Aug. 31, 2008.

Section 289:2

289:2 Municipality to Provide. – Every municipality shall provide one or more suitable cemeteries for the interment of deceased persons within its boundaries, which shall be subject to such regulations as the municipality may establish. In the absence of regulations established by vote of the legislative body, the cemetery trustees may establish such regulations pursuant to RSA 289:7, I(a). The operation and maintenance of all cemeteries owned and maintained by the municipality shall be in the charge of the cemetery trustees.

Source. 1994, 318:2, eff. Aug. 7, 1994.

289:4 Maintenance. – Every municipality shall raise and appropriate sufficient funds, by taxation or otherwise, to provide for the suitable care and maintenance of the municipal public cemeteries within its boundaries which are not otherwise provided for by an alternative funding source. Every municipality may raise and appropriate annually a sufficient sum to provide for the

suitable care and maintenance of deserted burial grounds and cemeteries which have been declared abandoned in accordance with RSA 289:19-21.

Source. 1994, 318:2, eff. Aug. 7, 1994. 2012, 4:1, eff. May 11, 2012.

289:13 Cemetery Association Termination. – Any cemetery laid out by an individual or corporation and located within the municipality, in which all lots have been sold and for the care of which trust funds are held by the municipality, may be deeded to the municipality with no implied financial liability to the municipality for the maintenance of the cemetery over and above the trust fund income, provided the municipality votes to accept such cemetery transfer. Municipalities may raise and appropriate additional funds for the care of such cemeteries. Upon the transfer of the title to the cemetery, the municipal cemetery trustees shall have the sole management responsibility for the cemetery.

289:14-a Maintenance, Repair, and Preservation of Burial Grounds. –

I. Any person or organization interested in caring for a burial ground which has not been maintained and the owner of which is unknown, or whose present address is unknown, may petition the selectmen, town council, mayor, or cemetery trustees for permission to clean, maintain, restore, and preserve that burial ground at the person's or organization's own expense. Upon approval of this petition on any conditions deemed appropriate, including the permission of the owner of the surrounding property, the selectmen, town council, mayor, or cemetery trustees shall require the person or organization to place an advertisement in a local newspaper providing notice that the burial ground is to be entered and that work is to be done, and notifying persons with a property interest in this burial ground who have objections to come forward by a date certain.

II. A petition under paragraph I may be granted notwithstanding the fact that the burial ground has not been declared abandoned pursuant to the procedure in RSA 289:20.

III. Any city, town, or public body shall be immune from civil liability in any action brought on the basis of any act or omission by any person who voluntarily and without compensation undertakes to maintain or to repair any burying ground.

IV. No private landowner permitting access over his or her property to a burial ground for the purpose of voluntary maintenance or repair of the burial ground shall be held civilly liable for any breach of duty resulting in injury to the person or damage to the property of those seeking to repair or maintain the cemetery.

V. After approval and notice required under RSA 635:6, II, any marker, gate, or other material removed for repair shall be stored and kept safely in a manner determined by the selectmen, town council, mayor, or cemetery trustees. Upon approval of the selectmen, town council, mayor, or cemetery trustees, a marker, gate, or other material deemed to be at risk of irreparable damage or loss may be placed permanently in a safe facility and the fact of its removal or replacement made visible in the cemetery or in public records.

Source. 2011, 97:2, eff. Jan. 1, 2012.