

Chapter 64

1955 REPLACEMENT PART

Cemetery and Cremation Associations

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CROSS REFERENCES

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Maintenance of cemeteries, 97.710 to 97.920

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CEMETERY ASSOCIATIONS

64.010 Authority to form association; members, trustees and clerk. Any number of persons, not less than seven and who are residents of the county in which they desire to form themselves into an association, may form themselves into a cemetery association. They may elect any number of their members, not less than three, to serve as trustees, and one of their number as clerk, who shall continue in office during the pleasure of the association. The trustees shall have perpetual succession and shall be capable in law of contracting, and of prosecuting and defending suits and actions.

64.020 Filing record of organizational meeting; fee; certificate of Corporation Commissioner. The clerk elected as provided in ORS 64.010 shall forthwith make out a true record of the proceedings of the meetings, provided for in such section. He shall certify to and file with the county clerk of the county where the meetings were held, a copy of the record. Another copy shall be certified to and filed in the office of the Corporation Commissioner, accompanied by a filing fee of \$5 together with the name by which the association desires to be known. If the record is sufficient in substance and form the commissioner shall file it and issue his certificate thereof, whereupon the trustees and their associated members and successors shall be invested with the powers, privileges and immunities incident to aggregate corporations.

64.030 Bylaws covering membership, trustees and officers, and meetings. The association shall have the power to prescribe the terms on which members may be admitted, the number of its trustees and officers and the time and manner of their election and appointment, the time and place of meeting for the trustees and for the association, and to pass all other bylaws necessary for the good government of the association and the proper transaction of its business.

64.040 Association's land, exemption from execution, taxation and condemnation. The association may purchase or take, by gift or devise, and own and hold lands exempt from execution and taxation, and from any appropriation for public purposes, for the sole purpose of a cemetery and may sell it in lots, if intended to be used exclusively for burial purposes, and in no wise with a view to the profit of the members

of such association. The land so held shall not exceed 600 acres; but if the land already held by the association is all practically used, the amount thereof may be increased by adding thereto not more than 20 acres at any one time.

64.050 Revenues of association; restrictions on uses thereof. The association may, by its bylaws, provide that a stated percentage of the money received from the sale of lots, donations or other sources of revenue shall constitute an irreducible fund, which may be invested in the manner or loaned upon the securities the association or its trustees deem proper. The interest or income arising from the irreducible fund, or so much thereof as is necessary, shall be devoted exclusively to the preservation and embellishment of the lots sold to the members of the association, and any surplus thereof not needed or used for such purpose shall be invested as provided in this section and shall become part of the irreducible fund. Where any bylaw has been enacted for the creation of the irreducible fund, it cannot thereafter be amended, except for the purpose of increasing the fund. After paying for the land, all the future receipts and income of the association, subject to the provisions in this section relating to the creation of an irreducible fund, whether from the sale of lots, donations, rents or otherwise, shall be applied exclusively to laying out, preserving, protecting and embellishing the cemetery and the avenues leading thereto, and in the erection of the buildings which may be necessary or convenient for cemetery purposes, and to pay the necessary expenses of the association. No debts shall be contracted in anticipation of any future receipts, except for originally purchasing, laying out and embellishing the grounds and avenues, for which debts the association may issue bonds or notes and secure them by way of mortgage upon any of its lands, excepting those lots conveyed to the members.

64.060 Restrictions on proximity of cemetery property to dwelling houses. (1) The association may adopt bylaws, and reasonable rules and regulations for the management thereof, the interments in the cemetery, and the disposing of and conveying of burial lots as it deems advisable. However, no association, corporation or person shall after February 24, 1903, lay out,

open up or use any property for cemetery or burial purposes within 200 yards of any dwelling house, without the consent of the owner of the house having first been obtained in writing. Such restriction shall not apply to cemeteries or burial places as laid out and in operation on February 24, 1903, or to land owned by any cemetery association at that time; except that in counties having a population of 60,000 or over, the boundaries of any cemetery or burial place as laid out and in operation on February 24, 1903, or land owned by any cemetery association at that time, shall not be extended so as to approach nearer than 200 yards to any dwelling house without the consent of the owner of the house having first been obtained in writing. Any land in counties now having a population of 200,000 or over, situated within or without any incorporated city or town and which is contiguous to a laid out and used cemetery may be used by the existing cemetery, or the organization operating it, for burial and cemetery purposes to within 200 feet of any dwelling house if the land was acquired and platted for that purpose and as a part of or as an extension of the existing and contiguous cemetery before June 16, 1930.

(2) The provisions of this section are not applicable to the Lincoln Memorial Park war veterans' burial ground nor any additions thereto, nor shall this section limit, in any way, any authority regarding such burial ground or additions thereto provided by any other law.

64.070 Selling land unsuited for burials. If in the trustees' opinion, any portion of their lands is unsuitable for burial purposes, they may sell it and apply the proceeds to the general purposes of the association in the same proportion and manner as provided by ORS 64.050 for the disposition of the proceeds of sales of lots and other revenues other than donations or proceeds of donations.

64.080 Burial lots, use, exemption from taxation and liens; lien for purchase price of gravestone. Burial lots sold by the association shall be for the sole purpose of interment, and shall be exempt from taxation, execution, attachment or other lien or process, if used as intended by the purchaser from the association, or his assigns or representatives, exclusively for burial purposes, and in nowise with a view to profit. The

vendor of any gravestone, however, shall not be prevented from having and enforcing a lien thereon for all or part of its purchase price. If a suit is brought to enforce such a lien, the decree therein is enforceable thereafter; and, for the purpose of enabling the lien to be had and enforced, the gravestone shall be deemed personal property and may be severed and removed, under execution and order of sale, from the lot where it is situated and may be sold in the same manner as any other personal property.

64.090 Recording plat; association's powers to improve grounds and erect buildings; annual report of affairs. The association shall cause a plan of its grounds and of the lots laid out by it to be made and recorded, such lots to be numbered by regular consecutive numbers. The association may inclose, improve, and adorn the grounds and avenues, erect buildings for the use of the association, prescribe rules for the designation and adorning of lots and for erecting monuments in the cemetery, and prohibit any use, division, improvement or adornment of a lot which it may deem improper. An annual exhibit shall be made of the affairs of the association.

64.100 Dissolution of cemetery association and transfer of property to cemetery maintenance district. Any cemetery association may, at any meeting of its members called for the purpose, by a vote of three-fourths of the members present, authorize its dissolution and provide for the transfer of all its property by gift to a cemetery maintenance district. The officers or trustees shall first cause to be published a notice of the time and place of holding the special meeting and its object in one issue of some daily or weekly newspaper of general circulation within the county where the association is located not less than 10 days prior to the time fixed for the special meeting; and it shall be the duty of the clerk of the association to deposit in the postoffice, not less than 10 days prior to the time fixed for the special meeting, written or printed notices directed to each member at his last known postoffice address stating the time and place of the special meeting and its object. The clerk of the association shall transmit to the Corporation Commissioner a full copy of the resolution authorizing the dissolution and transfer of such property

with a statement under oath that it was adopted at a meeting called as provided in this section. The copy of the resolution shall be accompanied by a duly certified copy of the deed to all of the real property of the association to a cemetery maintenance district, by proof under oath of the giving of notice of the meeting and by a fee of \$5. After the dissolution, it shall be unlawful for the association to engage in any business except that necessarily incidental to the settling of its affairs or the disposing of its property. [1955 c.299 §2]

64.110 to 64.200 [Reserved for expansion]

CREMATION ASSOCIATIONS

64.210 Authority to form association. Whenever any number of persons, not less than seven and who are residents of this state, desire to form an association for the purpose of the cremation of dead bodies and the burial and care of incinerate remains, they may do so in the manner provided in ORS 64.220 to 64.340.

64.220 Trustees and clerk; election. The persons desiring to form an association mentioned in ORS 64.210 shall meet and elect three or more of their number trustees, one of whom shall be designated clerk of the association.

64.230 Preparation and filing of articles of association. The trustees elected at the meeting provided for by ORS 64.220 shall forthwith make and subscribe written articles of association, in triplicate, and acknowledge the same before an officer authorized to take acknowledgment of deeds. The original of such articles shall be filed in the office of the Corporation Commissioner; the articles so filed shall be accompanied by a filing fee of \$5. Another copy shall be filed in the office of the county clerk of the county where the crematory is to be located; and the clerk of the association shall retain the third in his possession.

64.240 Articles of association; recordation; evidence of incorporation. The articles of association specified in ORS 64.230 shall be filed and recorded in the office of the county clerk in the manner and form provided in ORS 57.105, relating to the filing of articles of incorporation by private corporations. The articles of association re-

tained by the clerk of the association, or certified copies of those filed with the Corporation Commissioner or county clerk, shall be evidence of the association.

64.250 Contents of articles. The articles of association shall specify:

(1) The name assumed by the association, and by which it shall be known, and its duration, if limited.

(2) The object, business or pursuit of the association.

(3) The names of the trustees making the articles, the date and place of meeting at which the trustees were elected, and the mode and time of the election of their successors in office.

(4) The location or intended location of the grounds, buildings and property of the association.

(5) The place where the association proposes to have its principal office or place of business.

64.260 Powers of trustees and association generally. After the filing of the articles of association the trustees and their associated members, and successors, shall have the powers, privileges and immunities incident to aggregate corporations in this state. The trustees shall have perpetual succession and shall be capable in law of contracting and of prosecuting and defending actions and suits.

64.270 Bylaws. The association may prescribe by its bylaws, the terms on which members may be admitted, the number of its trustees and officers and the time and manner of their election and appointment, and the time and place of meeting for the trustees and for the association. The association may also adopt bylaws for the regulation and conduct of its business, and for other purposes it deems advisable; and it may adopt reasonable rules and regulations for the amendment of its bylaws.

64.280 Dealing with realty; exemptions from execution, taxation and appropriation. The association may purchase, or take by gift or devise, and own, improve and hold lands and buildings exempt from execution and taxation, and from any appropriation for public purposes for the sole purposes of a crematory and burial place for incinerate remains, not exceeding 30 acres. It may sell or convey, subject to the rules and regulations from time to time adopted by the

trustees, space in such buildings or lands for the sole purpose of the burial and care of incinerate remains. When the land already held by the association is all practically used, the amount thereof may be increased by adding thereto not more than 10 acres at any one time.

64.290 Selling land unsuited for burials.

The trustees may, whenever in their opinion any portion of their lands is unsuitable for burial of incinerate remains or other purposes of the association, sell such portion and apply the proceeds to the general purposes of the association in the same proportion and manner as is provided by ORS 64.310.

64.300 Debts. No debts shall be contracted by the association in anticipation of any future receipts, except for originally purchasing the lands authorized to be purchased by it, erecting buildings and vaults thereon, and improving them for the purposes of the association. The association may issue bonds or notes for debts so contracted and may secure them by way of mortgage upon its lands, buildings, property and improvements.

64.310 Revenues of associations, restrictions on the uses thereof; irreducible fund. The association shall by its bylaws provide that a stated percentage of the money received from donations, gifts, cremation of bodies or other sources of revenue, together with 50 percent of all moneys derived from the sale of burial space in buildings or grounds, shall constitute an irreducible fund. This fund may be invested in such manner or loaned upon such securities as the association or the trustees deem proper. The interest or income arising from the irreducible fund provided for in this section or by any bylaws, or so much thereof as may be necessary, shall be devoted exclusively to the preservation and embellishment of the grounds, buildings and property of the association or the space in buildings or grounds sold to members of the association, or to the payment of the interest or principal of the debts authorized by ORS 64.300 for the purchase of land, erecting buildings and improvements. Any surplus thereof not needed or used for these purposes shall be invested as provided in this section and become a part of the irreducible fund. Any bylaw enacted for the

creation of the irreducible fund cannot thereafter be amended except for the purpose of increasing the fund. After paying for the land and the erection of the original buildings and improvements thereon, all the future receipts and income of the association, subject to the provisions in this section for the creation of an irreducible fund, whether from donations, gifts, receipts from the cremation of bodies or other sources, shall be applied exclusively to preserving, protecting, embellishing and beautifying the crematory and grounds thereof, and to the erection of such buildings and improvements as may be necessary and convenient for the purposes of the crematory, and to pay the necessary expenses of the association.

64.320 Burial space, use, exemption from taxation, execution or liens. Space for burial of incinerate remains in buildings or grounds, sold by the association, shall be for the sole purpose of interment, or deposit and safekeeping of incinerate remains. Such space shall be exempt from taxation, execution, attachment or other lien or process, if used as intended by the purchaser thereof from the association, or his assigns or representatives, exclusively for burial purposes, and in nowise with a view to profit.

64.330 Recording plats; association's powers to improve grounds and erect buildings. The association shall cause a plan of its grounds and lots, and of the niches or burial space in the buildings erected thereon, to be made and recorded, such lots and spaces to be numbered by regular consecutive numbers. The association may inclose, improve, and adorn the grounds, buildings and avenues, prescribe rules for the designation, improvement and adorning of lots and burial places in the grounds and buildings, and for erecting monuments, and prohibit any use, division, improvement or adornment of any lot or burial space, which they may deem improper.

64.340 Corporation accepting benefit of ORS 64.210 to 64.340. Any corporation existing before May 22, 1903, for the cremation of dead bodies may receive the benefits of ORS 64.210 to 64.340 by filing with the Corporation Commissioner and the county clerk a certified copy of the resolution of the corporation that it desires to receive such benefits, and by otherwise conforming the cor-

poration to the requirements of ORS 64.210 to 64.340.

64.350 to 64.400 [Reserved for expansion]

PROVISIONS APPLICABLE TO A CREMATORY OR CEMETERY ASSOCIATION

64.410 Change of name or articles of crematory or cemetery association. Any crematory or cemetery association may, at any regular meeting or at a special meeting called for the purpose, by a vote of three-fourths of the members present, change its name, or otherwise amend its articles in any respect not inconsistent with the provisions of ORS 64.210 to 64.340. Notice of the change of name or other amendments shall be certified by the clerk of the association to the Corporation Commissioner under oath and over the seal of the association, if it has a seal, with a full copy of the resolution

authorizing the change of name or other amendments and with a statement that it was duly adopted at a meeting called as provided in this section, accompanied by a fee of \$5.

64.420 Dissolution of a crematory or cemetery association. (1) A crematory or cemetery association may be dissolved as provided in ORS 61.140.

(2) If any cemetery association transfers all its property to any incorporated city, as provided in ORS 226.420 to 226.440, such cemetery association shall be dissolved by filing and having recorded in the office of the Corporation Department, the resolution of its trustees duly certified by the clerk of the association under its corporate seal, together with a duly certified copy of the deed to all the real property of the association to the incorporated city to which the cemetery association has transferred all its real and other property, as provided in ORS 226.420 to 226.440.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

CHAPTERS 65 TO 67

[Reserved for expansion]

