

UNEDITED

# *The Cemetery Act*

*being*

Chapter 82 of *The Revised Statutes of Saskatchewan, 1909*  
(effective March 15, 1911).

FOR HISTORICAL REFERENCE ONLY

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER 82

### An Act respecting Cemeteries

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as “*The Cemetery Act.*”

C.O. 1898, c.68, s.1; R.S.S. 1909, c.82, s.1.

#### INCORPORATION OF COMPANIES

##### Continuation of companies

- 2 All companies formed under the provisions of chapter 24 of *The Revised Ordinances 1888*, intituled “*An Ordinance to incorporate Companies for the Establishment of Cemeteries,*” or of any amendment thereto or of chapter 68 of *The Consolidated Ordinances 1898*, intituled “*An Ordinance respecting Cemeteries*” in existence as such are hereby continued as bodies politic and corporate and they shall be subject to the provisions of this Act.

C.O. 1898, c.68, s.2; R.S.S. 1909, c.82, s.2.

##### Conditions of incorporation

- 3 Any number of persons not less than ten may form themselves into a company for the purpose of establishing one or more public cemeteries outside the limits of any town or village or within such limits if permission be given by bylaw of such town or village for such establishment within its limits, who have:

- (a) Subscribed stock to an amount adequate to the purchase of the ground required for such cemetery; and
- (b) Executed an instrument according to the form in section 5 of this Act contained; and
- (c) Paid to the treasurer of the proposed company twenty-five per cent. of the capital stock intended to be raised; and
- (d) Deposited such instrument or a duplicate thereof together with a receipt from the treasurer for the first instalment of twenty-five per cent. in the office of the provincial secretary.

C.O. 1898, c.68, s.3; R.S.S. 1909, c.82, s.3.

##### Provincial secretary to give notice of formation of company/Powers

- 4 Notice of the formation of the proposed company shall be forthwith given by the provincial secretary in *The Saskatchewan Gazette* setting forth the name of the said company and the persons constituting the same and from and after the date of the publication of such notice the persons therein named and their successors shall be a body corporate and politic under the name mentioned therein and as such body corporate and politic shall have all rights and be subject to all the liabilities of a corporation and shall have full power to acquire, hold and alienate both real and personal estate for all the purposes of the company.

C.O. 1898, c.68, s.4; R.S.S. 1909, c.82, s.4.

**Form of instrument**

**5** The instrument referred to in section 3 of this Act may be in the form following:

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand nine hundred and \_\_\_\_\_ we the undersigned shareholders met at \_\_\_\_\_ in Saskatchewan and resolved to form ourselves into a cemetery company to be called The \_\_\_\_\_ Cemetery Company under the provisions of *The Cemetery Act*; and we do hereby agree that the capital stock of the said company shall be \_\_\_\_\_ dollars to be divided into shares of \_\_\_\_\_ dollars each entitling the holder to one hundred superficial feet; and we the undersigned shareholders do hereby agree to accept and take the number of shares set by us opposite our respective signatures; and we do hereby agree to pay the calls thereon according to the provisions of the said Act and the rules and regulations and bylaws of the company to be made in that behalf.

NAME	NO. OF SHARES	AMOUNT

C.O. 1888, c.68, s.5; R.S.S. 1909, c.82, s.5.

**TRUSTEES OF RELIGIOUS BODIES****Continuation of trustees**

**6** Trustees appointed under the provisions of Ordinance No. 5 of 1892 intituled, "*An Ordinance respecting the Holding of Cemeteries in Trust for Religious Bodies*" or under chapter 68 of *The Consolidated Ordinances 1898*, being *An Ordinance respecting Cemeteries* and in existence at the time of the coming into force hereof are hereby continued and shall be subject to the provisions of this Act affecting trustees appointed hereunder.

C.O. 1808, c.68, s.6; R.S.S. 1909, c.82, s.6.

**Organisation of board of trustees**

**7** When any one or more religions societies or congregations in Saskatchewan desire to take a conveyance or transfer trustees of land for the purpose of establishing a cemetery for the use of such society or congregation or for the use in common of such societies or congregations such society or congregation or societies or congregations, as the case may be, may appoint trustees to whom and their successors to be appointed in such manner and subject to such regulations as may be specified in the deed of conveyance or transfer, the land requisite for the purpose aforesaid may be conveyed and such trustees and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein.

C.O. 1898, c.68, s.7; 1908, c.38, s.7; R.S.S. 1909, c.82, s.7.

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**Appointment of successors to trustees**

**8** If the deed of conveyance or transfer of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the society or congregation or societies or congregations for whose use such land is held may enter into an agreement with each other in writing in such manner as may seem to them best and such agreement shall specify the manner in which the successors of the trustees for the term then being are to be appointed and such agreement indorsed on or annexed to a certified copy of the transfer or deed of conveyance under which the land is held for the use of the said society or congregation or societies or congregations and signed by the accredited agents of such society or congregation or societies or congregations shall govern and regulate the manner in which the successors of the trustees named in the original grant, conveyance or transfer shall be appointed and the regulations to which they shall be subject.

C.O. 1898, c.68, s.8; R.S.S. 1909, c.82, s.8.

**Transfer of land to be registered**

**9** Such trustees shall within twelve months after the execution of the deed of conveyance or transfer cause the deed or transfer to be registered in the land titles office of the land registration district within which the land is situated otherwise the said deed shall be void.

C.O. 1898, c.68, s.9; R.S.S. 1909, c.82, s.9.

**Purposes of land**

**10** The trustees and their successors shall thenceforth hold and convey the land for the purpose exclusively of a cemetery or place for the burial of the dead.

C.O. 1898, c.68, s.10; R.S.S. 1909, c.82, s.10.

## PROVISIONS AFFECTING COMPANIES

**Interest on paid up stock**

**11** From and out of the proceeds of the sales of burial sites made by the company the company may pay to its shareholders who may not desire to take land in the cemetery to the full extent of the stock subscribed and paid for by them interest on their paid up stock not represented by land in the cemetery at such rate as may be agreed on not exceeding eight per centum per annum and may also repay to such shareholders the amount of paid up stock held by them not represented by land in the cemetery.

**Rights of shareholders**

(2) Every such shareholder of the said company shall be taken to be a shareholder and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company held by him and fully paid up and which are not represented by land in the cemetery until such shares are repaid to him by the company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share.

**When no dividend payable**

(3) Except as aforesaid no dividend or profit of any kind shall be paid by the company to any member thereof.

C.O. 1898, c.68, s.11; R.S.S. 1909, c.82, s.11.

**Application of proceeds of sale**

**12** Subject to the provisions in the preceding section contained one half of the proceeds of all sales of burial sites made by the company shall be first applied to the payment of the purchase money of the land acquired by the company and the residue to preserving, improving and embellishing the land as a cemetery and to the incidental expenses of the company; and after payment of the purchase money the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof and to no other purpose whatever.

C.O. 1898, c.68, s.12; R.S.S. 1909, c.82, s.12.

**Owner of lot a shareholder**

**13** Every proprietor of a lot in the cemetery containing not less than one hundred superficial feet who has paid twenty-five per cent. or more of the price of the lot shall be deemed a shareholder in the company and every such lot shall be deemed a share in the company.

C.O. 1898, c.68, s.13; R.S.S. 1909, c.82, s.13.

**Qualification of directors**

**14** Every shareholder who has paid to the company not less than \$5 in all on his share or shares shall be eligible as a director.

C.O. 1898, c.68, s.14; R.S.S. 1909, c.82, s.14.

**Size of lots/Rights of owners**

**15** The company may sell a lot of any size; but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof.

C.O. 1898, c.68, s.15; R.S.S. 1909, c.82, s.15.

**Board of directors**

**16** The affairs and property of the company shall be managed by three directors, a majority of whom shall form a quorum.

C.O. 1898, c.68, s.16; R.S.S. 1909, c.82, s.16.

**Choice of directors**

**17** The first directors shall be chosen by ballot from among the subscribers to the instrument creating the company; and thereafter the directors shall be annually elected by the shareholders on the first Monday in June in every year.

C.O. 1898, c.68, s.17; R.S.S. 1909, c.82, s.17.

**Qualification of shareholders to vote**

**18** Upon every election of directors, including the first, every shareholder shall be entitled to one vote for every share he holds or is possessed of up to ten and one vote for every five shares above ten; but no shareholder shall vote unless he has paid at least \$2 upon each share upon which he votes.

C.O. 1898, c.68, s.18; R.S.S. 1909, c.82, s.18.

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**President**

**19** The directors or a majority of them shall at their first meeting elect one of their number to be president of the company and the president if present or if he is not present then some director chosen for the occasion shall preside at every meeting of the directors and shall not vote except in case of an equality of votes when he shall have a casting vote.

C.O. 1898, c.68, s.19; R.S.S. 1909, c.82, s.19.

**Calls on stock/Forfeiture for nonpayment**

**20** The directors may also call for instalments on the sums subscribed for and may appoint a time for the payment thereof and if the same are not then paid the right of the subscriber and every instalment formerly paid shall be forfeited and he shall be held not to have subscribed unless the directors think it expedient to remit the forfeiture which they may do if the instalments are paid with interest within one year after the day when they ought to have been paid.

C.O. 1898, c.68, s.20; R.S.S. 1909, c.82, s.20.

**Records**

**21** The directors shall record in a book kept for the purpose all their bylaws and proceedings and every shareholder shall have access to such book for the purpose of searching and making extracts therefrom without payment of any fee.

C.O. 1898, c.68, s.21; R.S.S. 1909, c.82, s.21.

**Exclusive reservation**

**22** The directors may reserve for the exclusive use of any religious society or congregation such part of the cemetery and upon such terms and conditions as may be agreed upon.

C.O. 1898, c.68, s.22; R.S.S. 1909, c.82, s.22.

**Graves for strangers and poor**

**23** The company shall furnish graves for strangers and for the poor of all denominations free of charge on the certificate in the latter case of a minister or clergyman of the denomination to which the deceased belonged that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery.

C.O. 1898, c.68, s.23; R.S.S. 1909, c.82, s.23.

## GENERAL PROVISIONS

**Walls and fences**

**24** The company shall within two years from its incorporation and the trustees shall within two years from their appointment by walls or other fences inclose every part of the cemetery held by them.

C.O. 1898, c.68, s.24; R.S.S. 1909, c.82, s.24.

**Repair of property**

**25** The company or trustees, as the case may be, shall keep the cemetery and the building and fences thereof in complete repair and in good order and condition.

C.O. 1898, c.68, s.25; R.S.S. 1909, c.82, s.25.

**Drains and sewers**

**26** The company or trustees, as the case may be shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and they may from time to time as occasion requires cause any such sewer or drain to open into an existing sewer with the consent in writing of the persons having the management of the street or road and with the like consent of the owner or occupier of the land through which or part of which the opening is intended to be made doing as little damage as possible to the street, road or land wherein the same is made and restoring it to the same or as good condition as it was in before being disturbed.

C.O. 1898, c.68, s.26; R.S.S. 1909, c.82, s.26.

**Penalty for fouling water**

**27** If the company or trustees, as the case may be, at any time cause or suffer to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place any offensive matter from the cemetery whereby the water is fouled the company or trustees, as the case may be, shall forfeit for every such offence \$500.00.

C.O. 1898, c.68, s.27; R.S.S. 1909, c.82, s.27.

**Suit for penalty/Limitation of action**

**28** The said penalty with full costs of suit may by a civil action in any court of competent jurisdiction be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence or within six months after it has ceased.

C.O. 1898, c.68, s.28; R.S.S. 1909, c.82, s.28.

**Further penalty**

**29** In addition to the penalty of \$500 (and whether the same has been recovered or not) any person having a right to use the water may sue the company or trustees, as the case may be, in a civil action for any damage specially sustained by him by reason of the water being fouled or if no special damage is alleged then for the sum of \$10 for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company or trustees, as the case may be.

C.O. 1898, c.68, s.29; R.S.S. 1909, c.82, s.29.

**No grave near buildings**

**30** No body shall be buried in a vault or other space under any chapel or other building in the cemetery nor within fifteen feet of the outer wall of any such chapel or building.

C.O. 1898, c.68, s.30; R.S.S. 1909, c.82, s.30.

**Proper conduct of funerals**

**31** The company or trustees, as the case may be, shall make regulations to ensure all burials within the cemetery being conducted in a decent and solemn manner.

C.O. 1898, c.68, s.31; R.S.S. 1909, c.82, s.31.

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**Exemption from taxes**

**32** The real estate of the company or trustees and the lots or plots when conveyed by the company or trustees to individual proprietors for burial sites shall be exempt from taxation of any kind and shall not be liable to be seized or sold under execution.

C.O. 1898, c.68, s.32; R.S.S. 1909, c.82, s.32.

**Bylaws**

**33** The directors of the company may pass bylaws and the trustees may frame regulations for the laying out, selling and management of the cemetery and for regulating the erection of tombs, monuments and gravestones therein; and the directors of the company may pass bylaws empowering the president to execute conveyances of plots to shareholders.

C.O. 1898, c.68, s.33; R.S.S. 1909, c.82, s.33.

**Record of regulations and burials**

**34** The directors shall keep a record of the bylaws and the trustees shall keep a record of the regulations referred to in the next preceding section and the directors and trustees respectively shall also keep a separate record of all burials showing name, age, occupation and date of burial of all persons buried within the cemetery and in case they cannot get all the particulars a note of such must be made in the margin and every person shall have access to such last mentioned record for the purpose of searching and making extracts therefrom without payment of any fee.

C.O. 1898, c.68, s.34; R.S.S. 1909, c.82, s.34.

**Penalties**

**35** Any person who in any cemetery:

- (a) Plays any game or sport; or
- (b) Discharges fire arms (save at a military funeral); or
- (c) Commits a nuisance therein;

shall on summary conviction thereof be liable to a fine not exceeding \$100 and costs of prosecution.

C.O. 1898, c.68, s.35; 1908, c.38, s.7 (2); R.S.S. 1909, c.82, s.35.

**Liability of trustees**

**36** The trustees shall be personally liable for any judgment recovered against them as trustees.

C.O. 1898, c.68, s.36; R.S.S. 1909, c.82, s.36.t

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