

Article 17A.

Cemetery Trustees.

§ 160A-349.1. Creation of board authorized; official title; terms of office; vacancies.

The governing body of any municipal corporation which now owns or shall hereafter own a cemetery is authorized, if it is deemed proper, to create a board composed of not less than three nor more than five persons, to be known as "Cemetery Trustees of the Town or City of _____, North Carolina"; shall fix the term of office of each member, in no case to exceed five years, and in case of any vacancy by death, resignation or otherwise, elect a successor. (Pub. Loc. 1923, c. 583, s. 1.)

§ 160A-349.2. Members to meet and organize; meetings; bond of secretary and treasurer; record of proceedings.

The members of said board, when properly elected, shall within 30 days after notice of their election convene and designate one of their number chairman, one secretary and treasurer, and provide for regular meetings at such times as the said board shall fix; it shall also fix the bond to be given by the secretary and treasurer, conditioned for the faithful accounting of all moneys which shall come into his hands; shall provide for special meetings, and shall cause the secretary to keep a record of its proceedings. (Pub. Loc. 1923, c. 583, s. 2.)

§ 160A-349.3. Property vested.

Upon the creation of such board the title to all property held by the town or city and used for cemetery purposes shall pass to and vest in said board, subject to the same limitations, conditions and restrictions as it was held by the town or city; provided, that the governing body of the town or city may at any time by resolution direct that title to such property shall pass to and vest in the town or city itself, and in such event it shall be the duty of the board and its officers to execute all necessary documents to effect such transfer and vesting. (Pub. Loc. 1923, c. 583, s. 3; 1979, 2nd Sess., c. 1247, s. 30.)

§ 160A-349.4. Control and management; superintendent and assistants; enumeration of powers.

The said board shall have the exclusive control and management of such cemetery; shall have the power to employ a superintendent and such assistants as may be needed, and may do any and all things pertaining to the control, maintenance, management and upkeep of the cemetery which the governing body of the town or city could have done, or which by law the governing body of the town or city shall hereafter be authorized to do. (Pub. Loc. 1923, c. 583, s. 4.)

§ 160A-349.5. Rules continued in force.

All rules and regulations heretofore adopted by the town or city for the control, upkeep, management, and maintenance, as well as policing of the cemetery, shall continue in force and effect until and after the said board shall have changed the same as herein provided for. (Pub. Loc. 1923, c. 583, s. 5.)

§ 160A-349.6. Rules for maintaining order and policing; force of rules; copy to governing body; publication.

The said board shall have power to adopt rules and regulations for maintaining order in the cemetery and policing the same, and such rules and regulations, when adopted, shall have the same

force and effect as ordinances adopted and passed by the governing body of the town or city. When any such rules and regulations shall be adopted the secretary of the board shall transmit a copy thereof to the governing body of the town or city, and shall cause a copy to be published in some newspaper published in the town or city, and the said rules and regulations shall be in force and effect 10 days after their publication. (Pub. Loc. 1923, c. 583, s. 6.)

§ 160A-349.7. Presentation of budget; details of budget; appropriation; payment to board.

Thirty days prior to the adoption of the annual budget by the governing body of the town or city, the said trustees shall present to such governing body a budget for the ensuing year, in which said budget there shall be set out in detail an accurate account of the receipts and expenditures of the board for the previous year, the estimated expense for the ensuing year, the estimated source of income from all sources, other than appropriation by the governing body of the town or city, any balance on hand, and such other information as the said trustees may think proper; and the said governing body of the town or city shall in the annual budget include such appropriation as it deems proper for the care and maintenance of the said cemetery for the ensuing year, which shall be paid over to the board of trustees in monthly installments.

For purposes of the Local Government Budget and Fiscal Control Act (Chapter 159, Subchapter III), the board of trustees of a cemetery is a board of the municipal corporation establishing the board of trustees and is not a public authority as defined by G.S. 159-7. (Pub. Loc. 1923, c. 583, s. 7; 1971, c. 780, s. 37.3; 1973, c. 474, s. 31; 1979, 2nd Sess., c. 1247, s. 31.)

§ 160A-349.8. Commissioners to obtain maps, plats and deeds; list of lots sold and owners; surveys and plats to be made; additional lots, streets, walks and parkways; price of lots; regulation of sale of lots.

The board of trustees shall obtain from the governing body all maps, plats, deeds and other evidences relating to the lands, lots and property of the cemetery; they shall also obtain from the governing body of the town or city, as nearly as possible, an accurate list of the lots theretofore sold, together with the names of the owners thereof. The said board of trustees shall from time to time cause surveys to be made, maps and plats prepared, laying out additional lots, streets, paths, walks and parkways; shall fix a price at which such lots shall be sold, which price may from time to time, in the discretion of the board, be changed; shall adopt rules and regulations as to the sale of said lots and deliver to the purchaser or purchasers deed or evidences of title thereto. (Pub. Loc. 1923, c. 583, s. 8.)

§ 160A-349.9. Power to acquire land; adjacent property; disposal of money from lot sales; investments; income from investment.

The said board shall have the power to acquire additional lands for cemetery purposes, either by purchase or otherwise. In making such additional acquisitions of property, if possible, they shall acquire adjacent property; all moneys received from the sale of lots shall be held by the board of trustees intact and used for the purchase of additional lands; to beautify and otherwise maintain and keep the present property and the future acquired property. The board may, if it seems best to it, invest the said money in good, interest-bearing securities, payable to the said board, and the income derived therefrom shall be by the board used in the beautifying, maintenance and upkeep of the cemetery or cemeteries under its control. (Pub. Loc. 1923, c. 583, s. 9.)

§ 160A-349.10. Power to condemn land; procedure for condemnation; board incorporated.

If it becomes necessary to acquire additional lands for cemetery purposes and the board cannot agree with the owners upon the price thereof, the board shall have the power to condemn the lands for cemetery purposes, and in so doing the provisions of Chapter 40A of the General Statutes shall be followed as nearly as possible, and to that end, and for that purpose, the board of trustees of any cemetery acquired under this Article shall be deemed and considered a corporation and a body politic. (Pub. Loc. 1923, c. 583, s. 10; 2001-487, s. 38(i).)

§ 160A-349.11. Price of lands included in budget.

If any lands are acquired by purchase or condemnation for cemetery purposes and the board of trustees shall not have sufficient funds with which to pay for the same, the amount necessary shall be included in their budget request, and the governing body of any town or city may make an appropriation to complete the purchase. (Pub. Loc. 1923, c. 583, s. 11; 1979, 2nd Sess., c. 1247, s. 32.)

§ 160A-349.12. Power to accept gifts; exclusive use of gifts.

The board of trustees of any cemetery shall have the power to accept gifts, either by devise or otherwise, and hold the same for the purposes expressed in the gift, and any monies coming into the hands of such board by devise or otherwise shall be by the board used exclusively for the purposes for which it is given. (Pub. Loc. 1923, c. 583, s. 12; 2011-284, s. 114.)

§ 160A-349.13. Sale of unnecessary property.

The board of trustees of any cemetery, created pursuant to this Article, shall have the power to sell at public auction, as provided by G.S. 160-59, any real property, title to which is held by it, which it shall determine to be unfit or unnecessary for cemetery purposes, except when such sale would violate the terms of any deed, gift or trust pursuant to which the property proposed to be sold was acquired. Any such sales and conveyances heretofore made by any such board of trustees are hereby validated. (1951, c. 87.)

§ 160A-349.14. Exercise of powers subject to approval.

The board may not act to acquire or sell land pursuant to G.S. 160A-349.9, G.S. 160A-349.10, or G.S. 160A-349.13 unless such action was approved in advance by the governing body of the town or city. (1979, 2nd Sess., c. 1247, s. 33.)

§ 160A-349.15. Termination.

The governing body of the town or city shall have the authority to terminate the existence of the board at any time. In the event of such termination, all property and assets of the board shall automatically become the property of the town or city and the town or city shall succeed to all rights, obligations and liabilities of the board. Further, in the event of such termination, it shall be the duty of the board and its officers to execute all necessary documents to effect the transfer of property and assets to the town or city. (1979, 2nd Sess., c. 1247, s. 34.)