

TITLE 27
CEMETERIES AND CREMATORIIUMS

CHAPTER 3
RIGHTS AND TITLE TO CEMETERY LOTS

27-301. COUNCIL OR BOARD PROCEDURES. (1) A city council or cemetery maintenance district board may pass a resolution requesting that the owner, or his or her heir or assign, of a lot, site or portion of the cemetery that has been unused for burial purposes for more than fifty (50) years, file with the city clerk with respect to a city cemetery, or the secretary with respect to a cemetery maintenance district, a written statement of continuing claim or interest in the lot, site or portion of the cemetery, if not otherwise limited by the express terms of the rights of burial accorded by the cemetery owner.

(2) The city council or cemetery maintenance district board shall then cause a copy of the resolution to be personally served on the owner, if possible, by delivering a copy of the resolution to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of eighteen (18) years then residing therein. The resolution shall notify the owner that the owner shall, within sixty (60) days after service of the resolution on the owner, express his or her interest in maintaining the cemetery lot, site or portion of the cemetery by filing with the city clerk with respect to a city cemetery, or the secretary with respect to a cemetery maintenance district, a written statement of his or her continuing claim or interest in the lot, site or portion of the cemetery.

(3) If it is determined that the owner is deceased, the requirement to personally serve the owner may be met by mailing a copy of the resolution to all known or reasonably ascertainable heirs of the owner. A search for heirs shall include an inquiry into the next succeeding owner(s) of a decedent's real property and a basic online search for information about the heirs of the deceased owner.

(4) If the owner cannot be personally served with the resolution of the city council or cemetery maintenance district board as required in subsection (2) of this section, the city council or cemetery maintenance district board shall publish its resolution for three (3) successive weeks in a newspaper of general circulation within the county and shall mail a copy of the resolution within fourteen (14) days after the publication to the owner's last known address, if available.

(5) If the owner or one (1) of his or her heirs or assigns shall, in response to said resolution, submit a written statement of continuing interest in the lot, site or portion of the cemetery for burial purposes, the city or cemetery maintenance district shall reissue to said person a new conveyance document evidencing his or her interest in said lot, site or portion of the cemetery for burial purposes, in accordance with its usual practices. If more than one (1) heir or assign shall state competing claims in the lot, site or portion of the cemetery in question, the city or cemetery maintenance district shall so notify all such competing heirs or assigns, but shall have no authority to adjudicate the relative merits of said claims or interests. If, within ten (10) years from the date of said notification, the competing heirs or assigns shall not have agreed upon a resolution of their various interests or adjudicated the same, the city or cemetery maintenance district may re-

quire from each a renewed written statement of each such heir's or assign's continuing claim or interest in the lot, site or portion of the cemetery, by complying with the provisions of this section. The city or cemetery maintenance district may repeat this process every ten (10) years, as necessary, until such time as ownership of the lot is vested in an individual. Alternatively, when facing competing claims among heirs, the cemetery operator may file an interpleader in a court of competent jurisdiction to determine the rights of all claiming an ownership interest in the cemetery lots in question.

(6) If, for sixty (60) days after the last date of service, mailing and/or publication of the city council's or cemetery maintenance district board's resolution, the owner, or his or her heir or assign, of the cemetery lot fails to state an interest in the cemetery lot, site or portion of the cemetery for burial purposes, the owner's rights, or the rights of his or her heirs and/or assigns, are terminated, and that portion of the cemetery shall be vested in the city or cemetery maintenance district.

[27-301, added 2016, ch. 171, sec. 1, p. 472.]

27-302. RIGHTS OF LOT HOLDERS -- COMPENSATION. (1) The owner, or his or her heir or assign, shall have the right, on presentation of the certificate of title or right to burial to the city or cemetery maintenance district, to conveyance of any lot or parcel that has reverted to the city or cemetery maintenance district, if the lot or parcel has not been resold. If such lot or parcel has been resold, said owner, or his or her heir or assign, shall have the right, at the option of the city or cemetery maintenance district, to:

- (a) Receive a right to burial in another lot or parcel; or
- (b) Be compensated for the lot or parcel at the reasonable value of the lot or parcel as of the date the certificate is presented to the city or cemetery maintenance district.

[27-302, added 2016, ch. 171, sec. 1, p. 473.]

27-303. PROCEEDS OF RESALE OF LOTS OR PARCELS. The proceeds from the subsequent resale of any lot or parcel, title to which has been revested in the city or cemetery maintenance district under this chapter, less the costs and expenses incurred in the proceeding, shall become part of the permanent care and improvement fund of the city or cemetery maintenance district, subject to subsequent disposition in accordance with Idaho law.

[27-303, added 2016, ch. 171, sec. 1, p. 473.]

27-304. ADDITIONAL RESTRICTIONS NOT PROHIBITED. Nothing in this chapter shall prevent cities or cemetery maintenance districts from imposing additional terms on the sale or conveyance of rights to burial, nor from the insertion of reversionary clauses into a certificate of title or right to burial for periods of inactivity of less than fifty (50) years.

[27-304, added 2016, ch. 171, sec. 1, p. 473.]