



Rhode Island Historical Cemetery Commission Handbook

December 2014

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Caring for our Cemeteries

The purpose of this handbook is to aid and provide information on the laws of Rhode Island as they pertain to the maintenance, use, recording, and saving of our historical cemeteries. It is being made to public agencies statewide and anyone who has an interest in our cemeteries.

In it, you will find:

1. Information on working in a cemetery.
2. The current general laws of the laws of the state of RI that pertain to cemeteries. Extracted from <http://webserver.rilin.state.ri.us/Statutes/> in November, 2014.
3. A current list of members of the commission for the various districts and who can be contacted if you have any questions.

The online version of this document may be found at:

<http://www.rihistoriccemeteries.org/PDF/rihistoricalcemeteryhandbook.pdf>.

Margaret (Pegee) Malcolm, Chair

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Working in an historical cemetery

Before working in a historical cemetery, permission should be obtained from the owner of the land on which it is located. This is not only courteous but it also avoids trespassing. However, please be aware that landowners are not required to grant access to persons who are not heirs or descendants of the persons buried in the cemetery. Cemeteries are sacred spaces. They must be treated with respect. This means that you must avoid yelling or loud talk. You should avoid walking on graves whenever and wherever possible.

Many of our old cemeteries just need a caring person or group to remove over grown briars, small trees and leaves that have accumulated through the years. If you have an interest in doing this type of work, please contact:

Pegee Malcolm who is our Chairperson -
Home: 401-467-8142
Cell: 401-527-1823
pmalcolm@cox.net

Or one of the commissioners in your county.

Some suggested Do's and don'ts:

- DO seek permission from property owner to pass through their land. Ask where to park. Respect their land and their wishes. Leave no refuse. Leave everything better than you find it.
- DO NOT move gravestones.
- Record names and dates if stones have not previously been documented. Call/email Commissioner with this information. Photograph if possible.
- DO NOT cut large living trees
- DO NOT drag fallen trees across gravestones. Lift carefully
- DO NOT cut brush in the spring as it will multiply.
- DO cut between October and January.
- DO take away any debris.
- DO wear gloves, safety glasses. Watch for poison ivy, oak and sumac. Use rubbing alcohol as soon as possible on you and your equipment.
- DO NOT sit, lean, or rest on stones. Stones are often far more fragile than they at first appear. In fact, assume that all stones are fragile and contain internal damage.
- GRAVESTONE RUBBING is not recommended except under expert supervision.
- DO NOT attempt to right fallen stones or repair is not to be undertaken unless you have attended classes on the process. Improper attempt at repair is worse than no attempt.
- PHOTOGRAPHY is welcome. Take before and after photos. Record date, cemetery location and direction photo was taken. If you have undocumented grave stones, please let us know so we can update the Historical Cemetery Database.
- Use a "Space Pen" as it writes upside down and when the paper is wet.

Permission form, Volunteer Slip, Cemetery Inspection Report and Marker Transcription forms can be found in APPENDIX A – D

Rhode Island General Laws Pertaining to Cemeteries

CHAPTER 11-20 Graves and Corpses

SECTION 11-20-1

§ 11-20-1 Disinterment of body. – Every person who shall, without proper authorization, disinter, dig up, remove, or carry away any human body from its place of sepulture, or who shall knowingly conceal any such body so disinterred or carried away, shall be imprisoned not exceeding ten (10) years or fined not exceeding one thousand dollars (\$1,000).

History of Section.

(G.L. 1896, ch. 281, § 21; G.L. 1909, ch. 347, § 22; G.L. 1923, ch. 399, § 22; G.L. 1938, ch. 610, § 22; G.L. 1956, § 11-20-1; P.L. 1991, ch. 66, § 1.)

SECTION 11-20-1.1

§ 11-20-1.1 Mutilation of dead human bodies – Penalties – Exemptions. – (a) Except as provided in this section, a person who dissects or mutilates a dead human body is guilty of a felony punishable by imprisonment for not more than three (3) years, or a fine of not more than five thousand dollars (\$5,000), or both.

(b) This section does not apply to:

(1) A physician or surgeon acting on the order of a court of competent jurisdiction, a coroner or other qualified officer, a licensed funeral director or a licensed embalmer;

(2) Dissection to determine the cause of death when authorized by the nearest living kin of the deceased;

(3) Unclaimed dead human bodies delivered by state or county authorities to regularly chartered institutions for scientific research;

(4) The necessary mutilation incident to embalming a dead human body when authorized by nearest living kin, a court of competent jurisdiction or other qualified officer; or

(5) Conduct authorized by the Uniform Anatomical Gift Act, chapter 18.6 of title 23.

History of Section.

(P.L. 1998, ch. 433, § 1.)

SECTION 11-20-1.2

§ 11-20-1.2 Necrophilia. – Any person who performs the act of first degree sexual assault upon a dead human body shall be guilty of the crime of necrophilia. Any person convicted of the crime of necrophilia shall be punished by imprisonment for not less than one nor more than ten (10) years and

may be fined in an amount not to exceed ten thousand dollars (\$10,000).

History of Section.

(P.L. 1998, ch. 433, § 1.)

SECTION 11-20-2

§ 11-20-2 Desecration of grave. – Every person who shall willfully and maliciously destroy, mutilate, deface, cover over, injure or remove any tomb, monument, gravestone, American Flag, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure of the like character and designed for that purposes, or of any enclosure for the sepulture of the dead, or dig or plow up, cultivate or build upon or within any enclosure or plot of ground used and occupied for the sepulture of the dead, or shall commit any nuisance in it, or wantonly disturb, remove, or in any way desecrate the contents of any grave in any enclosure or plot of ground, shall be guilty of a felony and shall be imprisoned not less than one year and not exceeding three (3) years, and/or be fined not more than five thousand dollars (\$5,000), or both and shall, in addition to imprisonment and/or fine, be ordered to make full restitution to any person, business or entity incurring the expense of repairing the grave.

History of Section.

(G.L. 1896, ch. 281, § 22; G.L. 1909, ch. 347, § 23; G.L. 1923, ch. 399, § 23; G.L. 1938, ch. 610, § 23; G.L. 1956, § 11-20-2; P.L. 1976, ch. 229, § 1; P.L. 1977, ch. 141, § 1; P.L. 1989, ch. 82, § 1; P.L. 2011, ch. 341, § 1; P.L. 2011, ch. 375, § 1.)

§ 11-20-3 Removal of marker on veteran's grave. – (a) Every person who maliciously or without authorization removes an American Flag in the vicinity of a veteran's grave or from a flag staff in a cemetery shall be imprisoned not exceeding sixty (60) days or fined not exceeding one hundred dollars (\$100).

(b) Every person who shall, without right, remove from any grave a marker that was authorized to be placed by the cemetery to designate that the grave was the grave of a deceased veteran shall be imprisoned not exceeding one hundred and twenty (120) days or fined not exceeding five hundred dollars (\$500) for a first offense, and shall be imprisoned not exceeding one hundred and twenty (120) days or fined not exceeding one thousand dollars (\$1,000) for a second offense.

(c) Every person, firm, partnership or corporation who shall purchase, sell or destroy any veteran's grave marker shall be subject to the same penalties provided in subsection (b) of this section.

History of Section.

(G.L. 1896, ch. 279, § 46; G.L. 1909, ch. 345, § 49; G.L. 1923, ch. 397, § 49; G.L. 1938, ch. 608, § 49; G.L. 1956, § 11-20-3; P.L. 1982, ch. 219, § 1; P.L. 1990, ch. 490, § 1; P.L. 1991, ch. 66, § 1; P.L. 2000, ch. 109, § 6.)

CHAPTER 19-3.1
Trust Powers

SECTION 19-3.1-5

§ 19-3.1-5 Financial institutions administering burial grounds. – Every financial institution subject to this chapter shall have the power to accept and hold property given by will or otherwise transferred to it in trust for the care and preservation of burial grounds which have been in existence for at least fifty (50) years before the creation of the trust and of the stones, monuments, fences, and other structures thereon, and to administer and apply the trust property in accordance with the terms of the trust; and shall likewise have the power to accept and hold property given to it by will or otherwise transferred to it for the purposes listed in this section and administer the property in accordance with the terms of the trust. Executors may transfer to any financial institution any legacy given for any of the purposes listed in this section and the transfer shall be a valid discharge for the legacy. Trusts for any of the purposes listed in this section are hereby declared to be charitable trusts.

History of Section.

(P.L. 1995, ch. 82, § 41.)

CHAPTER 23-18
Cemeteries

SECTION 23-18-1

§ 23-18-1 Definitions. – The following terms used in this chapter, unless the context indicates otherwise, have the following meanings:

(1) "Agencies" mean town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, or any person, firm, corporation, or unincorporated association previously or hereafter engaged in the business of conducting a cemetery or operating a community mausoleum or columbarium.

(2) "Columbarium" means a structure or room, or other space in a building or structure of durable or lasting fireproof construction, containing niches, used, or intended to be used, to contain cremated human remains.

(3) "Community mausoleum" means a structure or building of durable or lasting construction, used or intended to be used, for the permanent disposition in crypts or spaces therein of the remains of deceased persons, provided the crypts or spaces and their use are available to or may be obtained by individuals for a price in money or other form of security.

(4) "Crypt" means the chamber in a mausoleum of sufficient size to contain the remains of a deceased person.

(5) "Historic cemetery" means any tract of land which has been for more than one hundred (100) years used as a burial place, whether or not marked with an historic marker, including but not limited to, ancient burial places known or suspected to contain the remains of one or more American Indians.

(6) "Niche" means a recess in a columbarium or other structure, used, or intended to be used, for the permanent disposition of the cremated remains of one or more deceased persons.

History of Section.

(P.L. 1939, ch. 721, § 1; G.L. 1956, § 23-18-1; P.L. 1992, ch. 478, § 1.)

SECTION 23-18-2

§ 23-18-2 Location of mausoleums and columbaria. – Every community mausoleum, other than structures containing crypts erected or controlled by churches and religious societies, and every columbarium, or other similar structure intended to hold or contain the bodies or remains of the dead, the spaces, crypts, or niches of which are available to the public, shall be located only within the confines of an established cemetery.

History of Section.

(P.L. 1939, ch. 721, § 2; G.L. 1956, § 23-18-2.)

SECTION 23-18-2.1

§ 23-18-2.1 Cremated human remains. – (a) If a cemetery has rules or regulations in effect regarding the disposition of cremated human remains on or in cemetery property, those rules and regulations, if not contrary to law, shall be binding on all interested parties.

(b) The scattering of cremated human remains within a cemetery shall be prohibited except within a specific area designated for that purpose. Violation of this subsection shall be punishable by a fine of not to exceed five hundred dollars (\$500).

(c) Nothing in this section shall be construed to require a cemetery to authorize the scattering of ashes when that practice is contrary to the religious beliefs associated with the cemetery.

History of Section.

(P.L. 1998, ch. 349, § 1.)

SECTION 23-18-3

§ 23-18-3 Approval of construction plans – Supervisory control. – Before commencing the building, construction, or erection of any community mausoleum or columbarium, the agency constructing the structure shall make and file plans and specifications of the structure with the city or town clerk of the city or town where the structure is to be erected, and secure the approval of the city or town to erect the community mausoleum or columbarium. Before the approval shall be granted, the city or town wherein the structure is located shall satisfy itself that the proposed new structure or any alterations or additions to an old structure for that purpose, shall be built in accordance with the standards set forth in ordinances adopted by the city or town wherein the structure is located under its supervision, and shall comply with any further requirements as to perpetual care and maintenance that shall then be or later prescribed by the city or town. The city or town wherein the structure is located shall have supervisory control over the construction of the structure and it shall be the duty of the cities and towns to adopt suitable ordinances concerning the structures.

History of Section.

(P.L. 1939, ch. 721, § 3; G.L. 1956, § 23-18-3; P.L. 1993, ch. 45, § 1.)

SECTION 23-18-4

§ 23-18-4 Completion of structure and maintenance provisions required before interments. – No structure shall be used for the purpose of depositing therein human remains until the structure is finally completed, nor until provision for maintenance of the structure has been provided in accordance with the requirements as provided by the city or town wherein the structure is located.

History of Section.

(P.L. 1939, ch. 721, § 4; G.L. 1956, § 23-18-4; P.L. 1993, ch. 45, § 1.)

SECTION 23-18-5

§ 23-18-5 Sales before completion of structure – Bond. – No crypt, room, or space in the structure shall be sold or offered for sale before the structure is entirely completed, unless and until

the agency selling the crypt or niches, enters into an agreement whereby it agrees to refund to each and every purchaser all sums of money paid by each, together with legal interest on all sums of money, in the event it fails to complete the structure within the time which shall have been limited by the city or town wherein the structure is located, which agreement shall be entered into with some bank or trust company or other organization as trustee for the persons as directed by the city or town, nor until the agency shall also have made, executed and delivered to the trustee, its bond, with adequate security, if required, conditioned upon paying to the trustee a sum of money sufficient to provide for the refund previously provided and to provide for the repair, maintenance, and replacement of the structure, or shall have paid or delivered to the trustee a sum of money or other property sufficient for these purposes, the amount of the bond, payment, or delivery of property and the security on the bonds, if any shall be required, to be fixed and determined by the city or town wherein the structure is located.

History of Section.

(P.L. 1939, ch. 721, § 5; G.L. 1956, § 23-18-5; P.L. 1993, ch. 45, § 1.)

§ 23-18-6 Proceeds of sales. – The proceeds from the sales of crypts, niches, or any space in the structure, shall be used for the repayment of loans for the purpose of construction thereof with reasonable interest on the loans and for the construction, maintenance, and perpetual care of the structure, and may not be divided among any persons as profits.

History of Section.

(P.L. 1939, ch. 721, § 6; G.L. 1956, § 23-18-6.)

SECTION 23-18-7

§ 23-18-7 Re-interment of bodies in structure becoming health menace. – Whenever a mausoleum, vault, crypt, or similar structure previously or hereafter erected and containing one or more deceased human bodies, shall, in the opinion of the city or town where the structure is located, become a menace to public health, and the owner or owners of the structure fail to repair or remove the structure to the satisfaction of the city or town, any court of competent jurisdiction may order the person, association, or other agency owning the structure to remove the body or bodies for interment in some suitable cemetery at the expense of the person, association, or other agency owning the mausoleum, vault, crypt, or similar structure. When no person, association, or any representative of any agency can be found in the county where the mausoleum, vault, crypt, or similar structure is located, then the removal and interment shall be at the expense of the cemetery or other agency where the mausoleum, vault, crypt, or similar structure may be located.

History of Section.

(P.L. 1939, ch. 721, § 7; G.L. 1956, § 23-18-7; P.L. 1993, ch. 45, § 1.)

SECTION 23-18-8

§ 23-18-8 Speculative sales prohibited. – The sale of cemetery lots or plots, or the sale of crypts or niches in a community mausoleum, or niches in a columbarium, crematory, or any other similar structure, for speculative purposes, or upon the promise, representation, or inducement to the purchaser that the structure may be resold at a financial profit, is prohibited. Any person or individual

who shall make, or attempt to make, either on his or her own behalf or on behalf of another, a sale or conveyance contrary to the provisions of this chapter, shall be punished as provided in § 23-18-9.

History of Section.

(P.L. 1939, ch. 721, § 8; G.L. 1956, § 23-18-8; P.L. 2001, ch. 86, § 72.)

SECTION 23-18-8.1

§ 23-18-8.1 Perpetual care funds. – (a) All funds paid to or held by an agency for the purpose of funding the perpetual care of cemetery lots, crypts, or niches shall be maintained in a separate perpetual care fund, and shall not be commingled with any other funds of the agency; and

(b) Not less than twenty percent (20%) of the sale price of a cemetery lot, crypt, or niche sold with perpetual care shall be deposited by the agency in the perpetual care fund.

History of Section.

(P.L. 1993, ch. 473, § 1.)

SECTION 23-18-8.2

§ 23-18-8.2 Additional deposits. – If at any time after a cemetery lot, crypt, or niche has been sold an agency receives additional funds from any source for perpetual care of the lot, crypt, or niche, all of the funds shall be deposited in the perpetual care fund.

History of Section.

(P.L. 1993, ch. 473, § 1.)

SECTION 23-18-8.3

§ 23-18-8.3 Maintenance of perpetual care funds. – The corpus or principal of perpetual care funds shall be maintained intact, and shall not be expended to pay for perpetual care or any other expenses, but the income and other earnings on the corpus or principal of perpetual care funds may be so expended.

History of Section.

(P.L. 1993, ch. 473, § 1.)

SECTION 23-18-9

§ 23-18-9 Penalty for violations. – Any person, member of a firm, or any officer or director of a corporation, failing to comply with any of the provisions of this chapter, upon each and every conviction of any of the provisions of this chapter, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not less than sixty (60) days nor more than six (6) months, or by both fine and imprisonment.

History of Section.

(P.L. 1939, ch. 721, § 9; G.L. 1956, § 23-18-9.)

SECTION 23-18-10

§ 23-18-10 City and town regulation of burial grounds. – (a) The city or town council of any city or town may prohibit burials in the compact or thickly-populated parts of the city or town, and may make any bylaws and ordinances relating to burials and the use of grounds for burials in the city or town that it may think necessary for preserving the health of the city or town, and as necessary to carry out the provisions of this chapter, and may enforce the ordinances in the manner provided in chapter 18 of this title.

(b) The town councils of the towns of East Greenwich and Smithfield and the city councils of the cities of East Providence, Warwick, Cranston, and Woonsocket, after having prevented further burials in those parts of their towns or cities as provided in subsection (a), may order, in accordance with this chapter, the owner of the burial ground so prohibited, and in the interest of public welfare, to cause to be removed the cadavers or remains of any persons buried in the burial ground, and transferred to and interred in some other cemetery within the state, the removal and interment to be under the direction of a qualified funeral director and with the approval of the nearest of kin of the deceased and at the expense of the owner of the land.

(c) No cadaver or remains shall be removed unless the owner of the land shall give notice by certified mail to the nearest of kin known to him or her, and by advertising in one or more daily newspapers having circulation within the town or city at least once a week for three (3) successive weeks. In the event there shall be no nearest of kin known to the owner or that the nearest of kin shall neglect or refuse to approve the removal and interment, the city or town shall cause the cadavers or remains to be removed, transferred, and interred in any other cemetery in accordance with the laws, rules, and regulations of the religious denomination, if any shall be known or ascertained, to which the deceased subscribed.

History of Section.

(G.L. 1896, ch. 91, § 18; G.L. 1909, ch. 107, § 18; G.L. 1923, ch. 119, § 18; G.L. 1938, ch. 601, § 17; G.L. 1956, § 23-18-10; R.P.L. 1957, ch. 147, § 1; P.L. 1958, ch. 96, § 1; P.L. 1958, ch. 107, § 1; P.L. 1959, ch. 182, § 1; P.L. 1966, ch. 38, § 1; P.L. 1968, ch. 252, § 1; P.L. 1989, ch. 542, § 48; P.L. 1993, ch. 45, § 1; P.L. 2001, ch. 86, § 72.)

SECTION 23-18-10.1

§ 23-18-10.1 Registering historical cemeteries. – In addition to the records and indexes now required to be maintained by every recorder of deeds in all cities and towns, the recorder of deeds in every city and town shall maintain a register of all historical cemeteries located within the city or town. The tax assessor of each city or town shall note the location of each historical cemetery so registered on the appropriate tax assessor's map with a symbol consisting of the letters "CEM" inside a rectangle.

History of Section.

(P.L. 1979, ch. 383, § 1; P.L. 2011, ch. 117, § 1; P.L. 2011, ch. 126, § 1.)

SECTION 23-18-10.2

§ 23-18-10.2 Exemption from liability. – (a) A city, town, or public body shall not be held civilly liable for any breach of duty resulting in injury to the person or damage to the property or any person who voluntarily and without compensation, undertakes to maintain or to repair any designated historical cemetery pursuant to § 23-18-10.1, provided that nothing in this section shall eliminate or limit the liability of a city, town, or public body:

(1) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

(2) For any malicious, willful, or wanton act.

(b) A private landowner permitting access over his or her property to a historical cemetery for the purpose of voluntary maintenance or repair of the cemetery shall not 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.

History of Section.

(P.L. 1992, ch. 416, § 1.)

SECTION 23-18-11

§ 23-18-11 Regulation of excavation around cemeteries. – (a) The city or town council of any municipality may by ordinance prescribe standards regulating any construction or excavation in the city or town, when those standards are reasonably necessary to prevent deterioration of or damage to any cemetery or burial ground, or to any structures or gravesites located in any cemetery or burial ground. The rules and regulations shall not apply to the ordinary installation of gravesites or of monuments, markers, or mausoleums.

(b) No city or town shall permit construction, excavation or other ground disturbing activity within twenty-five feet (25') of a recorded historic cemetery except in compliance with the following provisions:

(1) The boundaries of the cemetery are adequately documented and there is no reason to believe additional graves exist outside the recorded cemetery and the proposed construction or excavation activity will not damage or destructively alter the historic cemetery through erosion, flooding, filling, or encroachment; or

(2) The proposed construction or excavation activity has been reviewed and approved by the city or town in accordance with § 23-18-11.1.

(c) Whenever an unmarked cemetery or human skeletal material is inadvertently located during any construction, excavation, or other ground disturbing activity, including archaeological excavation, the building official of the city or town where the unmarked cemetery or human skeletal material is located shall be immediately notified. The building official shall, in turn, notify the state medical examiner and the Rhode Island historical preservation and heritage commission if the grave, cemetery, or skeletal material appears to be historic. Prior to the continuation of any further

construction, excavation, or other ground disturbing activity, and unless the provisions of § 23-18-7 shall apply, the property owner shall undertake an archaeological investigation to determine the boundaries of the unmarked cemetery and shall so inform the building official. In the event that the cemetery meets the criteria for a historic cemetery, the building official shall so advise the recorder of deeds of the city or town who shall record and register the cemetery in accordance with the provisions of § 23-18-10.1.

History of Section.

(P.L. 1980, ch. 31, § 1; P.L. 1992, ch. 478, § 1.)

SECTION 23-18-11.1

§ 23-18-11.1 Permit required to alter or remove historic cemetery – Powers of city or town council – Appeal. – (a) Before an agency or a property owner may authorize or commence alteration or removal of any historic cemetery, the agency or owner must apply to the city or town council where the historic cemetery is located for a permit to alter or remove. The city or town council shall prescribe by ordinance standards to regulate the alteration or removal of any historic cemetery within its municipal limits, but shall at a minimum provide that:

(1) The applicant examine all alternatives, and demonstrate that no prudent or feasible alternative to the proposed alteration is possible;

(2) The city or town provide for notification and participation in the permitting process of parties which may be interested in the proposed alteration or removal by virtue of their status as a governmental health or historic preservation authority, or as a private or nonprofit historical, genealogical or civic organization, or, in the case of American Indian cemeteries and burial grounds, the appropriate tribal organization; and

(3) The city or town provide for due consideration of the rights of descendants in any application to substantially alter or remove a historic cemetery.

(b) When an application for alteration or removal of a historic cemetery has been made and the boundary is unknown or in doubt, the city or town may require that the applicant, at its own expense, conduct an archaeological investigation to determine the actual size of the cemetery prior to final consideration by the city or town of the application to alter or remove.

(c) After due consideration, the city or town council may grant the application to alter or remove the historic cemetery in whole or in part, under the supervision of an archaeologist and with any restrictions and stipulations that it deems necessary to effectuate the purposes of this section, or deny the application in its entirety. Any person or persons aggrieved by a decision of the city or town council shall have the right of appeal concerning the decision to the superior court and from the superior court to the supreme court by writ of certiorari.

(d) Nothing in this section shall be deemed to contravene the authority of municipal bodies under § 45-5-12 to hold, manage, repair, or maintain any neglected burial ground.

History of Section.

(P.L. 1992, ch. 478, § 2; P.L. 1993, ch. 422, § 6; P.L. 1994, ch. 14, § 6; P.L. 2008, ch. 475, § 55.)

SECTION 23-18-11.2

§ 23-18-11.2 Regulation of excavation – Removal and transfer of graves and cemeteries – Penalties. – (a) The city or town council of any municipality may by ordinance prescribe standards, in addition to those required by § 23-18-10, regulating the excavation, removal, and transfer of any graves, grave sites, and cemeteries in the municipality so as to provide an accurate record of any activity and to insure that any remains removed are properly re-interred and the location of the new interment is recorded. In the absence of a local ordinance establishing standards, regulations adopted by the historical preservation and heritage commission shall govern. A report of any grave removal and relocation from one cemetery or burial ground to another shall be filed in the clerk's office for each municipality and shall, to the extent permitted by law, be available for public inspection. In instances where there is a headstone or other burial marker identifying the original grave, the headstone or burial marker shall be erected on the site to which any remains are transferred.

(b) To the extent not promulgated pursuant to § 23-3-5.1, the state registrar of vital records shall promulgate regulations to establish a system of record-keeping to allow descendants to locate their ancestors' graves in Rhode Island.

(c) Any person convicted of violating this section shall be subject to a fine of not more than one thousand dollars (\$1,000) and such fine shall be deemed civil in nature and not a criminal penalty.

(d) The provisions of this section shall be considered to be in addition to any other penalties provided for desecration or vandalism to cemeteries.

History of Section.

(P.L. 1996, ch. 148, § 1; P.L. 2011, ch. 117, § 1; P.L. 2011, ch. 126, § 1.)

SECTION 23-18-12

§ 23-18-12 Vandalism in cemetery – Civil penalties. – Any person who shall be convicted of vandalism of cemetery property shall, in addition to any fine or penalty imposed by the court, pay treble damages to the agency whose cemetery sustained the damage. In the event the convicted offender is a minor, the family court may, if it determines that the juvenile is unable to pay treble damages, require the offender to perform specified work at the cemetery site where the damage was sustained for a period of time that in the court's opinion will equal treble the damages inflicted at the cemetery.

History of Section.

(P.L. 1981, ch. 247, § 1.)

SECTION 23-18-13

§ 23-18-13 Notification of historical preservation and heritage commission. – The historical preservation and heritage commission shall be notified whenever an ancient burial place contains or is suspected to contain the remains of one or more persons.

History of Section.

(P.L. 1992, ch. 478, § 2; P.L. 2011, ch. 117, § 1; P.L. 2011, ch. 126, § 1.)

SECTION 23-18-14

§ 23-18-14 Records of disposition. – (a) "Agencies", as defined in § 23-18-1, are responsible for the proper maintenance of all records of disposition of human remains, and all burials shall be accompanied with appropriate records or combination of records giving location and name of deceased, date of burial, record of property owner, and a geographic schematic indicating the specific location of final disposition. The agencies have the ability to cross reference this material as the agencies deem necessary as long as the records insure the accuracy and quality control of the location and name of the deceased.

(b) The agencies shall supply this information to the general public upon reasonable request.

History of Section.

(P.L. 1999, ch. 435, § 1.)

SECTION 23-18-15

§ 23-18-15 Installation of veteran's plaque. – Any cemetery which accepts the remains of a military veteran for burial shall install, for a maximum charge of seventy-five dollars (\$75.00), the plaque issued by the Veterans' Administration to the deceased veteran, on the veteran's gravesite.

History of Section.

(P.L. 2009, ch. 231, § 1.)

CHAPTER 23-18.1
Disposition of Bodies to be Buried with Public Funds

SECTION 23-18.1-1

§ 23-18.1-1 Public expense burials. – Unless the office of the state medical examiners has established its jurisdiction over the body of a deceased person in accordance with chapter 4 of this title, whoever has custody of the body of a deceased person required to be buried at public expense shall use reasonable efforts to ascertain if the deceased person has any relative or friend who will assume responsibility for burial at his or her expense. If no such person is found within twenty-four (24) hours after death, the person having custody of the dead body shall notify the director of the department of human services or his or her designee who shall arrange for the removal of the unclaimed body. If the body is not claimed at or before the expiration of thirty (30) hours thereafter, the director of the department of human services or his or her designee shall give public notice of its finding and a description of the unclaimed body, and within a reasonable time thereafter cause the body to be decently buried; and if the director certifies that he or she has made careful inquiry and that to the best of his or her knowledge and belief the person found dead is a stranger having no settlement in any city or town of the state, the actual expense of burial shall be paid from the general treasury upon proper vouchers for the burial approved by the director of human services in accordance with provisions of this section. To the extent that the department of human services makes payment of the burial expenses, it shall have the right to recover the burial expenses from the estate of the deceased person.

History of Section.

(P.L. 1976, ch. 263, § 2; G.L. 1956, § 23-42-1; P.L. 1979, ch. 39, § 1; G.L. 1956, § 23-18.1-1; P.L. 2004, ch. 201, § 1; P.L. 2004, ch. 350, § 1.)

CHAPTER 23-18.2
Preservation and Care of Burial Places and Memorials For the Dead

SECTION 23-18.2-1

§ 23-18.2-1 Definitions. – As used in this chapter:

(1) "Burial ground authority" means the municipality, ecclesiastical society, or cemetery association, as the case may be.

(2) "Burial place" means any tract of land within any municipality that is used or has been used or has been in existence as a burial ground.

History of Section.

(P.L. 1990, ch. 204, § 1.)

SECTION 23-18.2-2

§ 23-18.2-2 Burial places to be preserved. – No municipality shall alienate or appropriate any burial place to any use other than that of a burial ground. No portion of any burial place shall be taken for public use without the approval of the general assembly. If any burial place is appropriated for any other use and the bodies buried in it or the monuments, gravestones, or other memorials marking the burial place are removed, the burial ground authority shall preserve a record of the removal indicating the date of the removal and the site or place to which the removal was made.

History of Section.

(P.L. 1990, ch. 204, § 1.)

SECTION 23-18.2-3

§ 23-18.2-3 Removal of gravestones and memorials. – No fence, tomb, monument, or gravestone or fragment of a gravestone within any cemetery or burial place shall be destroyed or injured or shall be removed except in accordance with the provisions of this section. Any gravestone or other memorial for the dead may be removed for the purpose of repair or replacement, reproduction, or preservation and display in an accredited museum upon:

(1) The consent of the owner of the burial lot in which the gravestone or memorial is placed or the consent of a lineal descendant of the deceased or, if the owner or lineal descendant is unknown, with the consent of the burial ground authority, and

(2) The order of the superior court for the county in which the burial lot is located. Upon written application of a consenting owner, lineal descendant, or burial ground authority, the court may, after a hearing, with notice of the hearing having been given to interested parties and otherwise as the court deems appropriate, order the removal of the gravestone or memorial, if it finds that removal is necessary or desirable for the protection and preservation of the gravestone or memorial.

History of Section.

(P.L. 1990, ch. 204, § 1.)

SECTION 23-18.2-4

§ 23-18.2-4 Unlawful possession or sale of gravestones. – A person is guilty of the unlawful possession or sale of gravestones when he or she possesses or sells, offers for sale or attempts to sell or transfers or disposes of any monument, gravestone, or other structure placed or designed for a memorial of the dead, or any portion or fragment of a memorial of the dead, knowing that it has been unlawfully removed from a cemetery or burial ground.

History of Section.
(P.L. 1990, ch. 204, § 1.)

SECTION 23-18.2-5

§ 23-18.2-5 Penalty for violations. – (a) Whoever violates the provisions of § 23-18.2-4 shall, upon conviction, be punished by imprisonment for not more than one year or by a fine of not more than five thousand dollars (\$5,000).

(b) In addition to any other penalties imposed for a violation of the provisions of this chapter or chapter 20 of title 11, any person who topples or damages any marker, gravestone, crypt, or columbarium or who violates the provisions of § 23-18.2-4, shall be required to perform four (4) hours of public community restitution for each marker, gravestone, crypt, or columbarium toppled or damaged or obtained or sold in violation of § 23-18.2-4, at the location of the cemetery, mortuary or other facility where the desecration or other violation occurred and the public community restitution shall not be suspended.

History of Section.
(P.L. 1990, ch. 204, § 1; P.L. 1991, ch. 34, § 1.)

SECTION 23-18.2-6

§ 23-18.2-6 Civil penalties. – (a) Any person convicted under the provisions of § 23-18.2-5 or chapter 20 of title 11, shall, in addition to any fine or penalty imposed, pay treble damages to the burial ground authority, religious organization, cemetery corporation, or persons having charge of the burial ground where the damage has been sustained.

(b) If the convicted offender is a minor, the court may, if it determines that the offender is unable to pay treble damages, require the offender to perform a specified work program at the site where the damage occurred for a period of time that will in the opinion of the court equal treble the amount of the damages sustained.

History of Section.
(P.L. 1990, ch. 204, § 1.)

SECTION 23-18.2-7

§ 23-18.2-7 Community restitution. – The general assembly declares that the words "public community service" which appear throughout this chapter shall now be substituted with and referred to as "public community restitution".

History of Section.
(P.L. 1998, ch. 454, § 4.)

Chapter 23-18-3

Advisory Commission on Historical Cemeteries

SECTION 23-18.3-1

§ 23-18.3-1 Establishment – Purpose – Membership – Compensation. – (a) There is created a permanent advisory commission to study the location, condition, and inventory of historical cemeteries in Rhode Island and to make recommendations relative to historical cemeteries in Rhode Island.

(b) The commission shall consist of eighteen (18) members, all of whom shall be citizens and residents of this state. One shall be the director of veterans' cemeteries or his or her designee. One shall be the executive director of the historical preservation and heritage commission or his or her designee. One shall be the director of the Rhode Island Historical Society or his or her designee. One shall be a representative of the Rhode Island League of Cities and Towns to be appointed by the governor, who shall serve for one year.

One shall be the state registrar of vital records, or his or her designee. The governor, in consultation with and upon the recommendation of local historical or preservation societies within each county, shall appoint thirteen (13) members of the general public consisting of two (2) representatives from Kent County, two (2) representatives from Bristol County, two (2) representatives from Newport County, three (3) representatives from Washington County, and four (4) representatives from Providence County.

(c) Beginning on September 1, 2011, one representative from Bristol County, one representative from Newport County, one representative from Washington County, and one representative from Providence County shall be appointed to serve one year terms to expire August 31, 2012, one representative from Kent County, one representative from Washington County, and two (2) representatives from Providence County shall be appointed to serve two (2) year terms to expire August 31, 2013, and one representative from Bristol County, one representative from Kent County, one representative from Newport County, one representative from Washington County, and one representative from Providence County shall be appointed to serve three (3) year terms to expire August 31, 2014. Thereafter, each county representative shall be appointed for a three (3) year term. County representatives shall serve until their successors are appointed. Vacancies shall be filled by the authority making the original appointment.

(d) The members shall annually elect a chairperson, a vice chairperson, and a secretary of the commission. The secretary need not be a member of the commission.

(e) Members of the commission shall serve without compensation.

History of Section.

(P.L. 1991, ch. 386, § 1; P.L. 2001, ch. 180, § 47; P.L. 2006, ch. 29, § 2; P.L. 2011, ch. 117, § 2; P.L. 2011, ch. 126, § 2.)

SECTION 23-18.3-2

§ 23-18.3-2 Quorum. – A simple majority of the commission shall constitute a quorum for the transaction of any business. Meetings may be called upon reasonable notice by the chairperson.

History of Section.

(P.L. 1991, ch. 386, § 1; P.L. 2011, ch. 117, § 2; P.L. 2011, ch. 126, § 2.)

SECTION 23-18.3-3

§ 23-18.3-3 Rules and regulations. – The commission shall adopt reasonable rules and regulations in compliance with the open meetings law to govern the conduct of its meetings and the accomplishment of its purposes under this chapter.

History of Section.

(P.L. 1991, ch. 386, § 1; P.L. 2011, ch. 117, § 2; P.L. 2011, ch. 126, § 2.)

SECTION 23-18.3-4

§ 23-18.3-4 Commission report. – Annually, the commission shall report its findings and recommendations to the general assembly, to the governor, and to the historical preservation and heritage commission.

History of Section.

(P.L. 1991, ch. 386, § 1; P.L. 2011, ch. 117, § 2; P.L. 2011, ch. 126, § 2.)

SECTION 23-18.3-5

§ 23-18.3-5 Repealed. –

CHAPTER 30-25

Burial of Veterans

SECTION 30-25-3

§ 30-25-3 Burial at public expense. – Whenever any person who served in the army, navy, air force, or marine corps of the United States during any period of war, and was honorably discharged therefrom, shall die within this state without leaving means sufficient to defray necessary funeral expenses, he or she shall be buried and the expenses thereof paid in the manner provided in this chapter.

History of Section.

(P.L. 1904, ch. 1154, § 1; G.L. 1909, ch. 105, § 1; G.L. 1923, ch. 117, § 1; G.L. 1938, ch. 655, § 1; G.L. 1956, § 30-25-3.)

SECTION 30-25-4

§ 30-25-4 Designation of person to conduct burial – Burial by relatives or friends – Maximum allowance. – The town council of any town, and the city council of any city, shall annually designate some proper person, other than those designated by law for the care of paupers or the custody of criminals, who shall cause to be interred the body of any honorably discharged soldier, sailor, airperson, or marine, who may not have left sufficient means to pay his or her funeral expenses; and in case the deceased has relatives or friends who desire to conduct the burial, and who are unable or unwilling to pay the charge thereof, they shall be allowed to conduct the funeral, and the cost of the interment shall be paid to them or their representatives by the town or city treasurer upon due proof; provided, however, that claim for the payment of the burial expenses under the provisions of this chapter shall be made within sixty (60) days after the decease of the honorably discharged soldier, sailor, airperson, or marine; and provided, further, that the whole expense of the funeral shall not in any case exceed the sum of fifty-five dollars (\$55.00).

History of Section.

(P.L. 1904, ch. 1154, § 2; G.L. 1909, ch. 105, § 2; P.L. 1920, ch. 1843, § 1; G.L. 1923, ch. 117, § 2; G.L. 1938, ch. 655, § 2; G.L. 1956, § 30-25-4.)

SECTION 30-25-5

§ 30-25-5 Place of burial – Disinterment from pauper cemetery. – Any interment provided for by the provisions of this chapter shall not be made in any cemetery or plot used exclusively for the pauper dead; and if any deceased honorably discharged soldier, sailor, airperson, or marine may have already died and been buried in any place used exclusively for the burial of paupers, he or she shall be removed therefrom as soon as may be after the attention of the town or city council, within whose limits the person may have been buried, shall have been called thereto.

History of Section.

(P.L. 1904, ch. 1154, § 3; G.L. 1909, ch. 105, § 3; G.L. 1923, ch. 117, § 3; G.L. 1938, ch. 655, § 3; G.L. 1956, § 30-25-5.)

SECTION 30-25-6

§ 30-25-6 Repealed.

SECTION 30-25-7

§ 30-25-7 Veterans dying in state institutions. – Nothing contained in this chapter shall be construed to require the city treasurer of the city of Cranston to pay any money to meet the funeral expenses of, or the erection of any headstone for, any person who shall have died at any of the state institutions in Cranston, unless admitted or committed from that city; but the treasurer of the town or city from which the person was admitted, or from which he or she has been committed, shall be liable for and shall pay the funeral expenses as provided in this chapter.

History of Section.

(P.L. 1904, ch. 1154, § 5; G.L. 1909, ch. 105, § 5; G.L. 1923, ch. 117, § 5; G.L. 1938, ch. 655, § 5; G.L. 1956, § 30-25-7; P.L. 1986, ch. 76, § 2.)

SECTION 30-25-8

§ 30-25-8 Maintenance of north cemetery. – The director of human services shall be custodian of the Rhode Island soldiers' burial lots, and the monument and grave markers thereon, located in the north cemetery in the town of Bristol. He or she shall, from time to time, cause such work to be done as may be necessary in keeping the lots, monuments, and markers in good condition and repair.

History of Section.

(P.L. 1917, ch. 1486, § 3; G.L. 1923, ch. 117, § 8; G.L., ch. 117, § 6, as enacted by P.L. 1931, ch. 1730, § 1; G.L. 1938, ch. 655, § 6; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-8; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-9

§ 30-25-9 Expenses of north cemetery. – The director of human services is authorized to make such expenditures as may be necessary in carrying out the purposes of § 30-25-8, and the state controller is hereby authorized and directed upon receipt of proper vouchers approved by the state director of human services, to draw orders upon the general treasurer for the payment of such sums as may be required, from the funds under the control of the director of human services, known as the veterans' home, restricted account.

History of Section.

(G.L., ch. 117, § 8, as enacted by P.L. 1931, ch. 1730, § 1; G.L. 1938, ch. 655, § 8; impl. am. P.L. 1939, ch. 660, §§ 65, 80; impl. am. P. L. 1949, ch. 2166, § 1; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-9; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-10

§ 30-25-10 Care of neglected graves. – The director of human services is authorized and empowered to undertake the care of any grave of any soldier or sailor who fought in the war of the revolution, or who at any time served the United States in any war, when the grave appears to have

been neglected or abandoned. For that purpose, the director, and the agents or employees of the division, when duly authorized thereunto by the director, may enter into and upon any public or private cemetery or burial place to clear any grave of grass, weeds, brush, briars, or rubbish; to erect, replace, repair, or renovate fences, memorial stones, or markers; and to perform the other tasks as may be necessary to restore and maintain the grave and its surroundings in a decent and orderly condition.

History of Section.

(G.L., ch. 117, § 10; P.L. 1928, ch. 1188, § 1; G.L. 1938, ch. 655, § 9; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-10; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-11

§ 30-25-11 Consent of custodian of neglected grave. – When any cemetery or burial place containing a neglected grave is found by the director of human services, or the agents or employees of the division, to be under the custody or control of some private owner or public authority, then the director shall obtain permission in writing from the person or persons having custody or control before entering into and upon the cemetery or burial place; provided, that if no person or persons can be found having the custody or control of the cemetery or burial place, the director shall assume the right of entry and shall perform the duties specified in § 30-25-10, without further notice.

History of Section.

(G.L. 1923, ch. 117, § 10; P.L. 1928, ch. 1188, § 1; G.L. 1938, ch. 655, § 9; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-11; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-12

§ 30-25-12 Appropriations for care of graves. – The general assembly shall, from time to time, appropriate such sums as it may deem necessary to be expended by the director of human services in carrying out the purposes of §§ 30-25-10 and 30-25-11, and the state controller is hereby authorized and directed, upon the receipt of the proper vouchers approved by the director, to draw orders upon the general treasurer for the payment of such sums as may be required, within the amount appropriated therefor.

History of Section.

(G.L. 1923, ch. 117, § 11; P.L. 1928, ch. 1188, § 1; G.L. 1938, ch. 655, § 12; impl. am. P.L. 1939, ch. 660, §§ 65, 80; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-12; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-13

§ 30-25-13 Acceptance and administration of gifts. – The director of human services may accept in the name of the state, and may administer, any devise, bequest, or gift which is to be expended for the general purposes of this chapter. All sums received by devise, bequest, or gift from any person or corporation shall be deposited with the general treasurer, and by him or her kept in a special fund, to be known as "the veterans' cemetery fund", and held subject to the order of the director.

History of Section.

(G.L. 1923, ch. 117, § 11; P.L. 1928, ch. 1188, § 1; G.L. 1938, ch. 655, § 12, impl. am. P.L. 1939, ch. 660, § 80; impl. am. P.L. 1949, ch. 2166, § 1; impl. am. P.L. 1951, ch. 2724, § 2; G.L. 1956, § 30-25-13; P.L. 1986, ch. 76, § 3; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

SECTION 30-25-14

§ 30-25-14 Rhode Island veterans' memorial cemetery. – The Rhode Island veterans' memorial cemetery located on the grounds of the Joseph H. Ladd school in the town of Exeter shall be under the management and control of the director of the department of human services. The director of the department of human services shall appoint an administrator for the Rhode Island veterans' memorial cemetery who shall be an honorably discharged veteran of the United States Armed Forces and shall have the general supervision over and shall prescribe rules for the government and management of the cemetery. He or she shall make all needful rules and regulations governing the operation of the cemetery and generally may do all things necessary to insure the successful operation thereof. The director shall promulgate rules and regulations, not inconsistent with the provisions of 38 USCS § 2402, to govern the eligibility for burial in the Rhode Island veterans' memorial cemetery. In addition to all persons eligible for burial pursuant to rules and regulations established by the director, any person who served in the army, navy, air force, or marine corps of the United States for a period of not less than two (2) years and whose service was terminated honorably, shall be eligible for burial in the Rhode Island veterans' memorial cemetery. The director shall appoint and employ all subordinate officials and persons needed for the proper management of the cemetery. National Guard members who are killed in the line of duty or who are honorably discharged after completion of at least twenty (20) years' of service in the Rhode Island National Guard and their spouse shall be eligible for interment in the Rhode Island Veterans' Memorial Cemetery. For the purpose of computing service under this section, honorable service in the active forces or reserves shall be considered toward the twenty (20) years of National Guard service. The general assembly shall make an annual appropriation to the department of human services to provide for the operation and maintenance for the cemetery. The director shall charge and collect a grave liner fee per interment of the eligible spouse and/or eligible dependents of the qualified veteran equal to the Department's cost for the grave liner.

History of Section.

(P.L. 1975, ch. 161, § 1; P.L. 1990, ch. 427, § 1; P.L. 1991, ch. 44, art. 21, § 1; P.L. 1996, ch. 100, art. 9, § 1; P.L. 1997, ch. 135, § 1; P.L. 1997, ch. 204, § 1; P.L. 1998, ch. 293, § 1; P.L. 1998, ch. 403, § 1; P.L. 2002, ch. 65, art. 13, § 14; P.L. 2009, ch. 233, § 4; P.L. 2009, ch. 234, § 4; P.L. 2011, ch. 151, art. 9, § 6.)

CHAPTER 44-3
Property Subject to Taxation

SECTION 44-3-63

§ 44-3-63 Historical cemeteries. – City and town councils are authorized to provide by ordinance an abatement from taxation for any real property on which is located a historical cemetery registered pursuant to § 23-18-10.1 and to provide by ordinance for full or partial reimbursement of expenses incurred in repairing and maintaining such historical cemeteries, including walls or fences surrounding such cemeteries.

History of Section.

(P.L. 2011, ch. 117, § 4; P.L. 2011, ch. 126, § 4.)

NOTE: This is an enabling legislation only. It is up to each city/town to make their own ordinance if they choose to do so. See Appendix E for letter sent to cities/towns informing them of this law.

CHAPTER 45-5
Councils and Governing Bodies

SECTION 45-5-11

§ 45-5-11 Burial lands and funds. – (a) Town councils may take and hold, to them and their successors in office, all lands within their towns, conveyed to them in trust for burial purposes and, in like manner, may receive, hold, and manage all funds conveyed to them for the purpose of ornamenting or keeping in repair these burial lots within their towns, and execute the trusts in accordance with the terms contained in the instruments of conveyance. Funds received, or already received, may be placed in a general burial lot fund and this fund may be invested in securities which are legal for investment of funds of savings banks in this state. The earnings of this fund shall be apportioned to the various individual trusts in the proportion each trust, including any undisbursed earnings, bears in relation to the total of the general burial lot fund. Funds received or already received for the purpose of ornamenting or keeping in repair burial lots in town-owned cemeteries may be placed in a general burial lot fund, and this fund may be invested in securities which are legal for investment of funds of savings banks in this state. The earnings of this fund shall be apportioned to the individual trusts in the proportion that the principal of each trust bears in relation to the total principal in the general burial lot fund.

(b) Effective July 1, 1976, the town of Bristol shall not apportion the earned income of the fund, and it shall be used for maintenance of the entire burial ground.

(c) Effective July 1, 1979, the towns of Tiverton and Richmond shall not apportion the earned income of their respective funds, and it shall be used for maintenance of their entire burial grounds.

(d) Effective July 1, 2013, the town of Middletown shall not apportion the earned income of the fund, and it shall be used for maintenance of the entire burial ground.

History of Section.

(G.L. 1896, ch. 40, § 35; G.L. 1909, ch. 50, § 37; G.L. 1923, ch. 51, § 40; G.L. 1938, ch. 333, § 40; P.L. 1945, ch. 1662, § 1; G.L. 1956, § 45-5-11; P.L. 1976, ch. 13, § 1; P.L. 1979, ch. 34, § 1; P.L. 1979, ch. 114, § 1; P.L. 2013, ch. 261, § 1; P.L. 2013, ch. 363, § 1.)

SECTION 45-5-12

§ 45-5-12 Neglected burial grounds. – (a) Town councils may also take possession of and hold ancient, neglected, or abandoned burial grounds including historic cemeteries as defined in § 23-18-1(5), whenever they can take possession without opposition from the persons interested in those grounds. The councils may take, hold, and manage in trust all funds given to the councils to keep these grounds in repair or for ornamenting or improving these grounds, and may in their discretion appropriate from the treasury of their towns money for the purpose of keeping in repair, preserving the monuments in, and maintaining any neglected burial ground.

(b) Any person interested in caring for burial ground described in subsection (a) which has not been maintained and the owner of which is unknown or whose present address is unknown, may petition the town council for permission to clean up and maintain that burial ground at the person's own expense. Upon approval of this petition on any conditions the council may deem appropriate, the

council shall cause an advertisement to be placed in a local newspaper providing notice that the burial ground is to be entered and cleaned up and thereafter maintained, and notifying persons with a property interest in this burial ground who have objections to come forward by a date certain.

History of Section.

(G.L. 1896, ch. 40, § 36; G.L. 1909, ch. 50, § 38; G.L. 1923, ch. 51, § 41; G.L. 1938, ch. 333, § 41; G.L. 1956, § 45-5-12; P.L. 1995, ch. 338, § 1.)

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110 Benevolent Street
Providence RI 02906-3152
401-273-8107 Ext 10
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Robert S. Butler

RI League of Cities and Towns
410 Plain Meeting House Rd
West Greenwich, RI 02817
401-397-6517
RSB.inc@cox.net

APPENDIX A

Property Owners Permission

I _____ give permission for Volunteer/Town Employees to cross my property to reach Historical Cemetery # _____ to Clean and do restoration.

I understand I am exempt from any liability to the “clean up crew”.

23-18-10.2(b) A private owner landowner permitting access over his or her property to a historical cemetery for the purpose of voluntary maintenance or repair to the cemetery shall not behold 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.

I have special instructions (example: no heavy trucks on grass):

Signed _____ **Dated** _____

Address _____

Phone _____

Email _____

For more information contact:
Margaret (Peggy) Malcolm, Chair
137 Irving Rd
Warwick, RI 02888-1315
Home: 401-467-8142
Cell: 401-527-1823
pmalcolm@cox.net

Or write to:
Rhode Island Historical Cemetery Commission
P. O. Box 8993
Warwick, R.I. 02888

APPENDIX B

Volunteer Permission Slip

I/We _____ volunteer to clean Historical Cemetery
_____, the _____.

I/We will be most careful with the stones and promise to abide by the land owners/abutters requests. I/we will check in with RIHCC if there is a problem and also to keep them informed of what I/we are doing, i.e. how much is being done or a tree that needs taken down. I/we also will not dig up earth or remove any stones even if they look like “just stones”. I/we will leave those in place and notify RIHCC.

I have read Chapter 23-18 of the Health and Safety Ordinances of the State of RI regarding Liability shown below.

Signature _____ **Dated** _____

Address _____

Phone # _____

Email _____

For more information contact:

Margaret (Pegee) Malcolm, Chair

137 Irving Rd
Warwick, RI 02888-1315
Home: 401-467-8142
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Warwick, R.I. 02888

Title 23, Chapter 23-18, Cemeteries

23-18-10-2 Exemption from liability. (A) city, town or public body shall not be held civilly liable for any breach of duty resulting in injury to the person or damage to the property or any person who voluntarily and without compensation, undertakes to maintain or to repair any designated historical cemetery pursuant to Chapter 23-18-10-1, provided that nothing in this section shall eliminate or limit the liability of a city, town or public body:

- (1) For acts or omissions not in good faith which involve intentional misconduct or a knowing violation of law; or
- (2) For any malicious, willful, or wanton act.

APPENDIX C

Cemetery Inspection Report

TOWN OF _____ CEMETERY # _____
OTHER, IF ANY _____
NAME OF CEMETERY (If any) _____

NEAREST ROAD _____

DIRECTION OF CEMETERY FROM NEAREST ROAD _____

APPROXIMATE DISTANCE _____

NEAREST TELPHONE POLE# _____ TAX ASSESSORMAP# _____ PLAT# _____

LOT# _____

NAME & ADDRESS OF ABUTTING PROPERTY OWNER (s) _____

DEED BOOK # _____ PAGE# _____ SURVEY MAPS? _____

GPS _____

SIZE OF CEMETERY _____ X _____ NUMBER OF INSCRIBED HEADSTONES _____

NUMBER OF FIELDSTONE MARKED GRAVES _____ TOTAL NUMBER OF BURIALS _____

TOMB? _____

DESCRIPTION OF LOCATION:

Terrain-flat _____ hilly _____ slope _____ hilltop _____ marsh or swamp _____

Growth mature woods _____ dense second growth _____ low growth _____

Pasture _____ field _____ lawn _____ sand and gravel _____ other _____

(Identify if possible) _____

Land marks Rock outcroppings _____ other _____

DESCRIPTION OF ENCLOSURE:

Stonewall _____ rail fence _____ granite posts _____ granite blocks _____ other _____ none _____

DESCRIPTION OF GATEWAY:

Opening, no gate _____ opening, gate removed _____ hinged iron gate _____ Wooden gate _____

removable iron rails _____ opening, granite post in center _____ steps _____ other _____

CONDITION OF CEMETERY:

Perpetual care _____ occasionally mowed _____ brush removed _____ overgrown _____ fallen trees _____

dense undergrowth _____ shade inhibits low growth _____ poison ivy or briar _____

SIGNS OF MISUSE OR VANDALISM (describe): _____

IF KNOWN PLEASE STATE HISTORY OR FOLKLORE OF BURIAL GROUND OR SPECIFIC MONUMENTS WITHIN THE CEMETERY THAT DRAW YOUR ATTENTION, i.e. family pet, Indian princess etc.

COMPLETION DATE OF SURVEY:

NAME OF PERSON (S) RECORDING DATE:

ADDRESS:

PHONE #

EMAIL

PLEASE FORWARD COMPLETED CEMETERY INSPECTION REPORTS, MARKER TRANSCRIPTIONS AND PHOTOS TO:

Rhode Island Historical Cemetery Commission
P. O. Box 8993
Warwick, R.I. 02888

APPENDIX D

MARKER TRANSCRIPTION

PLEASE TAKE A DIGITAL PHOTO WHEN TRANSCRIBING

Cemetery Name: _____ Street: _____

Recorder: _____ City: _____

Date: _____ Marker Number: _____

Name on marker: _____

Birth date: _____ Death date: _____

Dimensions:

Main body: height width thickness

Base: height width thickness

Monument Type:

head foot family obelisk tomb

Material: check for main stone - B for the base if one

granite marble slate fieldstone brownstone

Marker type:

tablet tablet in socket on base

Top:

straight rounded angled

Decorative carving:

urn and willow urn willow botanical other

Condition of marker:

sound chipped cracked repaired broken (# of pieces) tilted

sunken delaminating flush

Condition of inscription

excellent clear but worn mostly decipherable mostly undecipherable

Carver:

Inscriptions:

APPENDIX E



RHODE ISLAND ADVISORY COMMISSION ON HISTORICAL CEMETERIES
PO BOX 41435
PROVIDENCE, RI 02903

"CARING FOR THE PERMANENT RESIDENTS OF RI"

October 23, 2013

Dear Council Members

In 2011 the General Assembly passed RIGL Title 44-3-63 Historical Cemeteries. This law authorizes city and town councils to provide by ordinance an abatement from taxation for any real property on which is located a historical cemetery registered pursuant to RIGL 23-18-10 and to provide by ordinance for full or partial reimbursement of expenses incurred in repairing and maintaining such historical cemeteries including walls or fences surrounding such cemeteries.

Our Historical Cemeteries are open air museums that need to be restored, preserved and maintained. The cemeteries document the birth and development of our state through its people and should be preserved for the education of future generations. Unfortunately, many of these cemeteries are in very poor condition including those on private property. Now city and town councils have the opportunity to help preserve these cemeteries through the passage of tax relief ordinances.

Most every city and town has a cemetery commission or a designated person responsible for our historic cemeteries. They will be available to assist with development of the processes and procedures needed to establish and enforce your tax abatement ordinance.

We strongly urge you to take action on this matter as soon as possible so that we can be assured that our historic cemeteries will be preserved for future generations.

Sincerely,

Margaret Malcolm, Chair
RIHCC

Henry C. Duquette, Co-chair
RIHCC

