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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 8. CEMETERIES [8100 - 9703]** ( *Division 8 enacted by Stats. 1939, Ch. 60.*  )

**PART 3. PRIVATE CEMETERIES [8250 - 8829]** ( *Part 3 enacted by Stats. 1939, Ch. 60.*  )

**CHAPTER 5. Endowment and Special Care [8700 - 8785]** ( *Heading of Chapter 5 amended by Stats. 1951, Ch. 176.*  )

**ARTICLE 1. Care of Old Cemeteries [8700 - 8715]** ( *Article 1 enacted by Stats. 1939, Ch. 60.*  )

**8700.** In addition to those cemeteries to which this part does not apply, this article does not apply to abandoned cemeteries nor to cemeteries in which interments are prohibited.

(Enacted by Stats. 1939, Ch. 60.)

**8701.** Whenever a majority of the plots in all or any part of a cemetery established prior to August 14, 1931, has been sold without the owner having made provision for the establishment of an adequate endowment care fund for its care, maintenance, and embellishment, the avenues, roadways, walks, driveways, alleys, streets and parks in it may be vacated or altered and replatted into plots which may be sold for interment purposes pursuant to this article.

(Amended by Stats. 1951, Ch. 176.)

**8702.** Application for the alteration or vacation or replatting of all or any portion of an alley, street, avenue, walk, driveway, or park, for plots in the cemetery shall be made to the superior court in the county in which all or any portion of the property is situated.

(Enacted by Stats. 1939, Ch. 60.)

**8703.** The application may be by the cemetery authority owning or operating the cemetery or if there is no cemetery authority operating the cemetery, by twenty or more plot owners.

(Enacted by Stats. 1939, Ch. 60.)

**8704.** The petition shall be verified and shall specify the facts of such ownership and shall state the reasons for the proposed change and what provisions have theretofore been made for the endowment care of the cemetery.

(Amended by Stats. 1951, Ch. 176.)

**8705.** There shall be presented with the petition a plat of the cemetery and the proposed replat which shall clearly indicate the proposed changes.

(Enacted by Stats. 1939, Ch. 60.)

**8706.** The petition shall be filed with the clerk of the superior court, and the clerk shall fix the time for hearing not less than thirty nor more than sixty days from the date of filing.

(Enacted by Stats. 1939, Ch. 60.)

**8707.** Notice of the hearing shall be given by publishing a copy of the notice in a newspaper of general circulation near the cemetery in the county in which the property is situated, once a week for three consecutive weeks prior to the date of hearing.

(Enacted by Stats. 1939, Ch. 60.)

**8708.** Copies of the notice shall be posted in three conspicuous places within the cemetery.

(Enacted by Stats. 1939, Ch. 60.)

**8709.** The notice shall:

- (a) Be addressed to all persons owning or interested in plots in the cemetery but need not name them.
- (b) Set forth in a general way the proposed changes.
- (c) Set forth the reasons stated in the petition for making the changes.
- (d) State the time when the hearing of the petition will be had.
- (e) State that a plat showing the proposed changes is on file with the clerk of the court.

*(Enacted by Stats. 1939, Ch. 60.)*

**8710.** At the time fixed for the hearing, the court shall hear and consider any evidence introduced in favor of and all objections to the changes and may allow the proposed changes and replat in whole or in part, or may order and allow modifications of the proposed changes. The hearing may be continued from time to time by order of court.

*(Amended by Stats. 1939, Ch. 339.)*

**8711.** The cemetery authority or other person directed by the court shall accept the newly created plots and shall sell and convey them only for interment purposes.

*(Amended by Stats. 1957, Ch. 79.)*

**8713.** The vacation of an alley, avenue, roadway, walk, driveway, street, or park adjacent to a privately owned plot does not vest any interest in the owner of the plot to the vacated portion; but the adjacent owner shall, for 10 days after the date of the order of vacation, have the right to purchase the new plots.

*(Amended by Stats. 1957, Ch. 79.)*

**8714.** In allowing any damages to any plot owner for such vacation, the court shall take into consideration the benefit to be received from endowment care.

*(Amended by Stats. 1951, Ch. 176.)*

**8715.** The provisions of this article are hereby declared to be a necessary exercise of the police power of the State in order to preserve and keep existing cemeteries as resting places for the dead and to preserve cemeteries from becoming unkept and places of reproach and desolation in the communities in which they are located. The taking of roadways, alleys, walks, avenues, driveways, streets and parks for the purposes and by the method in this section specified, regardless of the private character of the association or person applying therefor, is hereby declared an exercise of the right of eminent domain in behalf of the public health, safety, comfort, pleasure, protection, and historic instruction to present and future generations.

*(Enacted by Stats. 1939, Ch. 60.)*