

**Chapter 68.36 RCW
ABANDONED LOTS**

Sections

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RCW 68.36.010 Sale of abandoned space—Presumption of abandonment. The ownership or right to unoccupied cemetery space in this state shall, upon abandonment, be subject to forfeiture and sale by the person or entity having ownership or management of the cemetery. Unoccupied cemetery space is presumed to be abandoned if it has been neglected and in a state of disrepair for a period of five years. [2005 c 365 s 106; 1943 c 247 s 78; Rem. Supp. 1943 s 3778-78.]

RCW 68.36.020 Notice—Requirements—Limitation on placing. Cemetery management shall place a suitable notice on each unoccupied space, setting forth the date the notice is placed and that the unoccupied space is subject to forfeiture and sale by the cemetery. If the owner of the unoccupied space fails during the next three years following the date of the notice to maintain or care for the unoccupied space, the cemetery may reclaim the unoccupied space. However, such a notice cannot be placed on the unoccupied space in any cemetery lot until twenty years have elapsed since the last interment in any such lot of a member of the immediate family of the record owner. [2005 c 365 s 107; 1943 c 247 s 79; Rem. Supp. 1943 s 3778-79.]

RCW 68.36.030 Petition for order of abandonment—Notice and hearing. After a three-year period, the owner or manager of the cemetery may file a verified petition in the office of the county clerk, setting forth the facts relating to the abandonment. The petition may ask for an order of the superior court for abandonment.

At the time of filing the petition, the cemetery authority shall request a hearing of the petition. The superior court will fix the time for the hearing. Not less than sixty days before the time fixed for the hearing of the petition, notice and nature of the hearing shall be given to the owner of such unoccupied space. [2005 c 365 s 108; 1943 c 247 s 80; Rem. Supp. 1943 s 3778-80.]

RCW 68.36.040 Service of notice. The notice may be served personally upon the owner, or may be given by the mailing of the notice by registered mail to the owner to his or her last known

address and by publishing the notice three times in a legal newspaper published in the county in which the cemetery is located. In the event that the whereabouts of the owner is unknown, then the notice may be given by publishing the notice three times in a legal newspaper as required by this section. The cemetery authority may file an affidavit in the proceeding to the effect that the owner is unknown and that the cemetery exercised diligence in attempting to locate the unknown parties. The affidavit shall be conclusive to that effect. [2005 c 365 s 109; 1943 c 247 s 81; Rem. Supp. 1943 s 3778-81.]

RCW 68.36.050 Hearing—Order—Attorneys' fees. An owner or claimant may appear and answer the allegations of the petition. If an owner fails to do so prior to the day fixed for hearing, a default shall be entered and it shall then be the duty of the superior court to immediately enter an order adjudging the unoccupied space to have been abandoned and subject to sale. In the event the owner or claimant shall appear and file his or her answer prior to the day fixed for the hearing, the presumption of abandonment shall no longer exist, and on the day fixed for the hearing of the petition or on any subsequent day to which the hearing of the cause is adjourned, the allegations and proof of the parties shall be presented to the court and if the court shall determine that there has been a continued failure to maintain or care for the unoccupied space for a period of three consecutive years preceding the filing of the petition, an order shall be entered accordingly adjudging the unoccupied space to have been abandoned and subject to sale at the expiration of one year by the person, association, corporation, or municipality having ownership of the cemetery containing the same. Upon any adjudication of abandonment, the court shall fix such sum as it shall deem reasonable as attorneys' fees for petitioner's attorney for rights of interment adjudged to have been abandoned in such proceedings. [2005 c 365 s 110; 1943 c 247 s 82; Rem. Supp. 1943 s 3778-82.]

RCW 68.36.060 Contract for care before adjudication. If at any time before the adjudication of abandonment the owner of an unoccupied space contracts with the owner or manager of the cemetery for the endowment care of the space, the court shall dismiss the proceedings as to such unoccupied space. [1953 c 290 s 1; 1943 c 247 s 83; Rem. Supp. 1943 s 3778-83.]

RCW 68.36.070 Contract for care within one year after adjudication. If at any time within one year after the adjudication of abandonment, the former owner of the unoccupied space shall contract for its endowment care, and reimburse the owner or manager of the cemetery for the expense of the proceedings, including attorney's fees, the space shall not be sold and the order adjudging it to have been abandoned shall be vacated upon petition of the former owner. [1953 c 290 s 2; 1943 c 247 s 84; Rem. Supp. 1943 s 3778-84.]

RCW 68.36.080 Sale after one year. One year after the entry of the order adjudging such lot, part of lot, lots or parts of lots to have been abandoned, the owner or manager of the cemetery in which the

same is located shall have the power to sell the same, in whole or in part, at public or private sale, and convey by deed good, clear and sufficient title thereto. [1943 c 247 s 85; Rem. Supp. 1943 s 3778-85.]

RCW 68.36.100 Petition may cover several lots. In any one petition for abandonment, a petitioner may, irrespective of diversity of ownership, include in any such petition as many lots or parts of lots as come within the provisions of *this act. The petition for abandonment shall be entitled: "In the Matter of the Abandonment, Forfeiture and Sale of Unoccupied and Uncared for Space located in Cemetery." [1943 c 247 s 87; Rem. Supp. 1943 s 3778-87.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.