

# A CHURCH LEADERS' GUIDE TO ESTABLISHING A CEMETERY ASSOCIATION



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# A Church Leaders' Guide for Establishing a Cemetery Association

## I. Purpose for Establishing a Cemetery Association

What can a church do to preserve and protect its cemetery regardless of what happens to the church building? Sometimes a church may find that forming a cemetery association with an endowment may provide a workable solution. For some churches, the maintenance, management, and potential liability costs of having a cemetery severely stress the financial resources of the church. At the same time, the family members of those buried in the cemetery may not be members of the church. A cemetery association may be organized as a not-for-profit entity with a mission to care for the cemetery. Once the cemetery association is duly organized under state law, it may apply for tax exempt status, 501(c)(13) with the IRS so that contributions to the association may be deducted from a contributor's itemized tax return.

## II. Establishing a Cemetery Association

### A. Elect a Board of Trustees.

Forming a cemetery association is not difficult, but it does take some time and effort. To establish the association, you will need to gather a group of individuals who are motivated to preserve and manage the cemetery. It helps for this group to be multigenerational. Membership in the association often extends to non-church members who have loved ones buried there. This group of individuals elects officers, agrees on the association's mission, and establishes rules for the operation of the cemetery. Rules include hours to be open, restrictions on headstones and plots, flowers, lighting, fencing, and other matters. The association should also contemplate the financial management of the association, especially with regard to rules about plot sales, etc. All of this should be codified into the rules and bylaws.

### B. Incorporate the Cemetery Association.

1. **Adopt the Bylaws.** Bylaws and Articles of Incorporation, adopted by the group of individuals, govern the operation of the cemetery association. (See sample Bylaws on pages 4 and 5).
2. **Prepare the Articles of Incorporation and apply to the Georgia Secretary of State to incorporate.**
  - a. Visit <https://georgia.gov/popular-topic/corporations-llcs-and-limited-partnerships>. Then click on the document link: "Filing Procedures for Corporations."
  - b. Once the "Filing Procedures for Corporations" document is opened, read the general section at the top for instructions. Then scroll down the document to find the sample "Articles of Incorporation for Nonprofit Corporations."
  - c. Prepare the Articles of Incorporation for the cemetery association.
  - d. File Articles of Incorporation online using Corporate Transmittal Form 227 or mail or hand deliver to the Georgia Corporation's Division.

3. **Apply for Tax ID number with the IRS.** This will be required for the cemetery association to open and maintain a banking relationship, as well as complete your application to become incorporated.
4. **Apply to the IRS for tax exempt status under 501(c)(13) using form 1024, Application for Recognition of Exemption.** The cemetery association must apply for tax exempt status with the IRS. When approved, this allows contributions to be tax deductible. Only the IRS grants tax exempt status, not the state. Note that the IRS might require an annual tax return.
5. **Register the Corporation with the Georgia Secretary of State.** Within 90 days of incorporation, you must register the cemetery association with the State Corporations Division, <https://ecorp.sos.ga.gov/>, as a not-for-profit. This form is pretty straightforward. To complete the set up you must register the names of the officers. This establishes the cemetery association as a legal entity with the capacity to own assets and conduct business.

**III. Develop Burial Rules and Rules for Operation of the Cemetery.** (See page 6).

**IV. Deed property to the Cemetery Association.**

Once the cemetery association is registered with the state and has received tax exempt status from the IRS, the church may deed the real property of the cemetery to the association. It is wise to get a survey to determine the exact boundaries of the cemetery. Often in older cemeteries, the original deeds refer to markers which no longer exist such as the big oak tree or the flat stone.

**V. Decide if you will purchase insurance to cover the cemetery.**

**VI. Establish an endowment to fund the ongoing operation and maintenance of the cemetery.**

When all of these steps have been completed, the cemetery association may choose to open an endowment fund to assist with the operating costs of the cemetery. An endowment is a fund to which individuals may contribute. Each year, distributions can be made from the endowment to assist with operating and/or capital expenses. Contributors often include non-church members with relatives buried in the cemetery or individuals who expect to be buried there. A campaign to raise endowment funds helps to build the fund.

Since the cemetery association now owns the cemetery, it is responsible for the upkeep and maintenance. Fees for plots and services may generate revenues to help offset expenses. When churches close and there is a cemetery association with an endowment fund, sometimes a portion of the proceeds from the sale of the other church property may be set aside to help fund the cemetery association endowment.

The process of setting up the cemetery association is not particularly difficult. It does take time and patience since it involves filing with multiple governmental agencies. It can be helpful to have an attorney review the documents and make suggested edits. To download a copy of this guide, visit [www.gumf.org/cemetery-association/](http://www.gumf.org/cemetery-association/). While the Georgia United Methodist Foundation does not offer legal advice, we can share examples of how other churches have set up their cemetery associations.

# Bylaws of \_\_\_\_\_ Cemetery Association

## ORGANIZATION

This Association was established for the purpose of preserving and maintaining the \_\_\_\_\_ Cemetery, located in \_\_\_\_\_ County, Georgia. The Association shall be operated as a nonprofit organization, with no personal benefit to any member of the Association.

## MEMBERSHIP

The Association is composed of members who meet the burial eligibility requirements.

## MANAGEMENT

These Bylaws provide for the management and care of \_\_\_\_\_ Cemetery through the elected members of a Board of Trustees elected annually by the Association membership.

## MEETINGS

The Board of Trustees shall set the time and place of the annual meeting or subsequent meetings as necessary to perform their duties for the betterment of the Association. The annual meeting shall be held during the month of \_\_\_\_\_ each year, unless otherwise designated by the Trustees. Association members shall be informed in writing by mail no less than 14 days prior to said meeting.

## TRUSTEES

Trustees shall be elected annually by simple majority of Association members present and may succeed themselves. The number of trustees elected shall be set and approved by the Association membership at the annual meeting. A trustee vacancy may be filled by the President with approval of a majority of remaining trustees.

## OFFICERS AND ADMINISTRATION

Officers shall be elected annually from and by the Trustees for the current year and requires a quorum and simple majority of those trustees present. A majority of the trustees is required for a quorum. Officers of this association shall be a President, Secretary, and Treasurer. These officers may succeed themselves.

1. The President shall preside at all meetings and shall be charged with the responsibilities pertaining to policy, programs, management, business, properties, and performance. The President may appoint such individuals and committees, as he/she may deem necessary to the accomplishment of his/her charge.
2. The Secretary shall keep the records of the Association proceedings and unless otherwise assigned by the President, conduct the correspondence, issue notices as are provided for in these Bylaws and perform other and further duties as the President may request.
3. The Treasurer shall collect all monies and issue receipts for the same. The Treasurer shall deposit all such monies in the name of \_\_\_\_\_ Cemetery with a bank designated by the Board of Trustees of \_\_\_\_\_ Cemetery. This includes monies distributed from \_\_\_\_\_ Cemetery Endowment held by the Georgia United Methodist Foundation. The Treasurer shall make a complete report to the Association at the annual meeting of the Association.

**ENDOWMENT**

There shall be a \_\_\_\_\_ Cemetery Endowment. The endowment will make distributions on a quarterly basis to support the maintenance of the \_\_\_\_\_ Cemetery. The endowment will be held by the Georgia United Methodist Foundation. Additions to the endowment may be made at any time.

**FINANCE**

The Board of Trustees of the Association shall review annually and designate a depository for funds of the Association. All funds withdrawn shall be by the signature of either the President or Treasurer. The Board shall establish the procedure/requirement for the issuance of checks.

**RULES AND REGULATIONS**

Rules and Regulations for the government of \_\_\_\_\_ Cemetery Association provide for the Trustees to have full authority to prescribe such rules and regulations as necessary to insure proper management, maintenance, care, preservation, and for the security and protection of \_\_\_\_\_ Cemetery.

**BURIAL ELIGIBILITY**

\_\_\_\_\_ Cemetery was established for the purpose of providing burial space for the \_\_\_\_\_. The families and \_\_\_\_\_ are eligible for burial in the \_\_\_\_\_ Cemetery.

**AMENDMENTS**

Any Amendment to these Bylaws shall be proposed by resolution in writing. Such resolution may be discussed, amended, or otherwise altered in accordance with parliamentary procedure, and when called for a vote, shall be balloted upon at the meeting. If the Resolution or amended Resolution be adopted by a 2/3 majority vote of the members present, the same shall become effective. No vote shall be taken unless the Secretary has given written notice to all Association members, including the proposed changes, not less than 14 days prior to the date and time and place of such meeting.

## Burial Rules and Rules for Operation of the Cemetery

\_\_\_\_\_ Cemetery does not sell burial spaces. The Cemetery is operated and maintained by a Board of Trustees and depends on distributions from the \_\_\_\_\_ Cemetery Endowment. The following rules for use of the Cemetery establish your responsibilities, those of this Association and the mortuary of your choice. They will be of assistance to you when the time comes to have a burial in \_\_\_\_\_ Cemetery.

1. Contact one of the Cemetery Trustees and state your desire to use the \_\_\_\_\_ Cemetery.
  - a. Establish with that Trustee your eligibility to use the Cemetery. One of the following conditions must be met for a person to be buried at \_\_\_\_\_ Cemetery:
    1. \_\_\_\_\_
    2. \_\_\_\_\_
    3. \_\_\_\_\_
  - b. After your eligibility is established, assist that Trustee in determining the appropriate gravesite for burial.
2. Make funeral arrangements with the mortuary of your choice. Remind your funeral director that he/she must obtain a signed burial permit from a Trustee before burial arrangements can be completed.
3. If records of this Cemetery Association do not reflect your immediate past giving to maintain \_\_\_\_\_ Cemetery, a minimum contribution of \$\_\_\_\_\_ must be made to the \_\_\_\_\_ Cemetery Endowment before the burial permit is completed for your funeral director.
4. With a signed burial permit in hand, your funeral director will arrange for opening and closing the grave as well as other services you will request of the funeral director.

## Rules Pertaining to the Grounds in \_\_\_\_\_ Cemetery

\_\_\_\_\_ Cemetery has a significant historical background in \_\_\_\_\_ County and we are proud of this background. While we have no full-time caretaker, the \_\_\_\_\_ Cemetery Association attempts to maintain the cemetery appropriately by mowing the grass and periodically trimming the trees and bushes.

To make our care of \_\_\_\_\_ Cemetery easier for us to handle, and to contribute to the desirable overall appearance of the cemetery, \_\_\_\_\_ Cemetery Association adopts these rules:

1. When erecting headstones, they should be \_\_\_\_\_.
2. The planting of trees, bushes and flowers is not permitted. The planting of grass, such as St. Augustine, is permitted. However, \_\_\_\_\_ Cemetery Association assumes no responsibility for the watering of planted grass. It will be mowed when and as the entire cemetery is mowed.
3. Interested parties are permitted to attend gravesites by watering and trimming and the placing of flowers in receptacles. The \_\_\_\_\_ Cemetery Association assumes no responsibility should flower receptacles and their contents be lost, turned over, broken or removed. Empty receptacles should be removed from gravesite except where they are a part of the headstone arrangement.
4. When ordering the erection of a headstone, it is strongly recommended that the monument company install a reinforced concrete below-ground base foundation. Without a proper and substantial foundation, headstones over time become unstable and may topple over. The time to prevent this occurrence is when initially contracting with a monument company.



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