

2018 -- H 7366 SUBSTITUTE A

LC003801/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO THE JUNIPER HILL CEMETERY, AMENDING AND INCORPORATING THE ORIGINAL ACT OF INCORPORATION PASSED AT THE JANUARY, 1856 SESSION OF THE GENERAL ASSEMBLY AS SUBSEQUENTLY AMENDED AT THE JANUARY, 1884, AND THE JANUARY, 1887 SESSIONS, AND NOW FURTHER AMENDED

Introduced By: Representatives Donovan, and Marshall

Date Introduced: January 31, 2018

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1.

2 WHEREAS, The general assembly at its January 1856 session passed an act entitled "AN
3 ACT to incorporate The Juniper Hill Cemetery"; and

4 WHEREAS, The general assembly, at its sessions of January 1884, January 1887, and
5 January 1984 amended the same; and

6 WHEREAS, It is now desired to further amend the same, and to reorder its sections into a
7 more convenient and rational arrangement;

8 NOW THEREFORE, The said act, as previously amended, is hereby restated, amended,
9 and declared to read as follows:

10 ~~SECTION 1.~~ [Section 1.](#) George F. Usher, James D'W. Perry, Byron Diman, Ambrose E.
11 Burnside, James H. West, Charles H. R. Doringle, and Lemuel W. Briggs, their associates and
12 successors, are hereby created a body politic and corporate, with perpetual succession, under the
13 name of "The Juniper Hill Cemetery," and by that name may have and use a common seal, may
14 sue and be sued to final judgment or decree, and do all such other things as are incident to a
15 corporation [under the General Laws of the State of Rhode Island as they may be amended from](#)
16 [time to time.](#)

17 ~~SEC. 2.~~ [Section 2.](#) The stock of said Corporation shall be divided into shares of one

1 hundred dollars each, and shall be deemed personal property, and be transferable in such manner
2 as the Corporation shall direct.

3 ~~SEC. 3.~~ Section 3. The said Corporators may acquire and hold a tract of land not
4 exceeding fifty acres, which they may lay out, ornament, and sell or otherwise dispose of, under
5 such rules and regulations as they may impose, to be used exclusively for a rural cemetery,
6 without regard to sect. They may also hold so much personal property as they may deem requisite
7 for the erection of buildings and other structures, and for the improvement and maintenance of the
8 Cemetery. They may also receive and apply to the betterment or support of the cemetery estate, or
9 of particular lots, buildings or structures thereon, such donations or bequests as may at any time
10 be made for those objects. When five thousand dollars shall have been raised and appropriated to
11 pay for the land, and for the laying out and improving the same, one half of the proceeds of future
12 sale of lots shall continue to be appropriated for the like purposes forever; the other half thereof
13 shall be applied to the reimbursal of the stockholders, of all moneys with interest ~~buy~~ by them
14 advanced for the purchase and improvement of said cemetery estate, until said moneys and
15 interest are fully refunded; and thereafter, all moneys arising from the sale of lots, or otherwise
16 accruing, shall be appropriated to the perpetual improvement and maintenance of said cemetery.
17 And when the stockholders are so reimbursed the advances by them made, then such stock shall
18 be redeemed and from thenceforth every lot owner in said Cemetery shall become a member of
19 this Corporation, with all the rights and privileges of a ~~corporator~~ member thereof.

20 ~~SEC 4.~~ Section 4. The officers of said Corporation shall consist of not less than five nor
21 more than seven Trustees, being members thereof; a president, treasurer, secretary, and such other
22 officers shall be chosen by the ~~trustees~~ Trustees, and shall hold their offices at the pleasure of the
23 ~~trustees~~ Trustees, and may be required to give bond for the faithful performance of their duties.
24 The ~~treasurer~~ Secretary shall record the doings of the company and of the ~~trustees~~ Trustees at
25 their meetings, and the Treasurer shall have the custody of the funds subject to the control of the
26 ~~trustees~~ Trustees, and the officers shall report to them and to the company ~~his~~ their doings
27 whenever called upon. ~~He~~ The Secretary shall also with the President or other designated officer
28 sign all bills of sale or deeds of lots. The Trustees shall have the care and management of the
29 property, expenditures, and business of the Corporation, of the laying out of the roads and paths,
30 and of the laying out of plats and lots, and the sale or other disposition thereof, on the cemetery
31 estate, and shall make a report of their doings whenever called upon by the ~~company~~ Corporation.
32 The ~~trustees~~ Trustees shall be elected annually by the ~~stockholders~~ members, and shall hold their
33 offices until others are chosen. They shall designate one of their number to be President, who
34 shall be President of the Corporation. A major part of them shall be a quorum to transact

1 business. The persons first named in this act shall be the first trustees. Any two of them may call
2 the first meeting of this Corporation, by giving six days public notice of the time and place. The
3 time of holding, and the mode of calling all other meetings of this company, the number of
4 members necessary to form a quorum, the term for which the trustees shall hold office, the mode
5 of filling vacancies in their number, and all matters not herein otherwise provided for shall be
6 regulated by by-laws adopted by the Trustees from time to time.

7 ~~SEC. 5. Section 5. At all meetings of this Corporation, each corporator shall have one~~
8 ~~vote for every share of stock owned by him; but no one corporator shall have more than five~~
9 ~~votes.~~ (a) The members of the Corporation shall be the several persons who, from time to time,
10 shall be the owners or proprietors, holding the legal title, of the burial lots in said cemetery or of
11 any interests in the legal title to any of said lots;

12 ~~SEC. 6. It shall be lawful for the trustees, in the name of the company, to require the~~
13 ~~payment of all moneys subscribed to the stock, under the penalty of the forfeiture of all payments~~
14 ~~previously made, and if needful, to collect all such moneys by due process of law.~~ (b) Also those
15 persons who heretofore have conveyed and hereafter may convey any of such burial lots, grave
16 sites, or any interests in the title to any of such lots or grave sites to the Corporation upon trust as
17 provided in Section 11 hereof;

18 (c) Also (after the death of the person or persons who heretofore have made and hereafter
19 may make any such conveyance upon trust, either by deed or will) those persons, who, in
20 accordance with the terms of each such deed or will, shall be entitled to the right of burial in said
21 cemetery and the respective heirs-at-law of each and every person so entitled to the right of burial
22 and whose body has been or hereafter may be interred in said cemetery in accordance with such
23 right.

24 (d) At each and every meeting of the Corporation the right to vote shall be in respect to
25 the grave sites designated on the several burial lots in the cemetery which heretofore have been
26 and hereafter shall be conveyed for burial purposes (the extent of the grave sites on the several
27 lots to be determined by the descriptions in the deeds given by this corporation or otherwise
28 determined by the Trustees) – one vote for each such grave site within a lot, and that the person or
29 persons having membership in the Corporation in respect to each lot and none other shall be
30 entitled to vote; provided that, in each case, where there are two (2) or more members of the
31 Corporation (having right of membership as incident to the same lot), only one of such members
32 shall have the right to vote in representation of that lot. The person who may so vote may be
33 designated in writing by a majority in the number of all those having membership in respect to
34 the lot (the writing evidencing such designation to be signed by such majority of members and

1 filed with the Secretary of the Corporation) or, in default of such designation by members, may
2 be designated by the Trustees.

3 (e) The right to vote in the manner and to the extent above provided may be exercised by
4 proxy in accordance with provisions which may be incorporated in the by-laws.

5 (f) The Corporation may, by by-laws, prescribe the times for holding annual meetings of
6 its members, also the manner of calling special meetings of its members, also the manner of
7 giving notices of such meetings, also the number of lots which must be represented by members
8 at such meetings in order to constitute a quorum for the transaction of business and generally
9 make all such other provisions for the conduct of its affairs as to it may seem necessary and
10 proper and may alter, amend and add to such by-laws from time to time.

11 Section 6. (a) The Trustees, for the time being, shall have the full and entire management
12 and control of the estate, property and business affairs of the Corporation, and of the sales of lots,
13 subject at all times to the existing votes, rules and regulations and by-laws of the Corporation;
14 and all deeds and transfers in behalf of the Corporation shall be executed by such officer or agent
15 as may be prescribed by general by-law or appointed by special vote of the Corporation or
16 Trustees.

17 (b) A Trustee of the Corporation shall not be personally liable to the Corporation or its
18 members for monetary damages for breach of the Trustee's duty as a Trustee, except for:

19 (1) Liability for any breach of the Trustee's duty of loyalty to the Corporation or its
20 members;

21 (2) Liability for acts or omissions not in good faith or which involve intentional
22 misconduct or a knowing violation of law; or

23 (3) Liability for any transaction from which the Trustee derived an improper personal
24 benefit. If the Rhode Island Non-Profit Corporation Act is amended to authorize corporate action
25 further eliminating or limiting the personal liability of Trustees, then the liability of a Trustee of
26 the corporation shall be eliminated or limited to the fullest extent permitted by the Rhode Island
27 Non-Profit Corporation Act as so amended. Any repeal or modification of the provisions of this
28 Section 6(b) by the Corporation shall not adversely affect any right or protection of a Trustee of
29 the Corporation existing prior to such repeal or modification.

30 (c) The Trustees of the Corporation may authorize agreements to be entered into with
31 each Trustee and Officer for the purpose of indemnifying a Trustee or Officer in the manner and
32 to the extent permitted by § 7-6-6 of the Rhode Island Non-Profit Corporation Act, as amended.

33 (d) In addition to the authority conferred upon the Trustees of the Corporation by § 7-6-6
34 of the Rhode Island Non-Profit Corporation Act, the Trustees of the corporation may authorize

1 agreements to be entered into with each Trustee or Officer, for the purpose of indemnifying such
2 Trustee or Officer in the manner and to the extent provided herein:

3 (1) The agreements authorized hereby may provide that the corporation shall, subject to
4 the provisions of this section, pay, on behalf of a Trustee or Officer, any loss or expenses arising
5 from any claim or claims which are made against the Trustees or Officer (whether individually or
6 jointly with other Trustees or Officers) by reason of any Covered Act of the Trustee or Officer.

7 (e) For the purposes of this section, when used herein:

8 (1) "Loss" means any amount which a Trustee or Officer is legally obligated to pay for
9 any claim for covered acts and shall include, without being limited to, damages, settlements,
10 finances, penalties, or, with respect to employee benefit plans, excise taxes:

11 (2) "Expenses" means any expenses incurred in connection with the defense against any
12 claim for covered acts, including, without being limited to, legal, accounting or investigative fees
13 and expenses;

14 (3) "Covered act" means any act or omission of a Trustee or Officer in the Trustee or
15 Officer's official capacity with the Corporation.

16 (f) The Agreements authorized hereby may cover loss or expenses arising from any
17 claims made against a Trustee or Officer no longer serving in an official capacity, the estate, heirs
18 or legal representative of a deceased Trustee or Officer or the legal representative of an
19 incompetent, insolvent or bankrupt Trustee or Officer, where the Trustee or Officer was a Trustee
20 or Officer at the time the covered act upon which such claims are based occurred.

21 (g) The agreements authorized hereby may provide for the advancement of expenses to a
22 Trustee or Officer prior to the final disposition of any action, suit or proceeding, or any appeal
23 therefrom, involving such Trustee or Officer and based on the alleged commission by such
24 Trustee or Officer of a covered act, subject to an undertaking by or on behalf of such Trustee or
25 Officer to repay the same to the corporation if indemnification is not permitted under subsection
26 (h) below.

27 (h) The agreements authorized hereby may not indemnify a Trustee or Officer from and
28 against any loss, and the Corporation shall not reimburse for any expenses, in connection with
29 any claim or claims made against a Trustee or Officer for:

30 (1) Any breach of the Trustee's or Officer's duty of loyalty to the corporation or its
31 members;

32 (2) Acts or omissions not in good faith or which involve intentional misconduct or
33 knowing violation of law; and

34 (3) A transaction from which the person seeking indemnification derived an improper

1 personal benefit.

2 (i) The agreements authorized hereby may contain such other terms and conditions as the
3 Board of Trustees, in its sole discretion, determines to be consistent with the provisions of this
4 section.

5 (j)(1) No contract or transaction between the Corporation and one or more of its Trustees
6 or Officers, or between the Corporation and any other corporation, partnership, association, or
7 other organization in which one or more of its Trustees or Officers are Trustees or Officers or
8 have a financial interest, shall be void or voidable nor shall such Trustees or Officers be liable
9 with respect to such contract or transaction solely for this reason, or solely because the Trustee or
10 Officer is present at or participates in the meeting of the Trustees or committee thereof which
11 authorizes the contract or transaction or solely because their votes are counted for such purpose
12 not shall such Trustees or Officers be considered to be deriving any improper personal benefit
13 from such contract or transaction, if:

14 (i) The material facts as to their interest or relationship are disclosed or are known to the
15 Trustees or the committee, and the Trustees or committee authorizes, approves or ratifies the
16 contract or transaction by the affirmative votes of a majority of the disinterested Trustees, even
17 though the disinterested Trustees be less than a quorum; or

18 (ii) The material facts as to their interest or relationship are disclosed or are known to the
19 members entitled to vote thereon, and the contract or transaction is specifically authorized,
20 approved or ratified by vote of the members; or

21 (iii) The contract or transaction is fair and reasonable to the Corporation.

22 (k) Common or interested Trustees may be counted in determining the presence of a
23 quorum at a meeting of the Trustees or of a committee which authorizes the contract or
24 transaction.

25 ~~SEC. 7.~~ Section 7. No lot in said cemetery shall be conveyed by the company so as to
26 pass the title, or so as to authorize any interment therein, until the purchase money shall have
27 been first paid, to the satisfaction of the President or other delegated officer of the Corporation.
28 No lot owner shall sell or assign his lot without the prior consent of the ~~trustees~~ Trustees. No lot
29 owner shall permit any interment in his or her lot for hire. No lot, after the same has been sold by
30 the ~~company~~ Corporation, shall be divided; but may be held in undivided shares; and upon the
31 death of the proprietor or proprietors, shall pass to his heirs or devisees as the case may be, who
32 may release their rights to each other. But said ~~company~~ Corporation may, at the request of a lot
33 owner, so convey his lot, that the same shall remain thereafter inalienable. No lot owner shall
34 upon any pretence enclose or otherwise obstruct any road, path, or other way, or any part thereof,

1 without the written consent of the ~~trustees~~ Trustees first had.

2 ~~SEC. 8.~~ Section 8. The property of this Corporation and the burial lots by them conveyed,
3 shall be exempt from taxes, and not liable to be sold on execution, or applied to the payment of
4 debts by assignment, or under any ~~bankrupt~~ bankruptcy or ~~insolvent~~ insolvency law.

5 ~~SEC. 9.~~ Section 9. No public road or way shall be made through the cemetery estate;
6 without the consent of this Corporation and the lot owners affected thereby.

7 ~~SEC. 10.~~ Section 10. Any person who shall willfully destroy, mutilate, deface, injure or
8 remove any tomb, monument, grave stone, or other structure placed in the cemetery aforesaid, or
9 any fence, railing, or other work for the protection or ornament of any tomb, monument, grave
10 stone or other structure aforesaid, or of any cemetery lot within the same cemetery, or shall
11 willfully destroy, remove, cut, break, or injure any tree, shrub or plant within said cemetery, or
12 shall shoot or discharge any gun or other fire arm within said cemetery, shall be deemed guilty of
13 a misdemeanor, and shall, upon conviction thereof, before any justice of the peace of the County
14 of Bristol, or other Court of competent jurisdiction, be punished by a fine not less than five
15 ~~hundred~~ thousand dollars, not more than five thousand dollars, or imprisoned not exceeding ten
16 months, according to the nature and aggravation of the offence; and such offender shall also be
17 liable in an action of trespass, to be brought against him in any Court of competent jurisdiction, in
18 the name of "The Juniper Hill Cemetery," to pay all such damages as shall have been occasioned
19 by his unlawful act or acts, which money, when recovered and received, shall be applied by the
20 ~~trustees~~ Trustees to the reparation and restoration of the property destroyed or injured as
21 aforesaid, and the members, Officers and Trustees of this Corporation shall be competent
22 witnesses in such suits.

23 ~~AN ACT IN AMENDMENT OF AN ACT INCORPORATING "THE JUNIPER HILL~~
24 ~~CEMETERY"~~

25 ~~PASSED FEBRUARY 15, 1984.~~

26 ~~IT IS ENACTED BY THE GENERAL ASSEMBLY AS FOLLOWS:~~

27 ~~SECTION 1A.~~ SECTION 11(a). The said Corporation is authorized and empowered to
28 receive from the owner of any burial lot or burial lots within its cemetery grounds, a conveyance,
29 bequest, or devise in trust of his or her said burial lot or lots, and of any curbing, monuments,
30 gravestones or other improvement placed thereon by such owner, and to execute any trust created
31 in and by such conveyance so far as the same may relate to the holding of the title to any such lot
32 or lots and of the curbing, monuments, gravestones or other improvements so conveyed or
33 bequeathed, or to the receipt and expenditure of any fund or the income thereof donated or
34 bequeathed to said Corporation for the purpose of keeping any such lot or the curbing,

1 monuments, gravestones or other improvements thereon in repair; or to the person, persons or
2 class of persons that such owner of said burial lot may in such conveyance designate as entitled to
3 the right of burial therein. This Corporation is authorized to administer said trusts as it shall
4 accept as hereinafter provided.

5 (b) No conveyance or devise of the title to any lot upon trust, as provided in subsection
6 (a) of this section, and no conveyance, assignment, transfer, devise or bequest of any property or
7 estate upon trust for any of the uses and purposes which are specified in subsection (a) of this
8 section, or for any of said uses and purposes, shall be effective or binding or obligatory upon this
9 corporation unless and until the trust in respect thereto shall have been accepted by vote of the
10 Trustees of this Corporation for the time being, and duly recorded in the records of the Trustees,
11 and in each case only upon such terms and conditions as shall be specified in the vote relative
12 thereto.

13 (c) All property and estate which is now held and which hereafter may be held by this
14 Corporation upon trust for the uses and purposes which are specified in and by subsection (b) of
15 this section or for any said purposes or for any similar or kindred purposes may be, by this
16 Corporation, comingled with other property and estate held for any of the purposes as provided in
17 said subsection (b) of this section for the purpose of investing the same and shall be, by this
18 Corporation, acting by its Board of Trustees or by any other representative or representatives,
19 from time to time duly authorized by said board, invested and reinvested at any time and times
20 and from time to time in some of the forms of investments which, according to the laws of the
21 State of Rhode Island, now are and which, at any time and times hereafter, may be authorized for
22 investments by savings banks incorporated under the laws of said State.

23 ~~SEC. 2D.~~ (d) Any lot owner so conveying in trust his or her lot to this Corporation shall
24 not thereby cease to be a member thereof; but shall continue to be a ~~corporator~~ member with all
25 of the rights and privileges of such; and upon his or her death, the other living cestui que trusts
26 named in such conveyances shall become ~~corporators~~ members to represent said lot or lots at all
27 meetings of this Corporation.

28 ~~AN ACT IN AMENDMENT OF AND IN ADDITION TO AN ACT ENTITLED "AN ACT IN~~
29 ~~AMENDMENT OF AN ACT INCORPORATING "THE JUNIPER HILL CEMETERY,"~~
30 ~~PASSED JANUARY SESSION, 1884.~~

31 ~~PASSED APRIL 14, 1887~~

32 ~~IT IS ENACTED BY THE GENERAL ASSEMBLY AS FOLLOWS:~~

33 ~~SECTION 1. The said corporation is authorized and empowered to take and receive by~~
34 ~~the last will and testament of the owner of any burial lot or lots in said cemetery grounds, a~~

1 ~~bequest or devise in trust of his or her said lot or lots, and of the monuments and other~~
2 ~~improvements thereon, and of any fund or property bequeathed or devised by the testator or~~
3 ~~testatrix in trust, to said corporation for the purpose of keeping such lot or lots and the~~
4 ~~monuments and other improvements thereon in repair, and to execute any such trust in the same~~
5 ~~manner and with the same effect as if the transfer of such burial lot or lots have been made by the~~
6 ~~testator or testatrix by deed or other lawful conveyance, in his or her lifetime. And the cestui que~~
7 ~~trusts named in such bequest or devise shall become corporators to represent such lot or lots at all~~
8 ~~meetings of the corporation.~~

9 ~~SEC. This act shall take effect immediately upon its passage.~~

10 Section 12. All conveyances and transfers of lots or parcels of land in said cemetery
11 heretofore made by The Juniper Hill Cemetery, or by its Officers, or by any person or body
12 corporate holding under them, are hereby confirmed and declared valid and effectual to pass the
13 title thereto, although not acknowledged or recorded, provided the same have been otherwise duly
14 delivered and recorded, as the charter of said cemetery company requires; and all conveyances
15 and transfers of land in said cemetery that may be hereafter made by this Corporation or by
16 owners of lots shall be by deed, but such deed not be acknowledged or recorded, except as the by-
17 laws of this Corporation may prescribe.

18 Section 13. (a) Rules and Regulations regarding consents. The cemetery may rely upon
19 the certification of any person reasonably identified as an heir of any original proprietor with
20 respect to the identification of all of the remaining heirs of such proprietor, and if the consent of
21 such heirs shall be required for the taking of any action with respect to any lot in the cemetery for
22 any reason, the cemetery may rely upon the certification of such person as to whether such
23 consent has been given, and the cemetery then shall be fully protected in acting upon any such
24 certificate or the instrument or certificate of any other person believed by it to be the genuine and
25 the cemetery shall have no duty to make any investigation or inquiry as to any statement
26 contained in any such writing.

27 (b) Rules and regulations regarding right of interment. A deceased person shall have the
28 right of interment in any lot or part thereof of which they were the original proprietor at the time
29 of their death. The surviving spouse of the original proprietor shall have the right of interment for
30 their body in such lot or in a tomb in such lot, and the right to have their body remain
31 permanently interred or entombed therein and not be removed therefrom unless by the consent of
32 all of their heirs. It is understood that should a spouse re-marry they are no longer considered a
33 legal spouse and, therefore, gave up right of interment. Heirs of the original proprietor(s) shall
34 have the right of interment in any lot or part thereof in which they were an owner at the time of

1 their death or in any tomb erected thereon, in the order of their deaths, with or without the consent
2 of the other heirs, provided there is burial space still available under the rules of the cemetery.
3 The remains of the person who was not the heir of the original proprietor may be interred in such
4 tomb or lot but only with the consent of all persons claiming an interest therein subject to the
5 following rules and exceptions:

6 (1) If an heir's spouse is buried prior to the death of the heir, with the consent of all the
7 living heirs, the heir will have the right to be buried in the same gravesite, whether or not other
8 grave spaces are available in that lot. See subsection (b)(2) of this section. The heir will have the
9 right to be buried in another grave space within the lot only with the consent of all of the
10 remaining heirs.

11 (2) The surviving spouse of a deceased heir shall have the right to be buried with that
12 deceased heir in the same gravesite without the consent of any of the remaining heirs or in
13 another gravesite within the lot with the consent of the remaining heirs.

14 (3) Whenever the rules provide that a person may be interred in a gravesite with a spouse,
15 the cemetery reserves the right to require that at least one of them shall have been cremated.

16 SECTION 2. This act shall take effect upon passage.

=====
LC003801/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO THE JUNIPER HILL CEMETERY, AMENDING AND INCORPORATING
THE ORIGINAL ACT OF INCORPORATION PASSED AT THE JANUARY, 1856 SESSION
OF THE GENERAL ASSEMBLY AS SUBSEQUENTLY AMENDED AT THE JANUARY,
1884, AND THE JANUARY, 1887 SESSIONS, AND NOW FURTHER AMENDED

- 1 This act would rearrange, restate, and further amend the act of 1856 incorporating The
- 2 Juniper Hill Cemetery in the town of Bristol, as amended.
- 3 This act would take effect upon passage.

=====
LC003801/SUB A
=====