§ 164. Abandonment of cemeteries in cities of less than one million. Upon a verified petition presented to a judge of a court of record by the common council of any city of less than one million, the judge to whom said verified petition was presented shall make an order to show cause, returnable before him at a time and place within the county in not less than twenty days from the date of presentation of said petition, why the remains of any deceased person buried in potters field, or in any neglected or abandoned cemeteries in which no deceased person shall have been interred within twenty years, should not be removed to and reinterred in a properly kept incorporated cemetery in the same city or in a town or city adjoining the city in which the remains of each deceased person or persons are buried, or in lands owned by said city for cemetery purposes, and to fix the amount of expenses for such removal and reinterment and the order to show cause shall provide for its publication in a newspaper, to be designated in the order, which is published nearest to the cemetery from which the removal is to be made, once in each week for two successive weeks. The verified petition presented to the judge shall show that the petitioner is the common council of the city in which said cemetery is located and (1) the name of the deceased person or persons whose remains are sought to be removed, if known; (2) the name and location of the cemetery in which he is interred and from which removal is asked to be made; (3) the name and the location of the incorporated cemetery to which the remains are desired to be removed and reinterred; (4) the facts showing the reasons for such removal. Upon the return day of the order to show cause and at the time and place fixed in said order, upon filing proof of publication of the order to show cause with the judge, if no objection is made thereto, he shall make an order directing the removal of the remains of said deceased person or persons to the cemetery designated in the petition within the city or within a town or city adjoining said city in which the remains are then buried and shall specify in the order the amount of the expenses of such removal, which expenses of removal and reinterment, including the expense of the proceeding under this section, shall be a charge upon the city in which the cemetery is situated from which the removal is made and such expenses shall be a city charge and audited and paid in the same manner as other charges. On or after the removal and reinterment of the remains of any deceased person or

persons, the expenses for annual care of the grave in the cemetery to which the removal is made shall be annually provided by the city in which the remains were originally buried at a rate not to exceed fifty cents per grave, and shall be paid annually to the incorporated cemetery association to which the remains of each deceased person may be removed or reinterred unless said remains have been removed to lands owned by said city for cemetery purposes, in which case such payment shall be made under the provisions of the city ordinance providing for the care and upkeep of said cemetery lands owned by said city. Any city owning a lot or lots in a cemetery maintained by an incorporated cemetery association in which the remains of the deceased persons have been or may be buried pursuant to this section, however, may pay such association an amount sufficient to provide perpetual care therefor. The petition and order shall be filed in the county clerk's office of the county in which the remains of the deceased person were originally interred, and the service of a certified copy of the final order upon the cemetery association shall be made prior to any removal. Any relatives of the deceased person or the officer of any cemetery association in which the remains of deceased person were originally interred may oppose the granting of said order and the judge shall summarily hear the statement of the parties and make such order as the justice and equity of the application shall require. Any headstone or monument which marks the grave of the deceased person shall be removed and reset at the grave in the cemetery to which the removal is permitted to be made and in each case the final order shall provide the amount of expenses of such removals and reinterment and resetting of the headstones or monument, including the expenses for the proceedings under this section; except that where provision is otherwise made for the purchase or erection of a new headstone, monument or marker at the grave in the cemetery to which said removal is permitted, such old headstone or monument need not be so removed and reset in which case the final order shall not provide for the expense of resetting. The order shall designate the person or persons having charge of the removals or reinterments. Upon completion of the removal, reinterment or resetting the headstones or monuments, the person or persons having charge of same shall make a verified report of the removal, reinterment, and resetting of the headstone or monument and file the report in the clerk's office

of the proper county.

After said bodies shall have been removed and reinterred in the manner prescribed by said order, said lands in which such deceased persons were originally interred shall be available for and subject to such uses for city purposes as the common council of such city may determine and may be conveyed or otherwise disposed of in the same manner as other city lands.