

KentuckyHistoricalSociety

ADOPT-A-CEMETERY PROGRAM

THE STEELE-REESE FOUNDATION

KentuckyHistoricalSociety
* F O U N D A T I O N *

KentuckyHistoricalSociety

ADOPT-A-CEMETERY PROGRAM

INDEX

- 2** Adopt-A-Cemetery general information
- 3** Criteria for adoption
- 6** Appendix 1: Policies and procedures
- 9** Appendix 2: Adopt-A-Cemetery agreement
- 10** Appendix 3: Consent for access to property
- 11** Appendix 4: Adopt-A-Cemetery survey form
- 13** Appendix 5: Release of liability form
- 14** Appendix 6: Standards for Cemetery Maintenance
- 16** Appendix 7: Attorney General's opinions
- 22** Appendix 8: KRS 67-680, Establishing a Cemetery Preservation Board
- 23** Appendix 9: Tips for mapping a cemetery
- 25** Appendix 10: Quadrant mapping
- 29** Appendix 11: Cleaning old gravestones
- 31** Appendix 12: Overview of KHS Cemetery Preservation Program
- 32** Appendix 13: Kentucky Cemetery Laws
- 37** Appendix 14: Media tips
- 38** Appendix 15: Annual activity reports
- 39** Special Acknowledgements

KENTUCKY HISTORICAL SOCIETY ADOPT-A-CEMETERY PROGRAM GENERAL INFORMATION

Cemeteries across Kentucky are in need of care. Some have been completely abandoned and are in need of major rehabilitation. Others simply need some light maintenance. Because all of these cemeteries are important historical resources, the Kentucky Historical Society (KHS) has established the Adopt-A-Cemetery Program to connect individuals and organizations with cemeteries in need. Along the way, KHS can provide those wanting to help with tips and expertise to ensure the long-term care of these important burial grounds.

It is easy to participate in this program! Simply review the policy and procedures below (Appendix 1) and then complete the following items that are included in this document:

- Adopt-A-Cemetery agreement form
- Consent for Access to property form
- Adopt-A-Cemetery survey form
- Release of liability form

Then send these completed forms to:

**Adopt-A-Cemetery Program
Kentucky Historical Society
100 West Broadway
Frankfort, KY 40601**

Once you are enrolled in the program, adoptees agree to send yearly maintenance reports to the Kentucky Historical Society (see Appendix 15, below). This applies only when the adoption process is ongoing.

Anyone interested in the care and preservation of cemeteries is eligible to participate in the Adopt-A-Cemetery Program. This includes individuals or civic organizations, including scouts, Kentucky Junior Historical Society chapters, 4-H, church groups, local history organizations, genealogical societies, schools and more.

Additional information to help you with ongoing cemetery maintenance, including tips for cemetery care, suggested guidelines for cleaning gravestones, information on cemetery mapping and more, are also included below.

Just remember that once a cemetery has been adopted, the work to save it does not stop after the adoption, initial cleanup and documentation. Long-term plans must be made to ensure the continuous upkeep and protection of the cemetery.

We hope that you and your organization will join the Kentucky Historical Society in an effort to help protect Kentucky's important cemeteries!

Some points to consider . . .

Research, research, research!

The more information you have about your adopted cemetery, the better! Researching the site will give you a better understanding of the cemetery's history, the current and/or previous owners and more. Here are a few suggestions as to how to research your adopted cemetery.

First, visit the Property Valuation Administrator's (PVA) office in the county seat where the cemetery is located. If you don't know the current owner of the cemetery, you can find this at the PVA office because they send tax notices to local property owners in their county.

Second, visit the county clerk's office (usually in the courthouse) to check the current deed to the property. Starting with the current deed, go backwards as far as you can to find information about past property owners. This can give you information about who purchased the land, when they purchased the property and more. Importantly, you can also look for any reference to the cemetery being on the property.

If the cemetery is not listed on the current deed, it is suggested that an attorney versed in property law be consulted to advise how to get the cemetery listed on the deed. Listing the cemetery on the deed can help with the long-term protection of the cemetery. In the future, if the property is sold, a reference to the cemetery on the deed can help protect the property by ensuring that owners know that the cemetery exists.

Community support!

When you adopt a cemetery, it is always advisable to have broad community support to help you with your efforts.

First, having a county cemetery preservation board will help with the overall adoption process. If your community has no cemetery preservation board, you and other interested community members can meet with your county judge executive and present a plan for how a cemetery preservation board and others can work together for the good of the county's cemeteries. While some worry that money may be an issue, the establishment of a cemetery preservation board does not necessarily involve funding (see Appendix 8, KRS 67-680-Establishing a Cemetery Preservation Board). In fact, counties with established cemetery preservation boards are more likely to receive grant money for cemetery preservation than counties without one.

Coordination with local historical societies, public libraries and local genealogical societies can also help. In addition to assisting with work at the cemetery, these organizations can help adoptees with research, cemetery mapping and more.

Partnerships always help! If your county does not have a cemetery preservation board, consider creating a local committee of interested organizations or individuals to assist with the cemetery adoption. This committee may also work to get a formal county cemetery preservation board established.

Is access to the cemetery an issue?

Before you adopt a cemetery, make sure that you have easy access to the site. Getting access to a cemetery that is located on private property can sometimes be a challenge for both documented descendants and non-descendants. The Kentucky attorney general's office has issued an opinion stating that property owners who have a cemetery on their property cannot deny descendants access to the cemetery (see Appendix 7, Attorney General's opinions). Descendants must be given "ingress and egress" at reasonable times to visit the cemetery. Those seeking access for documentation or preservation

purposes must respect the property owner's rights. The need to rescue and preserve a cemetery does not mean that descendants have unfettered access to the property.

Non-descendants' access to a cemetery can pose a separate dilemma, because property owners do not have to give permission for non-descendants to access the property. Hopefully, property owners will see that the purpose of a non-descendant's visit is for documentation and preservation efforts only.

The adoption of a cemetery will include ongoing maintenance after the initial cleanup. Therefore, the continued maintenance of the cemetery should be discussed with the land owner and their permission secured so that the land owner is aware of what will be taking place on the property. A signed approval document—a land owner consent form—noting that the adoptee has permission to be on the property is required before any adoption can be approved (see Appendix 3, the land owner consent form).

We thank you for your interest!

History lives through our efforts to preserve, protect, document and share. This includes cemetery preservation, which is happening on a greater scale than has been seen in the past. More people are taking pride in protecting their family and community cemeteries. Therefore, they are realizing the wonderful history that is contained in the stories that the stones can tell. Becoming a part of the Kentucky Historical Society's Adopt-A-Cemetery Program will continue the efforts of rescuing, preserving, and protecting Kentucky's historic cemeteries.

STEPS TO ENROLL IN THE ADOPT-A-CEMETERY PROGRAM:

1. Choose the cemetery that you would like to adopt.
2. Build community support and partnerships.
3. Read the Adopt-A-Cemetery policy and procedures (Appendix 1).
4. Complete the Adopt-A-Cemetery agreement (Appendix 2).
5. Complete the Consent for access to property form (Appendix 3).
6. Complete the Adopt-A-Cemetery survey form (Appendix 4).
7. Complete the Release of liability (Appendix 5).
8. Return these completed documents to:

**Adopt-A-Cemetery Program
Kentucky Historical Society
100 West Broadway
Frankfort, KY 40601**

9. Remember that Annual activity reports must be sent to the Kentucky Historical Society while you are enrolled in the program (see Appendix 15).

You will be notified by the Kentucky Historical Society when you are officially enrolled in this program.

Additional appendices in this document include information to help you with the application process, the ongoing maintenance of the cemetery and more.

For additional information or questions, please contact:

**Cemetery Preservation Program
Kentucky Historical Society
100 West Broadway
Frankfort, Kentucky 40601
P: 502-564-1792
F: 502-564-4701
KHScemeteries@ky.gov**

APPENDIX 1

KENTUCKY HISTORICAL SOCIETY

ADOPT-A-CEMETERY

POLICY AND PROCEDURES

I. Procedures for Adopting Organizations, Groups and/or Individuals

1. All counties planning to participate in the Kentucky Historical Society's (KHS) Adopt-A-Cemetery Program should seek community support to help oversee the adoption process to ensure that all rules and regulations are adhered to. KHS offers consultation and assistance in this process. Established county cemetery preservation boards are great sources of support and assistance and should be consulted. If no cemetery preservation board exists, consider urging county officials to establish one. Establishing a master list of volunteers within the community who are interested in cemetery preservation is a great way to start.
2. All organizations, groups and/or individuals must be approved by the Kentucky Historical Society for the Adopt-A-Cemetery Program.
3. All adopting organizations, groups and/or individuals must sign an Adopt-A-Cemetery Program agreement, which includes the cemetery preservation standards recommended by the Association for Gravestone Studies and Lynette Strangstad, author of "A Graveyard Preservation Primer."
4. Cemetery selection must be coordinated between the Kentucky Historical Society, the property owner/trustee and the adoptee. All adoptees must get a signed agreement from the property owner(s).
5. Participants must be at least 16 years of age.

II. Procedures for Cemetery Cleanup and Mapping (Non-Descendants)

1. There is to be absolutely **no** subsurface disturbance at any time within the established boundaries and buffers of the cemetery. This means no digging. Check with the local county planning and zoning office to ascertain the establishment of buffer zones for cemeteries located within the individual county. If there are no established buffer zones, then an estimate of the boundary area of the cemetery is to be indicated on the survey form.
2. There is to be absolutely **no disturbance** of any stones/markers whether they are carved, simple fieldstones or other material. The same applies to brick or stone borders. **No setting the stones back in place.**
3. Small trees, and shrubs with woody stems, should be removed by cutting and/or sawing them down as close to the ground surface as possible without disturbing the ground.

4. Other plant material to be removed should be cut down to the ground surface using pruners, clippers or other similar hand tools. **At no time should plant material be pulled out of the ground.**
5. At **no time** should riding mowers or other oversized mowers be used in the cemetery or its buffer. Other items include, but are not limited to, tractors, heavy equipment and rototillers. These items can be very damaging to cemetery markers.
6. Repairs, removal, refurbishing, replacement and/or placement of any **fencing** may not be done without the approval of a community cemetery committee, the property owner or other appropriate persons with authority over the site.
8. At **no time** will the adoptee attempt to repair broken and/or displaced grave markers. KHS has a resource listing of professionals whose business is stone restoration. A professional should be called or at least consulted about repair, leveling, etc. Small repair jobs using very basic repair techniques can only be done by someone who has been trained in basic repair. For additional information, contact the Kentucky Historical Society.
9. An attitude of respect for those individuals who are buried in the cemeteries should be maintained at all times. Do not sit on grave markers. Remove any trash generated from your visit to the cemetery.

III. Fencing and Signage

Fencing/enclosure decisions will be made on a case by case basis. Fencing decisions will be made in consultation with KHS, the property owner/trustee and the adoptee. If this cemetery qualifies for the Kentucky Historical Society Pioneer Cemetery Program, a marker can be procured through that program to designate this cemetery as a Kentucky Pioneer Cemetery (contact the Kentucky Historical Society for further information). Any signage should be attached to any fencing when possible or, in the absence of fencing, it should be placed within the boundaries of the cemetery.

IV. Long-Term Management

Long-term management of the cemetery is not required of the adopting organization, group or individual.

V. Liability

The Kentucky Historical Society, the property owner/trustee and the adopting organization or individual shall understand that all of their activity within the cemetery and its surroundings is strictly on a volunteer basis. Neither the Kentucky Historical Society nor the local cemetery committees, county cemetery boards, the property owner/guardian/trustee are liable for any losses and/or injuries incurred while working on the cemetery. A signed release of liability is required for all participants in the program (see required **Release of liability**, Appendix 5).

VI. Safety Precautions

1. All participants in the cleanup of the cemetery should wear the proper clothing for such an activity. This includes, but is not limited to, gloves, closed-toed shoes, safety goggles and long pants.
2. All participants in the cleanup of the cemetery should be aware that there may be poisonous plants and insects, regional allergy-inducing foliage and snakes of all types on-site. Individuals allergic to such things should be aware and take the appropriate precautions.
3. A first aid kit must be on-site at all times.
4. Tools used for the cleanup are to be used only by those individuals capable of using them properly.
5. All adoptees must conduct safety meetings with all volunteers to discuss the enclosed safety precautions before any work begins at the adopted cemetery.

APPENDIX 2 ADOPT-A-CEMETERY AGREEMENT

This Adopt-A-Cemetery agreement is between _____
(hereinafter referred to as the "Adoptee") and the Kentucky Historical Society (KHS).

Adoptee Contact Information:

Primary Contact: _____

Phone: _____ Email: _____

Address Line 1: _____

Address Line 2: _____

City: _____ County: _____

State: _____ ZIP Code: _____

List of other organizations involved with adoption process (county cemetery preservation board, local historical societies, civic organizations, etc.):

The Adoptee has accepted the adoption of the cemetery known as:

Located at the following address:

Address Line 1: _____

Address Line 2: _____

City: _____ County: _____

State: _____ ZIP Code: _____

GPS Coordinates: _____

As part of this agreement, the Adoptee fully recognizes and accepts the rules and regulations provided by the Kentucky Historical Society.

The Adoptee accepts full responsibility for all damages and injuries which may result from their volunteer efforts at the cemetery site. Neither the Kentucky Historical Society nor the local cemetery committees, county cemetery boards or the property owner/guardian are liable for any losses, damages and/or injuries incurred while working on the cemetery.

This agreement shall be effective _____. If the Adoptee wishes at any time to discontinue its adoption of the above named cemetery, the Adoptee agrees to notify the Kentucky Historical Society.

Adoptee Printed Name

Adoptee Signature

Date

APPENDIX 3 CONSENT FOR ACCESS TO PROPERTY

I/We, _____, hereby grant permission to _____
_____ to enter upon and access property owned
by me for the purpose of activities associated with the _____ County's Adopt-A-Cemetery
program. This property is described as the following:

Cemetery Name _____

Located on Tax Map _____

Address _____

Activities that may take place are outlined in the Rules and Regulations of the Adopt-A-Cemetery
program.

My consent to allow access to the property is not an admission of any liability or responsibility to
reimburse any person for this activity, nor an obligation or duty on the part of the above agency
and/or individual to perform such activity.

Furthermore, my consent to allow access to this property is given with the understanding that all
persons involved in this activity are aware of this statement of liability.

Property Owner:

Signature _____

Printed name _____

Phone number _____

Mobile phone number _____

Date _____

Email address _____

APPENDIX 4 ADOPT-A-CEMETERY SURVEY FORM

Return form to:
Kentucky Historical Society
Cemetery Preservation Program,
100 West Broadway, Frankfort, KY 40601
Phone: 502-564-1792
Fax: 502-564-4701

The purpose of this survey form is to document and obtain information relative to a cemetery that is being considered for adoption. Please complete this form with as much information as possible.

Please complete all information that you know; write "Unsure" or "Not applicable" for any question for which you cannot obtain the answer.	
Name of Cemetery: Name of Adoptee: Individual Y N Organization Y N Cemetery preservation board Y N Non-profit organization Y N	Date of survey:
Location of cemetery (address):	County: GPS location of the cemetery:
Name and contact information of property owner:	Is the cemetery still in use (active burials)? Is the cemetery/burial ground abandoned? If so, can you provide last known contact?
Is the cemetery threatened? Y N How?	Total Number of Acres in Cemetery: Approximate Number of Marked Graves: Are There Unmarked Graves? Y N Estimate of how many:
Type of Owner: Religious group/church Private family burial ground Non-profit organization Sole proprietorship Corporate Other	Photographs taken? Y N Included are actual photos Y N or copies Y N Current use of property surrounding cemetery: Overall measurement with buffer:

**APPENDIX 5
KENTUCKY HISTORICAL SOCIETY
ADOPT-A-CEMETERY PROGRAM
RELEASE OF LIABILITY**

The Kentucky Historical Society, the property owner/trustee and the adopting organization or individual shall understand that:

1. All their activity within the cemetery and its surroundings is strictly on a volunteer basis.
2. None of the above named parties are liable for any losses and/or injuries incurred while working on the cemetery.
3. The Adoptee has met with all volunteers (if any) and has discussed appropriate safety precautions prior to the beginning of any cleanup.

Adoptee _____ Date _____

Address _____

Phone _____

Email address _____

Cemetery name _____

Cemetery Address _____

APPENDIX 6 STANDARDS FOR CEMETERY MAINTENANCE

Before undertaking any cemetery preservation efforts, take the time to determine what preservation work is needed, the best way it can be done and what minimum maintenance efforts will be needed. Establish preservation priorities, including top priorities and others that can be relegated to a less-urgent or second-stage status.

This planning need not be relegated to professionals. In most cases the initial plan can be effectively developed by those who are most involved with (and most intimately concerned about) the welfare of the cemetery.

The following points are provided as a reference for those considering preserving a cemetery. This includes the ongoing maintenance of the property once initial preservation work is completed. Long-term maintenance must be carefully considered in order to prevent the deterioration of the cemetery once the preservation crew has departed.

1. Good maintenance does not necessarily imply a manicured appearance. Indeed, an older cemetery's atmosphere may be enhanced by a relaxed but controlled growth of wildflowers and grasses.
2. If close mowing and trimming is needed, be sure to avoid damaging the stones. Use nylon "weed eaters" for close trimming. A blade guard on the mower protects not only the marker from sticks and rocks thrown by the mower, but it protects the individual(s) as well.
3. Grass around soft stones (soapstone) or any unstable stone should only be trimmed by hand.
4. Herbicides near stones should not be used. Fertilizers should only be used sparingly.
5. Remember: trees and shrubs can be replaced; old stones cannot. Dense foliage can keep stones, particularly sandstone, damp enough to accelerate deterioration. A rule of thumb to follow is this: when in doubt, remove the foliage. There are exceptions, of course, and one might consider moving a stone rather than a 500-year-old live oak, for example.
6. Do not capriciously move stones from their original sites. Their original location is historically significant. Once a stone is moved, it no longer becomes a grave marker, because it no longer marks a grave. It does, however, become a memorial marker. A moved stone alters the historic graveyard.
7. Plant small, close-lying clovers and groundcovers near stones and in other hard-to-mow areas.
8. Remove scrub trees and prune shrubs to prevent damage to stones.
9. Do not move stones capriciously (to make straight rows for easier mowing, to create paths or to "correct" a stone's facing orientation).

10. Educate yourself and volunteers regarding procedures for historic graveyard care.
11. Do not clean stones often. Do not clean stones more often than once every several years or longer.
12. It is advisable to visit the cemetery during the periods of the year when most new growth of trees, shrubs and foliage will appear. At that time it can be determined whether or not limited or detailed maintenance efforts will need to be undertaken.

Reference: "A Graveyard Preservation Primer" by Lynette Strangstad; published by American Association for State and Local History (AltaMira Press) in cooperation with Association for Gravestone Studies; AASLH, Nashville, TN 37201, 1988. Used with permission.

APPENDIX 7 ATTORNEY'S GENERAL OPINIONS

OAG LETTERS:

David L. Armstrong, Attorney General
13 May 1986

This is in response to your recent letter. Although it is not entirely clear from your letter, you seem to ask whether a person can put a locked gate across a road which would presumably block a person's access to a cemetery located close to the road.

Access to cemeteries cannot be blocked so as to deny ingress and egress to and from the cemetery. The Kentucky Court in Hutchison v. Akin, KY 5 KY OP 373 (1871) ruled the following as it applies to this issue:

As to the grave yard, it is very evident that the appellant knew it was on the land when he purchased it, and being there the law without reservation, and inhibition in the deed, prohibits him from removing the stones that mark the resting place of the dead buried there, or of injuring and removing the enclosures around the grave yard and compels him to permit the relatives of those buried there to exercise the right of ingress and egress to and from said cemetery on proper occasions and for proper purposes.

In 14 AM JUR 2d 37 cemeteries p. 744 it was also stressed that "Persons entitled to visit, protect and beautify graves must be accorded ingress and egress from the public highway next or nearest to the cemetery, at reasonable times in a reasonable manner."

Since the content of your letter is not clear, we have supplied this information not knowing if it directly answers your question. This is not a formal opinion of the Attorney General's Office.

David L. Armstrong, Attorney General
16 May 1986

This is in response to your recent letter in which you state that you are in the process of purchasing a 33 acre tract of land in Kenton County which contains a small family cemetery and you ask what your responsibilities would be as to this cemetery.

In Hutchison v. Akin, KY 5 KY Op. 373 (1871), the Court stressed as follows as it pertains to your question.

As to the grave yard, it is very evident that the appellant knew it was on the land when he purchased it, and being there the law without reservation, and inhibition in the deed, prohibits him from removing the stones that mark the resting place of the dead buried there, or of injuring and removing the enclosures around the grave yard and compels him to permit the relatives of those buried there to exercise the right of ingress and egress to and from said cemetery on proper occasions and for proper purposes.

In Brunton v. Roberts, KY 97 SW2d 413 (1936) the following was stressed:

Of lesser degree, yet substantial is the property which the owner of the burial lot has in the avenue and driveways. It is the right to the free and unstructured use in order to have access to his lot. This property descends to the lineal descendants of the owner unaffected [sic] by any device, and the right to possession, unless voluntarily relinquished, continues as long as the graves are marked and distinguishable and the cemetery continues to be used. Accordingly, a lot owner's remedy is commensurate with his rights. Equity will enjoin an unwarrantable disturbance or interference with the burial ground or the graves therein.

I hope the above excerpts have helped you in answering your inquiry. I am also enclosing an opinion written by our office concerning property owners rights from removing a private cemetery from their property (See OAG 82-523).

This letter does not represent an official Attorney General opinion and is limited to the facts presented in this letter. I hope the content of this letter has satisfactorily answered your inquiry.

David L. Armstrong, Attorney General
18 August 1986

This is response to your request for an opinion regarding whether the private cemetery exception to the maintenance requirements of KRS 381.697 extends to KRS 381.755(5) in determining whether a cemetery has been abandoned. I apologize for the delay in responding to you. Our legal staff has been short-handed in recent months. I hope the delay has not inconvenienced you.

This response is not a formal Attorney General's Opinion under KRS 15.025, and is restricted to the applicable facts as set forth in your letter.

As you state in your letter, KRS 381.697 requires all cemeteries except private cemeteries to keep the grounds "free of growth of weeds, free from accumulated debris, displaced tombstones or other signs and indication of vandalism or gross neglect." KRS 381.755 sets forth the procedures for removing or relocating an abandoned cemetery of grave. Paragraph (1) of the statute states:

Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation (Emphasis added).

Paragraph (5) of KRS 381.755 defines abandoned:

For the purpose of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten years preceding the date of resolution for removal and relocation of the grave or cemetery.

You ask whether private family cemeteries are exempt from this definition of abandonment since they are exempt from the maintenance requirements of KRS 381.697. You express concern that since you and other family members prefer not to keep your family cemetery in an "artificially manicured, golf-green landscape," it would be adjudged abandoned.

Since the legislature did not insert an exemption for private family cemeteries in KRS 381.755(5), it seems that the legislature did not intend for private family cemeteries to be exempt from the definition of abandonment. However, the fact that a private cemetery does not mow the grass for ten years does not necessarily mean that the cemetery has been abandoned. KRS 381.755(5) defines "abandoned" as "left untended for a period of ten years." This implies a greater standard than failure to maintain a cemetery in accordance with KRS 381.697.

First, the definition of "tend" is "to apply oneself to the care of; watch over; to have or take charge of as a caretaker or overseer; to manage the operations of." Webster's New Collegiate Dictionary (1977). Clearly tending a cemetery involves more [sic] than merely keeping it free from weeds.

Second, it is a widely accepted principle of law that the mere fact that for some years no new burials have been made and that graves have been neglected does not operate as abandonment. 14 Am Jur 2d Cemeteries p. 21. Generally, as long as the cemetery is kept and preserved as a resting place for the dead with anything to indicate the existence of graves, or as long as it is known and recognized by the public as a graveyard, it is not abandoned. Id.

Finally, the question of abandonment is largely one of intent. Of course, intent can be inferred from the acts of the parties and from the circumstances. Consequently, failure to maintain a cemetery could be construed as one indication of intent to abandon, but other circumstances could negate such findings.

In conclusion, private family cemeteries are not exempt from the definition of abandonment in KRS 381.755(5). Instead, the same definition of "abandonment" applies equally to all cemeteries. However, abandonment must be manifested by more than a mere failure to maintain a cemetery pursuant to KRS 381.697. Although neglect of the grounds might be one factor to consider in determining whether the owner has intended to abandon a cemetery, it is not conclusive. Whatever "tend" might mean, it seems to mean more than mere neglect of the grounds.

David L. Armstrong, Attorney General
23 April 1987

This is in response to your letter about protecting cemeteries. In your letter you ask whether a church can discard headstones from an old cemetery located on church property, or whether there are any laws that protect old cemeteries from being destroyed.

KRS 381.697 requires all cemeteries in Kentucky except private cemeteries to be maintained by the legal owner, "in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones or other signs and indication of vandalism or gross neglect." At the same time, KRS 525.110 makes it a Class A misdemeanor to "desecrate any public monument or object or place of worship or burial." In addition, there are some federal laws that may or may not apply to this particular situation, including the Historic Sites Act of 1935, the National Historic Preservation Act of 1974 and the National Historic Preservation Act amendments of 1980. I do not know whether any of

OAG OPINIONS:

1955 OAG 35,908. Burial ground or cemetery cannot be used for building sites, and a city of the fifth class is without sufficient power to sell a portion of the cemetery for purposes other than burial sites.

OAG 82-523, 1 October 1982 (Steven L. Beshear, AG)

This is in response to your letter of request for an Attorney General's Opinion "as to what the property owner's rights are first of all to remove a private cemetery from their property and also what would be the public's right to prevent someone from arbitrarily bulldozing down monuments and destroying the cemetery." In response to your question, we will first answer the question of what a property owner's rights are to move an abandoned cemetery. If the cemetery in question is located in a first, second, third, fourth, or fifth class city, KRS 381.720 governs as to what a city can do with the cemetery if the city determines the land comprising of the cemetery is needed for a public purpose. It states that the city's legislative body can enact an ordinance declaring such cemetery to be abandoned and authorizing the city attorney to institute a suit for the city in the circuit court of the county in which the city is located against the property compromising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city. KRS 381.750 provides that after the proper procedures are followed, the court shall declare the cemetery to be abandoned and enter judgment accordingly. KRS 381.750 also states:

Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

The next area to discuss is the property owner's rights if the cemetery isn't located in a first, second, third, fourth, or fifth class city or even if it is located in such a city, but not on land needed for public purpose. A property owner who has a cemetery on his/her property that has been abandoned and wishes to remove and relocate that cemetery must make application to the fiscal court pursuant to KRS 381.755. This statute states:

Upon application of the owner of property on which is located an abandoned grave or cemetery or whenever the fiscal court or any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.

Note that application may be made either by the owner of the property or by fiscal court if it deems it in the best interest of the county. In a previous Attorney General's Opinion, No. 79-48, we stated that the owner of mineral rights is not able to make an application to fiscal court for removal and relocation pursuant to KRS 381.755(1). An abandoned cemetery is defined by statute to be one that is "left untended for a period of ten years preceding the date of the resolution for removal and relocation of the grave or cemetery." KRS 381.755(5). The statute also requires that notice of such resolution be publicized which, of course, is intended to protect the interest of any remaining heirs. It also specifies in KRS 381.755(3) that the expenses for removal and relocation of any grave be paid by the individual requesting the removal in KRS 381.765 that if disinterment, removal or reinterment of graves is effected by the Commonwealth, then it shall be performed by a funeral director. Therefore, in order for a property owner to legally remove a cemetery on his/her property, the cemetery on the property must be untended for a period of ten years and the property owner must make application to fiscal court and follow the statutory procedures outlined in KRS 381.755 to KRS 381.767.

If a property owner has a cemetery on his/her property which has not been abandoned, as defined by KRS 381.755(5), the property owner does not have the statutory right to request the removal or relocation of this cemetery. Furthermore, the case law in this jurisdiction prohibits him/her from doing anything which interferes with the graves therein. The case, Hutchison v. Akin, Ky., 5 Ky. Op. 373 (1871), states the rule which has been followed consistently by Kentucky courts:

As to the grave yard, it is very evident that the appellant knew it was on the land when he purchased it, and being there the law without reservation, and inhibition in the deed, prohibits him from removing the stones that mark the resting place of the dead buried there, or of injuring and removing the enclosures around the grave yard and compels him to permit the relatives of those buried there to exercise the right of ingress and egress to and from said cemetery on proper occasions and for proper purposes.

Id. at P.374. Therefore, not only is the proper[ty] owner prohibited from interfering in any way with the grave yard on his property, he is compelled to provide ingress and egress for the relatives of persons buried in that cemetery.

Your second question is what would be the public's right to prevent someone from arbitrarily bulldozing down the

OAG OPINIONS:

monuments and destroying the cemetery. Clearly, in Kentucky the next of kin to persons buried in a cemetery have a right to preserve the cemetery which the courts recognize and protect. Louisville Cemetery Association v. Downs, Ky. 45 S.W. 2d 5, 6 (1932).

A recovery may be had by the next of kin or surviving spouse for an unwarranted interference with the grave of the deceased, or for the infliction of an injury to a corpse, if either be done (a) maliciously, (b) or by gross negligence, (c) or wantonly, i.e., with a reckless disregard for the rights of another, (d) or for an unlawful or secret disinterment or displacement thereof, or (e) an action of trespass [sic], then *quare clausum fregit* which may be maintained by the holder of the title, or the person in possession, of the lot on which the grave is located, or (f) for the removal of a body from one grave to another by those in authority and control of the cemetery or burial ground, without notice, or an opportunity to him who in law is entitled to be present, if he desires, before its removal (citations omitted).

The term, next of kin, is defined in Northeast Coal Company v. Pickelsimer, Ky., 68 S.W. 2d 760, 763 (1934), as meaning "those who inherit from the deceased, the fee, interest, or easement, and the soil containing the dead body, under the statute of descent." The next of kin have a right to protect the cemetery and graves of their relatives even though they are not owners of the land where the cemetery is located. *Id.* at p. 762. The Court in the Northeast Coal Co. case allowed the next of kin to recover against the mining company because their mining resulted in surface cracks in the graves. Similarly, in R.B. Taylor v. Kinser, Ky., 346 S.W. 2d 306 (1961), the Court upheld damages recovered by the next of kin when there was evidence that the defendants had caused some slipping of the earth, destruction of the grave marker, and a large quantity of dirt and debris to be thrown on the burial place. Another example of allowable recovery is in the City of Hopkinsville v. Burchett, Ky., 254 S.W. 2d 333 (1953), where the Court upheld a judgment against the city operating a cemetery for mental pain and anguish resulting from disinterment and reburial of plaintiff's mother without giving notice or obtaining permission.

There is authority which says that the liability for desecration of a grave is only if such desecration is done recklessly, wantonly, maliciously, or by gross negligence. The courts have refused to impose liability against construction companies which have caused damages to cemeteries when the action was mere negligence. See, Johnson v. Kentucky-Virginia Stone Company, Ky., 149 S.W. 2d 496 (1941).

There are numerous Kentucky cases that recognize the next of kin's rights in these instances, but for the purposes of this opinion we do not need to cite all of these cases.

Clearly, in Kentucky the next of kin to persons buried in a cemetery have protection against someone arbitrarily bulldozing down the monuments and destroying the cemetery.

OAG Opinion 23 May 1986 (David L. Armstrong, AG)

In Hutchison v. Akin, KY 5 KY Op. 373 (1871), the Kentucky court stressed the following:

As to the grave yard, it is very evident that the appellant knew it was on the land when he purchased it, and being there the law without reservation, and inhibition in the deed, prohibits him from removing the stones that mark the resting place of the dead buried there, or of injuring and removing the enclosures around the grave yard and compels him to permit the relatives of those buried there to exercise the right of ingress and egress to and from said cemetery on proper occasions and for proper purposes. 1 Vol. R.S.P. 412, 413 ... P 374.

David L. Armstrong, Attorney General
30 September 1987

This is in response to your letter of September 4, 1987, about the condition of your family graveyard. Although this office is prohibited by law from giving private legal advice, there are a couple of avenues of relief that might be available to you.

First, you should contact the County Attorney to ask whether the crime of desecration of venerated objects, KRS 525.110 has been committed. Second, you should contact an attorney in private practice to see whether there is any civil action, such as a lawsuit for trespass, that might be available to you.

Frederick J. Cowan, Attorney General
22 March 1988

This is in response to your request for information concerning the First Baptist Church's plan to remove crumbling grave markers from its cemetery and replace them with one central marker listing the names of all persons buried there. This response has been restricted to the applicable law based upon the facts you have presented and does not represent a formal, legal opinion under KRS 15.025.

No specific statute addresses this situation, but there are two statutes which offer some guidance. First, KRS 381.720-381.755, set out specific provisions for notification of persons who have claims to the mortal remains and monuments buried in a cemetery which has been abandoned or which has been ordered relocated. Although the First Baptist Church's cemetery is not abandoned and there are no plans to move it, it might be appropriate to contact survivors of the persons buried there and advise them of the church's plan. If any survivors object to the plan, they can discuss those objections with the church.

You described the cemetery markers as "crumbling," noting that some markers were no longer where they belonged and that other markers had been overturned. If the markers are beyond repair, removing them and replacing them would not violate the statute which prohibits desecration of graves.

Frederick J. Cowan, Attorney General
7 April 1988

ult
This is in response to your question whether an outside container is required for burial. By outside container, I presume you mean a vault or other grave liner, which separates the casket from the ground. No state law requires you to buy a container to surround the casket in a grave; however, many cemeteries require an outside container so that the grave will not sink in. You should check with the individual cemetery on whether it requires an outside container for burial.

Frederick J. Cowan, Attorney General
22 April 1988

Thank you for contacting this office regarding your problem obtaining access to the gravesites of your ancestors.

I have talked with [the] Assistant Attorney General regarding your situation. She suggests that you go to the County Courthouse and look up the deed to [the] land. There may be an easement in the deed that would allow you access to this cemetery. That would be the easiest solution to your problem.

In the meantime, I have forwarded your request for an official Attorney General's Opinion. As soon as I have more information, I will let you know.

Frederick J. Cowan, Attorney General
10 May 1988

This is in response to your question concerning desecration of graves. If you believe that a cemetery has been destroyed, you should report that information to your local law enforcement agencies. Your county attorney may also be able to assist with this problem.

Frederick J. Cowan, Attorney General
28 June 1988

Enclosed you will find a copy of Attorney General Opinion OAG 82-523, which I believe addresses the problems you have

encountered trying to obtain access to the gravesites of your ancestors. You should take this Opinion to your County Attorney for action. This Opinion is advisory only and stands on its own merit.

In addition, you should refer your County Attorney to KRS 525.110 which deals with desecration of venerated objects to determine [sic] whether or not desecration has occurred by letting the cows graze in the cemetery. This statute states:

(1) A person is guilty of desecration of venerated objects when he intentionally:

(a) Desecrates [sic] any public monument or object or place of worship or burial;

Good luck and if this office can be of any further assistance, please do not hesitate to contact us.

Frederick J. Cowan, Attorney General
26 September 1988

The situation, as I understand it, is that there is a cemetery located within the city limits of Louisville that is owned by the Doup Family. It is alleged that the cemetery is not being maintained properly. The City has done some maintenance. Your question is are there any laws currently in force that address this situation and what, if any, legislation is needed?

I am enclosing copies of several statutes that might be of some help. However, in the case of a small family cemetery, we have little jurisdiction. However, laws requiring property owners to keep their property maintained according to community standards should apply.

KRS 381.687 address the problem, however, it excepts private family cemeteries. KRS 381.700 states:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

Therefore, the City of Louisville has the authority to require the Doup Family to maintain the grounds. However, you stated the City was reluctant to get involved.

KRS 381.770 states:

It shall be unlawful for the owner occupant or person having control or management of any land within a city to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of rubbish or excessive growth thereon of weeds or grass.

This office is not considering any legislation in this particular area at this time. However, we would be happy to work with you in the event you make such a proposal.

**APPENDIX 8-KRS 67-680,
ESTABLISHING A
CEMETERY PRESERVATION BOARD**

67.680 County cemetery board.

- (1) A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the Department for Local Government for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.952.
- (2) The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge/executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 117, sec. 60, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 47, sec. 54, effective June 26, 2007. -- Created 2002 Ky. Acts ch. 276, sec. 3, effective July 15, 2002.

Legislative Research Commission Note (7/15/2002). Under the authority of KRS 7.136, the Reviser of Statutes has corrected a clearly erroneous statutory reference in subsection (1) of this section as enacted in 2002 Ky. Acts ch. 276, sec. 3, by changing "KRS 367.962" to "KRS 367.952."

APPENDIX 9 TIPS FOR MAPPING A CEMETERY

Below are some procedures to use when you map a cemetery. These are items to try to include on every map, so that future generations will be able to locate these cemeteries.

1. If you are not familiar with the area, you may need to find the cemetery. If locals are not familiar with the name or location of the cemetery, other sources include:
 - City hall (City clerk or police department)
 - County court house (County clerk)
 - Mortuaries
 - Ministers
 - Libraries
 - Genealogical societies or research centers
 - Newspaper office
 - Chamber of commerce
 - Historical societies
 - County road department

2. While you are at these sites, be sure to ask if there is a cemetery map available that you can copy. Sometimes the city has a copy; sometimes the mortuary provides them; sometimes a map is included in a genealogical publication. If only a large version is available, make a rough sketch of the layout before going to the cemetery. You can add landmarks and tombstone markings on site.

3. It is good to ask for the locations of gravesites of people you know are buried there. The people who might have these locations include:
 - City clerks for small town cemeteries with no on-site caretaker
 - Cemetery sextons or on-site caretakers
 - Mortuaries - in many states the mortuary records are not private and include this data
 - Genealogical publications - with luck, the book will include names and site of burial

4. Once you have gathered all of the information you can about the cemetery, you can visit the site. Mark the location of the cemetery using the site's GPS coordinates.

5. If you have a map of the cemetery, check your orientation and make sure you know where you want to go. Mark the names of the streets that border the cemetery and mark north, south, east and west on the map, if known.

If you do not have a map, now is when you want to sketch one. Set the general outline of the whole cemetery. Then line in the main road or circle. Next mark minor roads. This will help define the sections of the cemetery. You can also include other major landmarks, including:

- | | |
|------------------------|---------------------------------------|
| *Chapels or mausoleums | *Creeks or lakes |
| *Bell towers | *Office or work sheds |
| *Flag poles | *Large, singular items - like statues |

6. If you don't have a map, now is when you want to start sketching one. Set the general outline of the whole cemetery and mark North, South, East and West on the map.

Find the burial locations. Once you know where people are buried, look for other landmarks near the burial site that you can place on the map. Look for trees, streams or permanent land marks to help narrow down the location. Make a drawing of each stone and grave; include the name, dates of birth and death (if possible) and the epitaph if there is one. If there is no stone, but it is obvious a grave is present (sunken earth, only a foot marker, etc.) indicated "unmarked" on the map. Draw the stones facing the compass direction in which they lie. NOTE: Early Christian burials placed the body facing east. If the stones are facing in a different direction, draw them facing that direction. If the grave is marked with a field stone, do not remove the stone, but indicate it with an "X" on your map. Indicated at the bottom foot note what the "X" represents. Repeat this process for all the graves in your cemetery. If the cemetery is too large for a single map, divide the cemetery in quadrants and make the map for each quadrant following the directions above for a single cemetery.

7. Be sure to take grass clippers and a brush. Some of these cemeteries do not get mowed often, or well. This will allow you to trim grass away from the stones in order to more easily read names or photograph the stones.
8. When photographing, get in close and get a FULL shot of the headstone. The dates need to be larger and clearer for scanning purposes.

On older white stones, you may need to photograph from an angle to try and get a shadow on the names. Also, be sure to keep your shadow out of the picture. On flat stones, you can always photograph from the back side, upside-down, to prevent a shadow. On upright stones, get low so the sun is over your shoulder or move to the side slightly. Using a mirror to reflect the sun onto the stone will help illuminate the carving for better reading.

9. One of the most important documentations of a cemetery is its GPS (Global Positioning Satellite) location. Many hand-held devices, including smartphones, have GPS capabilities and should be used (when available) for complete documentation of the location of the cemetery.
10. When you finish locating all of the names on your list, recheck your map. Drive through the cemetery and check the roads and landmarks. Make any final corrections and additions.
11. Have images saved to a CD-ROM or USB flash drive. The images can then be sent to anyone as an attachment to an email from the CD-ROM or external drive. The images will be clearer for use on a website because they will not have to be scanned. Plus, it is always important to backup images.

APPENDIX 10 QUADRANT MAPPING

	Elizabeth Wilson	1868	1889	
	Callie Wilson	1877	1919	
(8.)				
	Jane Young	1877	1887	
36.	Sidney Darrle	07-10-1833	09-01-1887	(Dorrel)
37.	Joseph Ralls	1876	00-05-1897	Aged 21
38.	Dicie (Dica) Johnson	1853	07-29-1916	
	John Johnson	1849	1909	
39.	Elijah Tyler Chivis	01-01-1840	11-27-1921	Sgt. Co. I 109 th US Colored
40.	Rock			
41.	G. W. Owens	04-15-1861	12-27-1887	
42.	Lou Owens			
43.	Webb Owens			
44.	Lucy Owens	1830	12-02-1928	
45.	Marker			
46.	Marker			
47.	Rock			
48.	Henry Shaw	1859	07-22-1934	
49.	Elizabeth (Lizzy) Shaw	1862	1880	
50.	Estil Shaw	1893		
51.	Amella Shaw	1897		
52.	Rock			
53.	Rock			
54.	Rock			
55.	Rock			
56.	Harrison Hamilton	1881		H. J. H.
57.	Aurelia (Arelia)	09-27-----	07-29-1953	
58.	Marker			
59.	Marker			
60.	Marker			
61.	Rock			
62.	Rock			
63.	Marker			
64.	Jim Henry Johnson	1849	1914	
65.	Julia Burns	1870	1892	
66.	Rock			
67.	Marker			H. B.

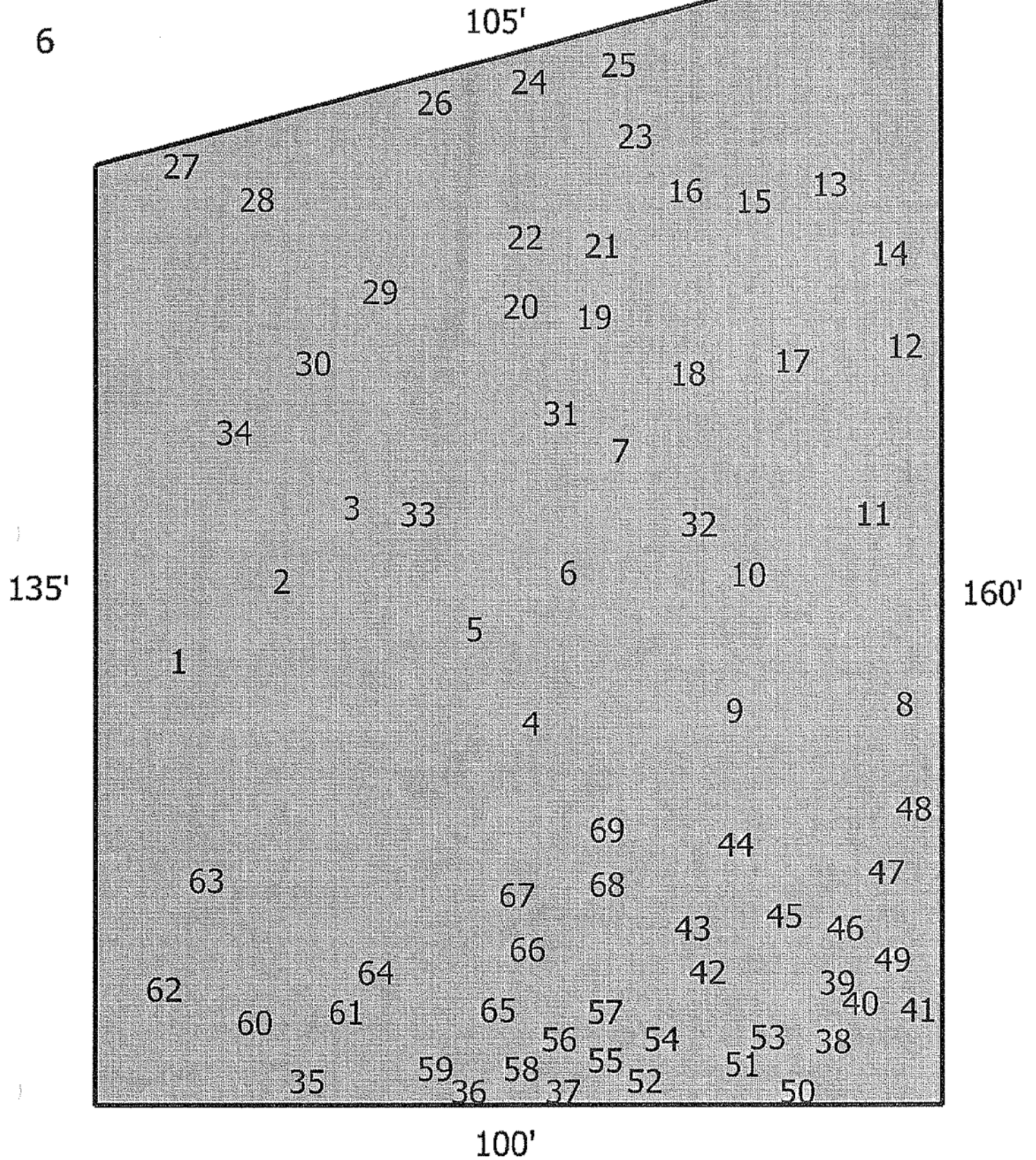
(7.)

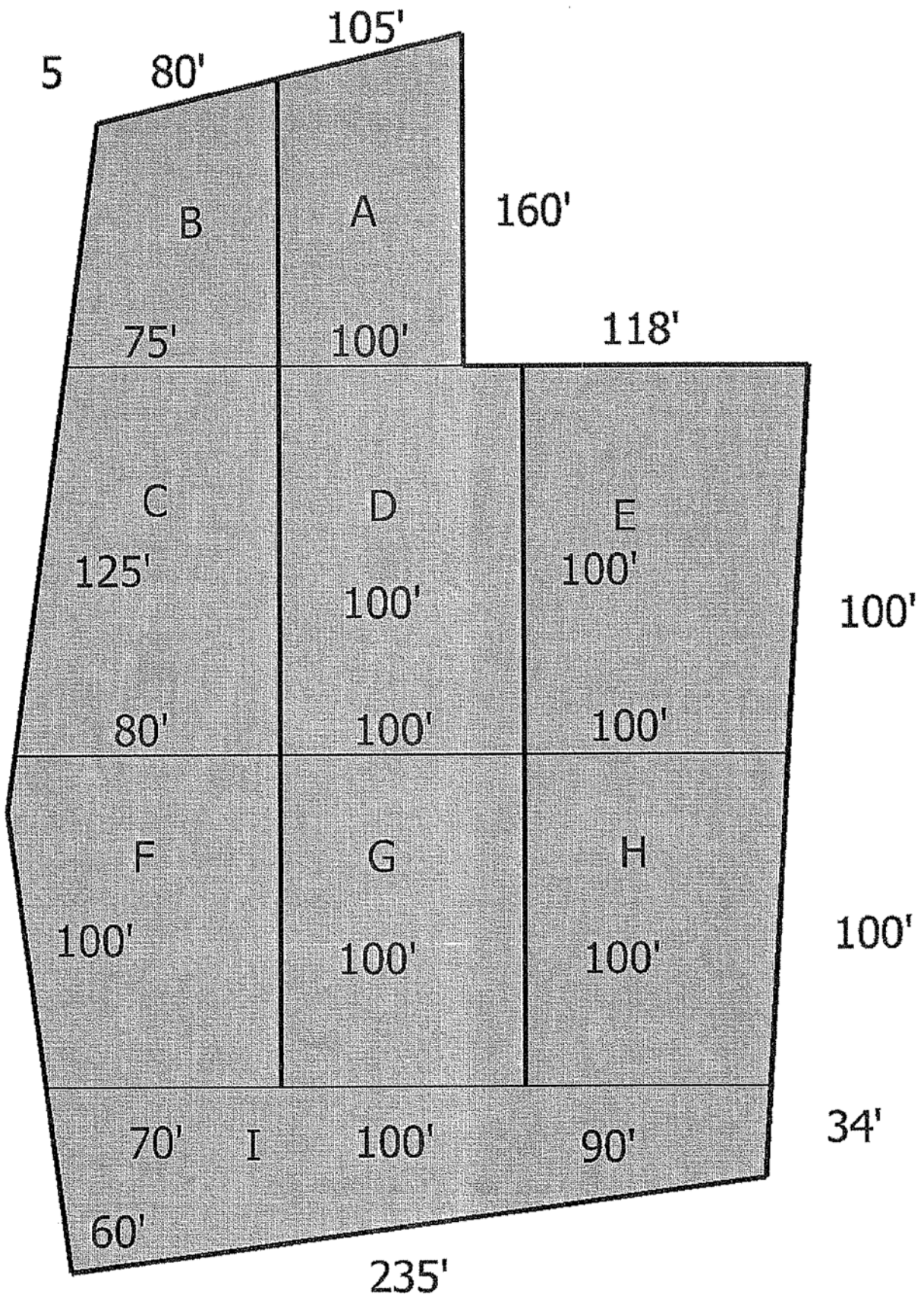
H ENRYVILLE NAME	SECTION A BIRTH	DEATH	2007 REMARKS
1. Charles Lewis	1850	1904	Presented by Robt. Lewis
Easter Lewis	1845	11-29-1918	
2. Stone unreadable			
3. John R. Stout	08-24-1892	01-28-1893	Son of WHS&LB
4. Jary (Jerry) Numan	07-00-1848	01-25-1891	
5. Eliga Evans How(e)	1832	1920	Co.B 123 rd US Colored
Bebitha (Tobetha) A.	1835	1916	
6. Fannie Rogers	1847	1918	
7. John Taylor	03-12-1880	03-10-1898	Son of Hiudey & Bell
8. Jane Thornton	1853	Alive in 1910	
9. Isaac Adams (Wife America)	1830	1882	Co. B 100 th US Colored
10. Louis Holldy (Holiday)	1822	02-26-1887	Aged 65
Ester Holiday			
11. Emmia Thomson	04-18-1865	02-10-1889	
12. Elder Henson Clay	1834	1918	5 th US Colored Calvary
13. Cinthia Morgan	04-16-1813	09-26-1895	
14. Unknown			
15. Rock			
16. Rock			
17. Marker			
18. Rock			
19. Rock			
20. Rock			
21. Rock			
22. Rock			
23. Annie Vice	11-15-1886	09-07-1960	
24. Rock			
25. Rock			
26. Rock			
27. Rock			
28. Rock			
29. Rock			
30. Rock			
31. Marker			
32. Rock			
33. Rock			
34. Rock			
35. James Morrison Wilson	1837	1907	Co. E 119 th US Colored
Eliza A. Wilson	01-18-1844	02-02-1919	

HENRYVILLE CEMETERY SECTION A

Grave Location Guide

6





HENRYVILLE CEMETERY PLOT MAP

2007

APPENDIX 11 CLEANING OLD GRAVESTONES

Be aware that serious damage can be done to stones by using improper cleaning methods. Even if they appear to be stable, not all stones can be safely cleaned. Unstable stones are those whose faces or lettering are flaking, or which have obvious fractures or a grainy surface which falls away easily. Stones in this condition **should not be cleaned**.

STEPS: Test clean a small, inconspicuous area before tackling the whole stone. Treating this patch to the entire cleaning process will reveal any problems without affecting the whole stone, and will show the results that the complete cleaning will give.

1. With a soft bristled brush, remove loose, dry materials.
2. Wet stone thoroughly with clear water.
3. Scrub with the soft brush and plain water. (Use brush with natural or plastic bristles, **wire brushes will damage the stone**).
4. Clean stone beginning from the bottom up to avoid streaking.
5. Make sure stone is wet before applying any cleaning solution. (Please refer to the recommended cleaning solutions included here. Try mildest cleaning solution first.
6. After using any cleaner, flood the stone again and scrub, using clean water. Do not let any cleaner dry on the stone before removing it.
7. To clean details of lettering or design:
 - (a) Granite or slate: Use a soft wooden stick (tongue depressor, ice cream stick, orange cuticle stick.) Never use a metal tool.
 - (b) On softer, grainier stones (as with sandstone or limestone) be more careful. Use a soft toothbrush or cotton swab.
8. Last, thoroughly rise stone with lots of clean water.

PROCEDURES TO AVOID

- Do not use acidic cleaners on marble or limestone.
- Do not sandblast gravestones.
- Do not use high-pressure spraying to clean gravestones.
- Do not attempt to clean any stone that is unstable.
- Do not attempt to clean stones without first receiving proper direction.
- Never use wire brushes or any metal instrument in cleaning stone.
- Do not substitute household cleaners for those listed here.
- Do not clean stones often. Even the most carefully cleaned stone loses stone particles with each cleaning.
- Do not plan to clean stones more often than once every several years or longer.
- Do not treat stones with "protective" coatings that are impermeable to water vapor. Such coatings can actually be very harmful to stones in years to come, and others are ineffective.

TOOLS FOR STONE CLEANING

- Goggles
- Rubber gloves

- Tampico (natural bristle) or plastic scrub brushes
- Toothbrushes
- Smooth wooden sticks such as ice cream sticks, tongue depressors, orange cuticle sticks
- Q-tips
- Spray bottle
- Water source (a hose is great, but clean, gallon milk jugs work too)

RECOMMENDED CLEANING SOLUTIONS

(Listed in order of increasing strength)

NOTE: Always use the weakest cleaning agent that cleans the stone effectively. Do not increase the recommended strength of a given solution. Use only those solutions recommended for the type of stone being cleaned.

Marble and limestone

- Water only
- Non-ionic detergent, such as Photo-Flo (available from photographic supply houses)
- Triton-X 100 (available from conservator's supply houses) and water. Use 1 ounce for every 5 gallons of water.
- Vulpex soap appropriate for stone cleaning (available from conservator's supply houses) and water. Use 1 ounce for every 5 gallons of water.
- Household ammonia. Use 1 cup for every 1 gallon of water.
- Calcium hypochlorite. Use only to remove biological growth. Available as HTH and other swimming pool disinfectants. Use 1 Pound dry for every 4 gallons of water. Must be dissolved in warm water.

Soapstone

- Water only

Slate

- Water only.
- Non-ionic detergent and water (see marble)

Sandstone

- Water only
- Non-ionic detergent and water (see marble)

Reference: "A Graveyard Preservation Primer" by Lynette Strangstad; published by American Association for State and Local History, in cooperation with Association for Gravestone Studies; AASLH, Nashville, TN, 1988, pp 60-63.

NEVER USE:

- Wire brushes, metal instruments, abrasive pads (Brillo pads, steel wool)
- Acid or acidic cleaners (especially on marble or limestone!). These types of cleaners should ONLY be used by conservators with proper training on non-calcareous stone (limestone and marble are calcareous).
- Household cleaners: soap (Ivory), detergents (liquid or powder), granular cleaners, bleach, commercial surface cleaners in spray bottles, or any other abrasive cleaner.
- Never use a power sprayer to clean the stones.

Remember: Make sure the stone is stable before attempting to clean it!

APPENDIX 12

KENTUCKY CEMETERY PRESERVATION PROGRAM

A SERVICE OF THE KENTUCKY HISTORICAL SOCIETY

Contact:

Kentucky Historical Society
100 West Broadway, Frankfort, KY 40601
Phone: 502-564-1792
Fax: 502-564-4701
Email: KHScemeteries@ky.gov

AN OVERVIEW OF THE KENTUCKY CEMETERY PRESERVATION PROGRAM

Cemeteries are important historical assets that tell about a community's past. They hold valuable resources for historical and genealogical research. More importantly, they are monuments to the people who once inhabited our communities. Across the Commonwealth, the Kentucky Historical Society provides support to communities to assist with the preservation and care of cemeteries and gravestones. Through seminars that teach best practices in cemetery preservation and educational materials that provide guidance and instruction to local citizens, KHS partners with communities to preserve and promote this important part of the state's history and heritage.

Census of Kentucky's Cemeteries

The Cemetery Preservation Program is continuing the work begun by the Kentucky Attorney General's Cemetery Task Force to develop a comprehensive survey of all cemeteries and burial sites in the state. Cities, counties, historical societies and other groups across the state are encouraged to work with us to develop a database that will list and provide a permanent record of all cemeteries and burial sites in the state. The database of surveys that was started by the Attorney General's Office can be found via the Kentucky Historical Society's website, www.history.ky.gov.

Cemetery Preservation and Education Project

The program provides ongoing resources to Kentucky's citizens and organizations that are involved in or interested in the protection and preservation of our historic cemeteries and gravesites. The program provides:

- Educational materials about appropriate cleaning and repairing techniques for old gravestones.
- Seminars and symposia that bring together professionals and interested individuals to discuss preservation issues and techniques as well as the historical and cultural significance of Kentucky's cemeteries and gravesites.
- Support for projects that highlight the educational and historical significance of our state's cemeteries.
- Advocacy across the state for the continued care and preservation of our historic cemeteries.

APPENDIX 13 KENTUCKY CEMETERY LAWS

KENTUCKY REVISED STATUTES AS THEY RELATE TO CEMETERIES (Revised Sept 2006):

61.350 Cemetery companies and burying grounds, penalty for failure to enforce laws relating to.

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined twenty-five dollars (\$25) for each failure or refusal.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 208.

67.680 County cemetery board.

- (1) A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the Department for Local Government for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.952.
- (2) The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge/executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 3, effective July 15, 2002.

Legislative Research Commission Note (7/15/2002). Under the authority of KRS 7.136, the Reviser of Statutes has corrected a clearly erroneous statutory reference in subsection (1) of this section as enacted in 2002 Ky. Acts ch. 276, § 3, by changing "KRS 367.962" to "KRS 367.952."

67.682 County cemetery fund -- Administrative regulations relating to county cemetery board.

- (1) The Department for Local Government shall establish a county cemetery fund to receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources.
 - (a) Moneys deposited in the fund shall be disbursed by the State Treasurer and any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).
 - (b) Income earned from investment including unallotted or unencumbered balances in the fund shall not lapse, shall be returned to the Department for Local Government, and may be redistributed to other counties.
- (2) The Department for Local Government shall promulgate administrative regulations related to responsibilities of the boards, grant appropriation amounts and eligible expenditures, application and reporting procedures, accountability criteria for grant recipients, and other issues of importance to the board's operation.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 4, effective July 15, 2002. **2004-2006 Budget Reference.** See State/Executive Branch Budget, 2005 Ky. Acts ch. 173, pt. V, A.4., at 3151; and State/Executive Branch Budget Memorandum, 2005 Ky. Acts ch. 170, at 1578 (Final Budget Memorandum, at 7).

97.540 Third or fourth class cities -- Condemnation of property for parks or cemeteries.

Whenever, in the opinion of the legislative body of any city of the third or fourth class, land or other property located either within or without the boundaries of the city and within the county in which the city is located is needed for cemetery or park purposes and the legislative body is not able to contract with the owner of the property for its purchase, the legislative body may, by resolution reciting such need, order the condemnation of such property. The proceedings shall be conducted in the manner provided in the Eminent Domain Act of Kentucky.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 343, § 1, effective July 15, 1988. -- Amended 1976 Ky. Acts ch. 140, § 50. -- Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 3240a-1, 3240a-2.

307.300 Improperly interred body or cremated remains.

- (1) In any instance where the operator of any cemetery is informed or becomes aware that it has improperly interred or has allowed to be improperly interred a body or cremated remains, including but not limited to interment in the wrong space, the burial container shall be disinterred and properly reinterred.
- (2) Prior to disinterment and proper reinterment of the body or cremated remains, the cemetery shall give reasonable notice to the next of kin of the deceased and, if requested, the owner of the burial space, informing them of the improper interment and the agreed-upon date of the disinterment and proper reinterment.
- (3) The expense of the disinterment and proper reinterment shall be paid by the cemetery in which the body or

cremated remains were improperly interred.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 5, effective July 15, 2002.

KRS 381.690 Protection of burial grounds by cities

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

HISTORY: KR 2741p-1

Penalty: KRS 381.8990(2)

381.697 Cemeteries maintained by legal owners.

- (1) Every cemetery in Kentucky except private family cemeteries shall be maintained by its legal owner or owners, without respect to the individual owners of burial plots in the cemetery, in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones, or other signs and indication of vandalism or gross neglect.
- (2) The owner or owners of public or private burial grounds, regardless of size or number of graves, shall protect the burial grounds from desecration or destruction as stipulated in KRS 525.115(1)(a), (b), or (c) or from being used for dumping grounds, building sites, or any other use which may result in the burial grounds being damaged or destroyed. The provisions of this subsection shall not apply to the owner or owners of public or private burial grounds when the public or private burial grounds have been desecrated, damaged, or destroyed as the result of a crime by another as defined by KRS 500.080.
- (3) The owner or owners of private burial grounds shall be required to construct cemetery protection structures only if the burial ground is located in a county with a county cemetery board and if the board provides compensation to the private burial ground owner for supplies, labor, and other expenses associated with such construction.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 2, effective July 15, 2002. – Created 1972 Ky. Acts ch. 284, § 2.

KRS 381.700

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

HISTORY: KRS 2741p-2.

Penalty: KRS 381.990(2)

KRS 381.710 Evidence of dedication or use of land as burying ground.

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

Effective: 1 October 1942

History: Recodified 1942 Ky Acts Ch. 208, § 1, effective October 1, 1942, from Ky Stat. § 2741 p.-3.

KRS 381.715 Burial Rights in cemetery lots; abandonment; resale by cemetery (amended 18 March 1994)

- (1) As used in the section, "cemetery lot" is a lot containing one (1) or more grave spaces located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.
- (2) An officer of the cemetery may cause to be filed, on behalf of the cemetery an action in the circuit court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.
- (3) The petition shall include the following:
 - (A) The name of the original owner of the burial rights in the lots in question.
 - (B) The name of all persons buried in the lots and the date of burial, if known.
 - (C) The name, address and telephone of the cemetery office.
 - (D) An affidavit by the petitioner that:
 1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years.

2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.
- (4) Service of process shall be by warned order attorney, appointed by the court pursuant to CR 4.07.
- (5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burials rights in the lots in question abandoned and authorizing the cemetery to sell the rights.
- (6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed within the cemetery a statement in writing directing that certain grave spaces not be used.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 70, § 1, effective July 15, 1994. – Created 1984 Ky. Acts ch. 267, § 1, effective July 13, 1984.

KRS 381.720 Abandoned cemetery in certain cities, proceedings to vest title in city

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing the city attorney to institute suit for the city or other governmental agency created by the city in the circuit court of the county in which the city is located against the property comprising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or authority of the Kentucky Revised Statutes.

HISTORY: 1964 c 24, § 1. Eff. 3-10-64
1954 c 29, § 1

CROSS REFERENCES

Abandonment or discontinuance of cemeteries. 14 Am Jur 2d, Cemeteries § 21 to 24.

KRS 381.740 Assertion of claim to compensation for value of interest in cemetery or lot

Within thirty days after the last advertisement, and party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceedings for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the circuit court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to claimant who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the circuit court describing separately the property which is subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

HISTORY: 1964 c 24, § 3, eff. 3-10-64
1954 c 29, § 3

CROSS REFERENCES

Property rights in lots or vaults; burial and incidental rights. 14 Am Jur 2d, Cemeteries § 25 et seq.

KRS 381.750 Judgment; removal of bodies and monuments

If no claim is made within thirty days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

HISTORY: 1964 c 24, § 4, eff. 3-10-64
1954 c 29, § 4

CROSS REFERENCES

Property rights to vaults and gravestones. 14 Am Jur 2d, Cemeteries § 33

Changing place of interment. 22 Am Jur 2d, Dead bodies § 22 to 28

Removal and reinterment of remains, 21 ALR2d 472

KRS 381.755 Removal of grave or cemetery on application of land owner or county; procedure; expenses

- (1) Upon application of the owner of property on which is located an abandoned grave or cemetery or whenever the fiscal court or any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.
- (2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the expiration of sixty days after the first publication of notice of such intended action pursuant to KRS Chapter 424, the court shall direct the removal and relocation of the grave or cemetery.
- (3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid by county funds.
- (4) Any grave or cemetery removed under the provisions of this section shall be relocated in suitable place at the expense of the person or county requesting such removal and relocation.
- (5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten years preceding the date of the resolution for removal and relocation of the grave or cemetery.

History: Created 1966 Ky. Acts ch. 251, § 1 to 5.

OAG 83-265. Liability for desecration of graves may exist when land that has been previously been used as a cemetery is reused as a cemetery without first removing and reintering the remains of those previously buried there. There is no liability for desecration if the cemetery is abandoned so that nothing indicates there are graves in the ground, the person is without notice that graves exist, and the public no longer recognizes the land as a cemetery.

416.210 Right of burial association or corporation to condemn land for cemetery -- Governmental approval needed -- Procedure.

Any burial association or corporation may, with the approval of the appropriate city, county, urban-county, consolidated local government, or charter county legislative body, condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred (100) feet. It may also condemn enough land, not exceeding five (5) acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred (100) feet for the new entrance. The condemnation procedure shall be in the Circuit Court of the county pursuant to the Eminent Domain Act of Kentucky. This section shall not permit condemnation of more than forty (40) acres at any one time.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 44, § 1, effective July 12, 2006. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, § 419, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 140, § 125. -- Amended 1946 Ky. Acts ch. 141, § 3. -- Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 199a-8, 199a-9.

Formerly codified as KRS 271.420, renumbered 1946 Ky. Acts ch. 141, § 3.

525.105 Desecration of venerated objects, first degree.

- (1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains.
- (2) Desecration of venerated objects in the first degree is a Class C felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 6, effective July 15, 2002. -- Created 1988 Ky. Acts ch. 119, § 1, effective March 30, 1988.

525.115 Violating graves.

- (1) A person is guilty of violating graves when he intentionally:
 - (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or
 - (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or
 - (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.

- (2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
- (3) Violating graves is a Class D felony.
- (4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 7, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 123, § 1, effective July 14, 2000. -- Created 1992 Ky. Acts ch. 420, § 2, effective July 14, 1992.

525.120 Abuse of corpse.

- (1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.
- (2) Abuse of a corpse is a Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 8, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 490, § 1, effective July 14, 2000. -- Created 1974 Ky. Acts ch. 406, § 222, effective January 1, 1975.

APPENDIX 14 MEDIA TIPS PROMOTING CEMETERY PRESERVATION

- **Prepare some talking points** and look for interesting story angles unique to your workshop or event. A lot of reporters look for human interest stories and personal experiences that are also newsworthy. When you can, tie your story to statewide or national history. Keep in mind what is going on with current local events and what else you might be competing with for media attention.
- **Do your research!** Look for editors, reporters and local media personalities (in print, radio, television and online) that already cover topics related to history and cemetery preservation. Researching each reporter or media outlet's audiences and programming to find the best fit will result in better coverage of your workshop. Most people listen to the radio on the way to and from work or at lunch, so look for stations with morning or afternoon shows that highlight local news and events and will reach a broad audience. From your research, prepare a contact list (names, phone numbers, email and postal mail addresses) of people that should receive your press release.
- **Write a press release.** You can use a recent press release on the Kentucky Historical Society's website and your talking points as references. Be sure to include your contact information (name, phone number and email address). Be concise, relevant and specific to your community. Editors receive hundreds of press releases each week, so be brief but interesting enough to attract notice. Double and triple-check for facts, spelling and grammar. Send it to your press contact list roughly two weeks before your workshop.
- **Follow up** on the press release with a personal phone call or email to the people on your contact list. Use your talking points to pitch them your story. Remember that most journalists work on a deadline, so return phone calls and emails from them as soon as possible. Print and broadcast deadlines vary, but the best time to contact most reporters is in the morning.
- **Be available.** Make sure that at least one person is available to the media for interviews and can speak passionately and eloquently about the importance of cemetery preservation in your community and in Kentucky. Journalists often take photos, video or sound recordings during an interview and may ask for additional photographs and information. When possible, have a selection of high-resolution photographs (with captions and photographer credit) already available of the interview subject, community members, historical images, people at work in the cemetery or interacting with each other, and anything else relating to your story.
- **Utilize community calendars.** Most media will add your event to their calendar once they receive your press release, but again it's a good idea to follow up with the editor. A lot of newspapers, radio stations, television stations and community groups allow you to submit event information online.
- **Always follow up with the journalist with a thank you!** An email, phone call or hand-written note is appropriate.

**APPENDIX 15
KENTUCKY HISTORICAL SOCIETY
ADOPT-A-CEMETERY PROGRAM
MAINTENANCE REPORT**

Name of cemetery _____

Location of cemetery _____

Name of Adoptee _____

Date of maintenance visit _____

Description of maintenance work completed this date

NOTE: Annual Maintenance Reports are required only if the adoption process is ongoing and active.

SPECIAL ACKNOWLEDGEMENTS

STEELE-REESE FOUNDATION

The Steele-Reese Foundation is a charitable trust committed to supporting rural communities and the nonprofit organizations that serve them in Idaho, Montana and Appalachian Kentucky. Since its inception, the Foundation has maintained a focus on the unique challenges of rural living and on helping people build healthy, successful and sustainable communities. With grant funds from the Steele-Reese Foundation, KHS has developed an array of workshops and programs to help Kentuckians preserve their cemeteries. The Kentucky Pioneer Cemetery Program could not have been implemented without the support of the Steele-Reese Foundation. The Kentucky Historical Society thanks the Steele-Reese Foundation for their support.

KENTUCKY HISTORICAL SOCIETY FOUNDATION

The Kentucky Historical Society Foundation (KHSF) has long been a supporter of cemetery preservation. Much of the success of the KHS Cemetery Preservation Program can be attributed to their support. The KHSF was formed to further the educational and stewardship purposes of the Kentucky Historical Society by providing assistance and support to the Society as needed. Consequently, the Foundation partners with the KHS in fulfilling its mission for engaging people in the exploration of the Commonwealth of Kentucky's diverse heritage. Through comprehensive and innovative services, interpretive programs and stewardship, the Kentucky Historical Society and the KHS Foundation provide connections to the past, perspective on the present and inspiration for the future.