

Notice of Existence of Cemetery Instructions

On September 1, 2009 Section 711.011 of the Texas Health and Safety Code was amended to include a requirement for the recording of unknown or abandoned cemeteries with the county clerk in the county in which the cemetery is located. The law states:

- (a) A person who discovers an unknown or abandoned cemetery shall file notice of the cemetery with the county clerk of the county in which the cemetery is located not later than the 10th day after the date of discovery. The notice must contain a legal description of the land on which the unknown or abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered.
- (b) A county clerk may not charge a fee for filing notice under this section.
- (c) The county clerk shall send a copy of the notice to the Texas Historical Commission and file the notice in the deed records of the county, with an index entry referencing the land on which the cemetery was discovered.

To facilitate the recording of unknown or abandoned cemeteries in accordance with Section 711.011, a sample notice is available from the Texas Historical Commission (THC), online through the THC's website (www.thc.state.tx.us). Once the notice is completed and notarized it may be recorded in the county clerk's office in accordance with Section 711.011.

Completing the notice

- ❶ Enter the county in which the cemetery is located.
- ❷ Enter the 911 address for the cemetery, if known; directions to the cemetery from the nearest community including mileage; and GPS coordinates, if known.
Example: 1211 County Road 123. From courthouse in Jergensen, Texas take SH 34 west for 5 miles. Turn left on FM 5678 and travel for 3 miles. Turn left at County Road 123 and travel .3 mile to number 1211. Enter the gate and follow the dirt road for 1.5 miles; the cemetery is in the woods approximately 12 yards to the right. GPS: Latitude 34.26758, Longitude -95.123654.
- ❸ The second page of this notice is provided to include a location map of the cemetery.
- ❹ Enter the evidence that indicates there is a cemetery at this location. Evidence may include gravemarkers, burial depressions, fencing and commonly used grave plantings such as iris or crepe myrtles.
- ❺ Enter the legal description. Usually this will be the survey and abstract number.
Example: John Smith Survey, A-321. This information can usually be obtained from the county appraisal office.
- ❻ Enter the information requested in this section.
- ❼ The notice must be notarized before filing with the county clerk.
- ❽ Create a map showing the approximate location of the cemetery. Include any landmarks such as roads, waterways and communities.

Filing the notice

Once the notice is completed and notarized, it is filed with the county clerk of the county in which the cemetery is located.

The county clerk shall:

- Verify that the notice contains the legal description of the land, an approximate location of the cemetery, evidence of the cemetery and is signed and notarized. (See the instructions for completing the notice for more information)
- File the notice in the county deed records indexed to the cemetery name and the survey and abstract number.
- Not charge a fee for this filing.
- Send a copy of the notice indicating filing date, the document number and/or volume and page to:

Texas Historical Commission
Attn: Cemetery Preservation Program
PO Box 12276
Austin TX 78711-2276