

ESTABLISHING A FAMILY CEMETERY

1. **Local regulations and restrictions:** Check with your local county or city government officials to determine if there are any rules or regulations that apply to your property. These could include restrictions such as flood plains, drainage, underground cabling or pipelines, deed restrictions or subdividing and platting requirements.
2. **Location of Cemetery:** Texas law requires that cemeteries be a certain distance outside of the local municipality based upon population. [Texas Health & Safety Code §711.008]
 - a. 5,000 to 25,000: must be located one (1) mile outside the municipal boundaries.
 - b. 25,000 to 50,000: must be located two (2) miles outside the municipal boundaries.
 - c. 50,000 to 100,000: must be located three (3) miles outside the municipal boundaries.
 - d. 100,000 to 200,000: must be located four (4) miles outside the municipal boundaries.
 - e. 200,000 + : must be located five (5) miles outside the municipal boundaries.

Except that in a county with a population of more than 750,000, or a county adjacent to such a county, the governing body of a municipality or a commissioners court may authorize the establishment of a cemetery if it does not adversely affect public health, safety, or welfare. [Texas Health & Safety Code §711.008 (g-3) and (g-4)]

3. **Dedication of Land:** Texas law requires that you survey and subdivide your acreage into gardens or sections and make a map or plat that specifies where the plots are to be located on the property. You should file the map or plat along with a written certificate or declaration of dedication of the land dedicating the property exclusively for cemetery purposes with the office of the county clerk in which your land is located. The filing of the certificate of dedication makes other individuals aware of the location of the cemetery on the land. You can accomplish this requirement yourself and need not hire someone to do it. [Texas Health & Safety Code §711.034]
4. **Depth of Graves:** Texas law states that a body of a decedent may not be buried in a manner such that the outside top surface of the container of the body is: (i) Less than two (2) feet below the surface of the ground if the container is not made of an impermeable material; or (ii) less than 1½ feet below the surface of the ground if the container is made of an impermeable material. Follow this guideline carefully as violation of this law is a misdemeanor. [Texas Health & Safety Code §714.001]
5. **Records of Interment:** Keep records of all burials in the cemetery. Each record should reflect at least the following: (i) the date the remains are received and interred, (ii) the name and age of the person interred, if known; and (iii) identity of the plot in which the remains are interred. It is suggested that the burial records be filed in the county deed records with the office of the county clerk in which your land is located. [Texas Health & Safety Code §711.003]
6. **Access to Cemetery:** Texas law requires that any person who wishes to visit a cemetery or private burial grounds where there is no public access shall have the right to reasonable ingress and egress over your property to visit the cemetery during reasonable hours. [Texas Health & Safety Code §711.041].
7. **Other Considerations:**
 - a. **Future Sale** – remember, you are changing forever the character of the property you are dedicating as a cemetery. This may very well affect your ability or the ability of your descendants to sell this property in the future. Future owners will also be required to give reasonable public access to the cemetery.
 - b. If you have **neighbors**, the presence of a cemetery may very well affect their property. The cemetery may affect the valuation of adjacent property, and the requirement that the public have reasonable access to the property might also affect adjacent property owners.
 - c. If your property has a **mortgage**, make sure you consider any effects that establishing a cemetery may have on the mortgage holder.