

While conducting a county-wide cemetery inventory or other project, CHCs may need to access cemeteries located on private property. Texas law allows for this access, and most property owners comply without any issues. Occasionally, however, a CHC may need to work with a reluctant, or even hostile, property owner. The following guidelines can help facilitate a successful visit.

First, familiarize yourself with the language of the access law so you understand your rights, as well as the rights of the property owner. The relevant laws are in the Health and Safety Code, Sections [711.041](#) and [711.0521](#). (The text of these two sections is included at the end of this handout.)

Next, identify the legal owner of the property you must cross to reach the cemetery. This information can be obtained from the county appraisal district's office. This is especially important in those cases where someone other than the owner lives on site, such as a tenant or ranch foreman, etc. You want to make sure you are communicating with the current owner of the land surrounding the cemetery, as described by the law.

Contact the owner to set up a time to visit. Depending on the circumstances, this could be as simple as a courtesy phone call, particularly if the CHC has an established relationship with the property owner.

In the cases where you have no previous relationship with the property owner, it's probably helpful to be more formal in your communication. Send a written notification at least 14 days in advance of your visit. More notice is usually better. In your communication, make sure to do the following:

- Explain who you are and who you represent. Don't assume they'll know what a CHC is or does.
- Describe what you hope to accomplish during your visit. Be as specific as possible. If you'll take perimeter measurements, say so. If you plan to individually photograph each headstone, say so.
- Just as importantly, make sure to explain why this work is important and what you plan to do with the information you collect. Again, be as specific as possible.
- Tell them how many people will visit and provide their names. (Keep this reasonable for whatever task is at hand.)
- Make sure to include your contact information for follow-up.
- Some counties have discovered that it is helpful to have an introductory letter written by the county judge or one of the county commissioners.

In most cases, property owners allow the visit with no issues. However, there will likely be some instances in which you receive no response or a negative response. At this point, you'll need to evaluate the situation and decide the best way to proceed. Consider that each situation may be very different and may require a different approach.

**Because CHCs represent the county, you should discuss the situation with your county judge, county attorney, and/or county commissioners before deciding on how to move forward.

The following are just some options for moving forward:

- Determine if any of your CHC appointees or other regular volunteers know the property owner. Sometimes a personal appeal does the trick.
- Ask the property owner to explain their reluctance. They may have legitimate concerns that you can reasonably accommodate.
- Determine if a compromise is appropriate. For example, if what you need are measurements and current photos, perhaps the property owner is willing to complete those tasks himself and provide them to you.
- Send your notification again—this time include the text of the access law and send it via certified mail. Your county attorney may be willing to write the letter.

No state agency has authority to enforce the law of access. The responsibility falls to local law enforcement. However, please recognize that involving law enforcement has the potential to cause more harm than good. Use your best judgement.

Unless you have good reason to believe that the cemetery is in imminent danger of destruction, it's better to exhaust all other avenues of reconciliation first. It's okay if it takes a while. Just one particularly toxic relationship with a property owner could escalate to such a degree that it jeopardizes your abilities to work harmoniously with other property owners.

Once you've gained access, follow these guidelines:

- Show up on time. Bring only the people you said you would. No spectators.
- Follow the route dictated by the owner. Proceed directly to the cemetery. No detours.
- If you have to open or unlock any gates, make sure to close and lock them.
- Be prepared. Bring all of the supplies and equipment necessary to accomplish your stated purpose. A second visit or "sending someone to town" because you were unprepared is not acceptable.
- Accomplish your stated tasks as quickly and efficiently as possible and stick to the plan.
- Be respectful and courteous in all communications.

For more information, visit www.thc.texas.gov/cemetery.

The following statutes are taken from the Health and Safety Code of Texas, available here:

<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.711.htm>

Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who wishes to visit a cemetery or private burial grounds for which no public ingress or egress is available shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. This right of access extends only to visitation during the hours determined by the owner or owners of the lands under Subsection (b) or at a reasonable time as provided by Subsection (c) and only for purposes usually associated with cemetery visits.

(b) The owner or owners of the lands surrounding the cemetery or private burial grounds may designate the routes of reasonable ingress and egress and reasonable hours of availability.

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and

(3) the time of the visit is reasonable.

(d) This section does not apply to an unverified cemetery.

Added by Acts 1993, 73rd Leg., ch. 634, Sec. 22, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 263 (H.B. 1468), Sec. 7, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 110 (S.B. 1630), Sec. 8, eff. September 1, 2017.

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2009, 81st Leg., R.S., Ch. 263 (H.B. 1468), Sec. 9, eff. September 1, 2009.