

Instructions for Filing Record of Unknown or Abandoned Cemetery

On September 1, 2017 Section 711.011 of the Texas Health and Safety Code was amended to include a requirement for the recording of abandoned or unknown cemeteries with the county clerk in the county in which the cemetery is located and concurrently alerting the current landowner of the filing.

"Abandoned cemetery" means a cemetery, regardless of whether it appears on a map or in deed records, that is not owned or operated by a cemetery organization, does not have another person legally responsible for its care, and is not maintained by any person.

"Unknown cemetery" means an abandoned cemetery evidenced by the presence of marked or unmarked graves that does not appear on a map or in deed records.

The law states:

- (a) A person who discovers an unknown or abandoned cemetery shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district not later than the 10th day after the date of the 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 blank form and sample notice is available from the Texas Historical Commission (THC), online through the THC's [website](#). This form can be used "as-is" or you can use the form as a base, adding additional information as necessary (such as excerpts from old deed records, publications, historic maps, burial records/maps, interviews, photographs, etc.).

Once the Notice is completed and notarized, make a copy. Mail the copy to the landowner on record in the County Appraisal Records. Attach the letter to the Notice and provide the county clerk with the original notarized Notice.

Completing the Notice

A. Enter the county in which the cemetery is located.

B. Enter the 911 address for the cemetery, if known; directions to the cemetery from the nearest community including mileage; and GPS coordinates, if known.

C. The second page of this notice is provided to include a location map of the cemetery.

Note: When providing a location map, please consider that maps will most likely be reproduced (Xerox copied) by the clerk's office. Color images will more than likely be reduced to black and white. Many images end up looking like a black square and all details will be lost. A simple line drawing may be better than color images, such as aerial photographs. Digital road maps such as Google maps seem to come through the copier very clearly, but may need to be annotated to convey the exact location accurately.

D. Enter the evidence that indicates there is a cemetery at this location. Evidence may include physical elements and /or documentary/archival evidence. Physical elements might include markers with inscriptions, graves marked only by stone, burial depressions, evidence resulting from inadvertent excavations, fencing, and/or commonly used grave plantings (iris, crepe myrtle). If headstones are present, provide the number of known graves. Documentary evidence might include a deed, inclusion on a historic map (such as county highway map or USGS map). You may also add more information to the form itself, **if known**, such as:

- the name of the cemetery
- number of graves
- date range of burials
- surnames observed
- association (with a church or community)
- ethnicity or religious association

E. 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.

F. Enter the information requested in this section. You may also choose to add your affiliation to the cemetery (descendent, landowner, surveyor, researcher, etc.)

G. The notice must be notarized by a Notary Public.

H. Create a map showing the approximate location of the cemetery. Include any landmarks such as roads, waterways and communities.

I. You must Mail the copy to the landowner on record in the County Appraisal Records. Attach the letter to the Notice

J. Make a copy of the notarized form and mail it to the landowner on record in the county appraisal district. State the following in your letter:

Pursuant of the Texas Health and Safety Code Sec. 711.011. **FILING RECORD OF UNKNOWN or ABANDONED CEMETERY:** A person who discovers an unknown or abandoned cemetery shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district. By receipt of this letter, you have been notified.

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. You may choose to take these instructions with you to assist the clerk with the filing.

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.

- **File the notice in the county deed records with an index entry referencing the land on which with an index entry referencing the land on which the cemetery was discovered.**

- Not charge a fee for this filing (See Sec. 711.011b)

- 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**

For more information, please contact Jenny McWilliams at 512-475-4506 or
jenny. mcwilliams@thc.texas.gov

RECORD OF UNKNOWN OR ABANDONED CEMETERY (SAMPLE)

THE STATE OF TEXAS §

§ KNOW ALL MEN BY THESE PRESENTS:

A COUNTY OF Post Oak §

THAT the undersigned, acting pursuant to the provisions of Section 711.011 of the Texas Health and Safety Code, files this notice of the discovery of an unknown or abandoned cemetery.

B The Cemetery is located (describe the location, including GPS information, if available):
1211 County Road 123, Jergenson. From courthouse in Jergenson, Texas, take US 190 west for 5 miles. Turn left (north) on SH 289, travel 1.8 miles. Turn left on FM 483, travel for 2.5 miles. Turn left on County Road 123. Cemetery will be on the left.

C A location map (Exhibit A) is attached (may be hand drawn).

D The Cemetery is evidenced by (describe features such as markers with inscriptions, graves marked only by stone, archaeological evidence resulting from inadvertent excavations, fencing, commonly used grave plantings (iris, crepe myrtle), or other evidence):
2 grave markers, some broken iron fencing with irises inside, 3 possible burial depressions, several large rocks that may mark graves, other areas of vegetation, and remnants of a barbed wire fence.

E The legal description for the land occupied by the Cemetery is (provide survey and abstract numbers and a description, attach as an Exhibit to Notice if necessary):
John Smith Survey, A-321

F This Notice signed and executed on the 6th day of April, 20 17.

Mary Howard Clark
(signature)

Mary Howard Clark
(printed name)

12345 South Loop 10, Jergenson Texas
(address)

G

THE STATE OF TEXAS §

§

COUNTY OF _____ §

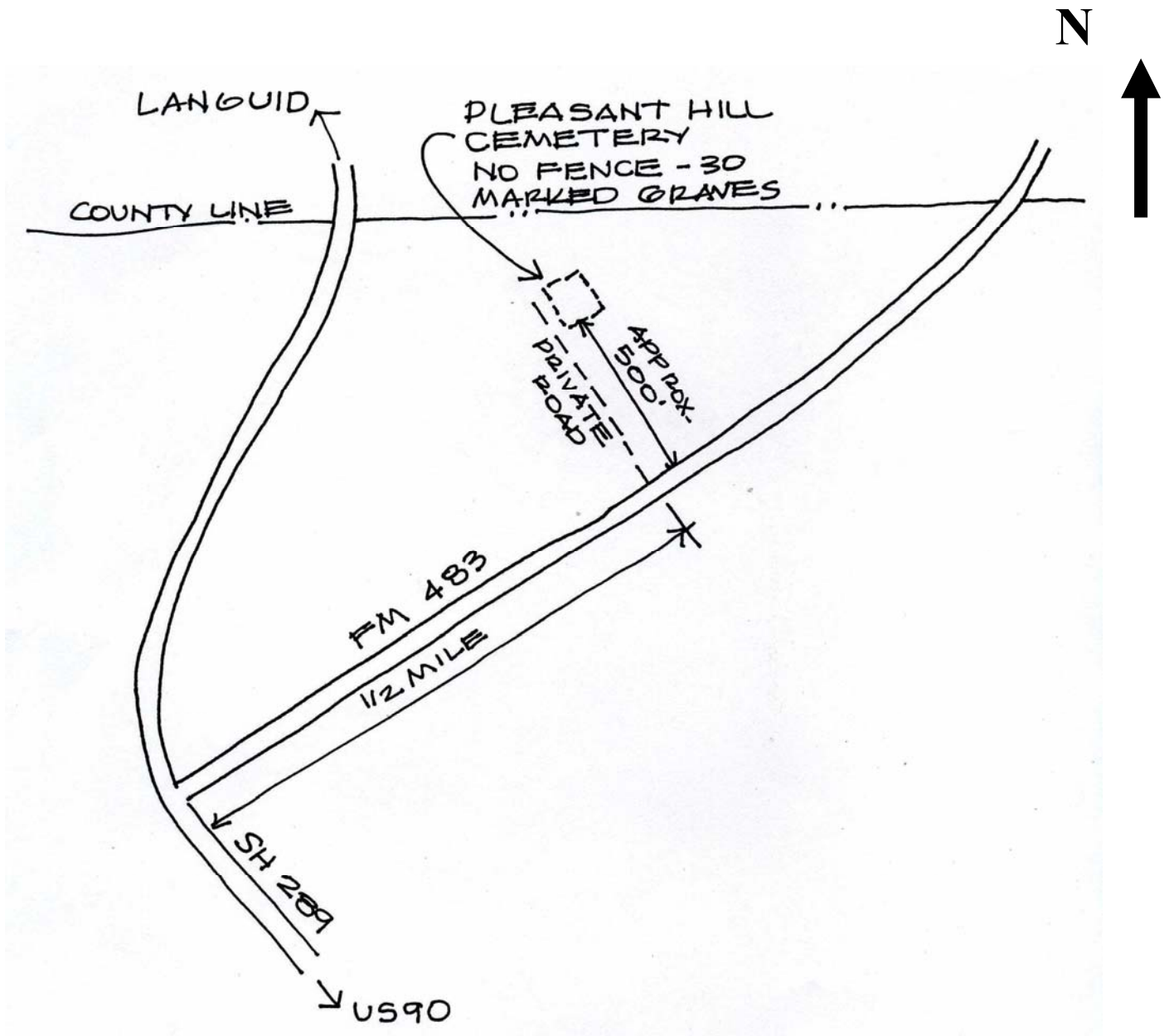
This instrument was acknowledged before me on the _____ day of _____, 20____, by _____.

Notary Public, State of Texas

H

EXHIBIT A
Location map

Please provide a map showing the location of the cemetery in relation to the nearest community and any other permanent landmark such as roads.



Example of Landowner Notification Letter

Your Name
Your Address
Your City, State, Zip

Landowner Name
Landowner Address
Landowner City, State, Zip

Date

Salutation,

Pursuant of the Texas Health and Safety Code Sec. 711.011. FILING RECORD OF UNKNOWN CEMETERY: A person who discovers an unknown or abandoned cemetery shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district. By receipt of this letter, you have been notified.

Closing,

Your Signature

Your Name (printed)
(You may choose to include your association with the cemetery)