

Most of the Texas laws regarding historic cemeteries are in Chapters 711, 713 and 715 of the [Texas Health and Safety Code](#); [Title 13, Part 2, Chapter 22 of the Texas Administrative Code](#); and sections of the [Penal Code](#). The following is a compilation of the laws that CHCs will most likely need to reference. *Note: laws are paraphrased below; consult full code for exact language of the laws.*

Health and Safety Code Sec. 711.001 – This section contains the definitions of words and phrases used through the entirety of Chapter 711. One particularly important definition is that of “cemetery,” which can be comprised of just a single grave. CHCs should familiarize themselves with all of the definitions in this section.

Health and Safety Code Sec. 711.035(f, g) – Dedicated cemetery property must be used exclusively for cemetery purposes unless the dedication is removed by court order. Property is considered dedicated if one or more burials are present or a dedication of the property for cemetery use is recorded in the deed record.

Administrative Code Title 13 Part 2 Chapter 22.4(c) – Agricultural activity, including ranching, may not be conducted in a manner that will disturb a grave or cemetery.

Health and Safety Code Sec. 711.041 - 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 visitation at a reasonable time and with proper notification to the property owner.

Some laws will trigger a notification to the CHC. While the CHC is not required to take action, we encourage your commission to gain a full understanding of each situation and respond in the most appropriate way. These include:

- **Health and Safety Code Sec. 711.010** - Improvements to property that would disturb an unknown or abandoned cemetery may not be carried out until the remains are removed under a court order. The property owner can petition the court for this action. Notice of the petition must be given to the CHC.
 - **Health and Safety Code Sec. 711.036** – An owner of land adjacent to a cemetery for which no cemetery or other governing body exists can petition the court to have the burials and cemetery dedication removed. Notice of the petition must be given to the CHC.
 - **Health and Safety Code Sec. 711.007** – Allows for various parties to petition the court to abate a cemetery as a nuisance and enjoin its continuance. Notice of the action must be provided to the CHC.
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Sometimes a CHC may need to provide assistance to a cemetery association about operations. A few of the situations that come up most often include:

- **Health and Safety Code Sec. 711.031** - Cemetery organizations may adopt and enforce rules and these rules must be made available for review.
 - **Health and Safety Code Sec. 711.035(d)** - Consent of a cemetery organization is required prior to public utilities or thoroughfare placement through a cemetery.
 - **Health and Safety Code Sec. 711.035(e)** – All cemetery property is exempt from public taxation and may not be sold on execution.
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Certain laws allow for a municipality, county commissioners court, or nonprofit organizations to provide care for cemeteries, including:

- **Health and Safety Code Sec. 713.021** - A county commissioners court may establish a perpetual trust fund to provide maintenance for a neglected or unkept public or private cemetery in the county.
- **Health and Safety Code Sec. 713.028** - A county commissioners court may use public funds, county employees, and county equipment for the maintenance of certain cemeteries (cemeteries with graves more than 50 years old) for purposes of historic preservation and protection of the public health, safety, and welfare.
- **Health and Safety Code Sec. 713.009** - A city with a cemetery within its jurisdiction may take possession and control of the cemetery on behalf of the public health, safety, comfort, and welfare.
- **Health and Safety Code Sec. 715** - A nonprofit corporation organized under this chapter to restore, operate, and maintain a historic cemetery may petition the district court of the county in which the cemetery is located to authorize the nonprofit corporation to restore, operate, and maintain the cemetery.

For more information on historic cemeteries visit www.thc.texas.gov/cemetery.