



THE ASSOCIATION FOR GRAVESTONE STUDIES

DRAFT

AN ACT FOR THE PRESERVATION AND CARE OF BURIAL PLACES AND MEMORIALS FOR THE DEAD

Section 1 - Definitions

For purposes of the following sections the following terms shall have the following meanings:

"Ancient burial place" means any tract of land within a city or town which has been for more than one hundred years used as a burial ground, but the term shall not apply to a burial ground owned and maintained by a religious organization or a cemetery corporation.

"Burial ground authority" means the cemetery commissioners, park department or other authority having charge of public burial grounds within the limits of a city or town.

Section 2 - Ancient Burial Places to be Preserved

A city or town shall not alienate or appropriate to any use other than that of a burial ground any ancient burial place and no portion of such ancient burial place shall be taken for public use without authority from the legislature. If such ancient burial place is appropriated for any other use and the bodies buried therein or the monuments, gravestones or other memorials marking the same are removed, the burial ground authority shall preserve a record of such removal indicating the date of such removal and the site or place to which removal is made.

Section 3 - Care of Neglected Ancient Burial Places

Any city or town having within its limits an abandoned or neglected ancient burial ground shall take charge of the same and keep it in good order, shall repair or restore fences, tombs, monuments or other structures therein, and shall appropriate money therefor, but no property rights shall be violated and no body shall be disinterred.

Section 4 - Removal of Gravestones and Memorials

No fence, tomb, monument or gravestone within a burial ground shall be destroyed or injured or shall be removed except in accordance with the provisions of this section. A gravestone or other memorial for the dead which is more than one hundred years old may, with the approval of the owner of the burial lot in which such gravestone or memorial is placed or, if the owner is unknown, with the approval of the burial ground authority, be removed for the purpose of repair or replacement, for the purpose of reproduction or for the purpose of preservation and display in an accredited museum. Such approval may be given by the burial ground authority only after seven days' notice of a hearing published in a newspaper having a circulation in the city or town where the burial ground is located and after a determination by the authority following such hearing that such removal is necessary or desirable for the protection and preservation of such gravestone or memorial. The owner of a burial lot who has not

received notice of such hearing may after such removal request replacement of a gravestone or memorial so removed and the burial ground authority, if it is satisfied that such person is the owner of the burial lot, shall arrange for replacement of the same.

Section 5 - Penalty for Damaging Burial Places,
Structures, Trees or Shrubs

Whoever willfully destroys, mutilates, defaces, injures or removes, except as provided in the preceding section, a tomb, monument, gravestone or other structure for a memorial for the dead, or a fence, railing, curb or other thing beforementioned or an enclosure for the burial of the dead, or willfully destroys, mutilates, removes, cuts, breaks or injures a tree, shrub or plant placed or being within such enclosure, or wantonly or maliciously disturbs the contents of a tomb or a grave, shall be punished by imprisonment in the State prison for not more than five years or by imprisonment in the jail or house of correction for not more than two and one-half years or by a fine of not more than three thousand dollars.

Section 6 - Additional Penalty

Any person convicted under the preceding section shall, in addition to any fine or penalty imposed thereunder, pay treble damages to the burial ground authority, religious organization, cemetery corporation or persons having charge of the burial ground where the damage has been sustained.

If the convicted offender is a minor, the court may, if it determines that the offender is unable to pay treble damages, require the offender to perform a specified work program at the site where the damage occurred for such period of time as will in the opinion of the court equal treble the amount of the damages sustained.

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