



Standards and Guidelines For Certificates of Authority for Care and Maintenance of Abandoned Cemeteries

Background

Under RCW 68.60.030, the Department of Archeology and Historic Preservation (DAHP) may grant by nontransferable certificate, authority to maintain and protect abandoned cemeteries. Certificates are available through application by:

- preservation organizations which have been incorporated for the purpose of restoring, maintaining, and protecting abandoned cemeteries,
- to nonprofit corporations not expressly incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery (at DAHP's discretion),
- a state or local governmental organization, such as a city or county, or a tribe.

As established in RCW 68.60.030 (3), the DAHP shall establish standards and guidelines for granting certificates of authority under subsections (1) and (2) of the law to assure that any restoration, maintenance, and protection activities are conducted and supervised in an appropriate manner.

Abandoned Cemeteries

Abandoned cemeteries are explicitly defined under RCW 68.60.010 as a burial ground of the human dead:

- for which the county can find no record of an owner;
- where the last known owner is deceased and lawful conveyance of the title has not been made; or
- in which the cemetery company, cemetery association, corporation, or other organization that formed for the purposes of burying the dead:
- has been disbanded, has been administratively dissolved by the secretary of state, or has otherwise ceased to exist, and for which title has not been conveyed; or
- no longer has a valid certificate of authority as determined by the funeral and cemetery board.

Application Process

An Application for a certificate of authority for care and maintenance of an abandoned cemetery can be found at the DAHP website: <http://dahp.wa.gov/>. In addition to the completed application, other relevant

documentation is required in order for the application to be complete. These include:

- Articles of incorporation if applying as a non-profit preservation organization,
- Articles of incorporation if applying as a non-profit not expressly incorporated as a cemetery preservation non-profit with an explanation of why the non-profit is applying for the certificate of authority,
- A copy of the Secretary of State issued certificate of incorporation if applying as a non-profit,
- A copy of a letter from the relevant county assessor indicating abandonment of the cemetery property with no conveyance of title to another owner,
- A copy of a letter from the Funeral and Cemetery Board indicating that no cemetery authority is on file or that the cemetery authority has lost their license to operate,
- Copies of any other relevant historic information regarding the cemetery's establishment and evidence of abandonment and/or dissolution of the cemetery authority or cemetery association.

If the assessor records indicate that the land on which the cemetery is located is owned or the cemetery property is landlocked by private property then the DAHP encourages potential certificate holders to work with the landowner and establish an agreement that allows the certificate holder access to the property to perform maintenance and preservation activities.

The completed application form along with relevant supporting documentation should be submitted to:

Dr. Guy Tasa, State Physical Anthropologist
Department of Archaeology and Historic Preservation
1110 Capitol Way S., Suite 30
Olympia, Washington, 98501

Once a complete application is received, the DAHP will review the documentation and send it along with a recommendation to the Director of the agency for approval. Once approved, the DAHP will issue a Certificate of Authority for Care and Maintenance. Questions about the application and process should be directed to Dr. Guy Tasa by email at guy.tasa@dahp.wa.gov or by phone at 360-586-3534.

Care and Maintenance Certificate

Allowable Activities

The authority granted by the certificate is restricted to care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery. A certificate of authority granted to a non-profit preservation organization incorporated for the express purposes of preservation may hold and possess burial records, maps, and other historical documents that may exist. Washington non-profits that were not incorporated expressly for care and maintenance of a historic cemetery may not hold original records, maps, and other historical documents. Maintenance and preservation corporations that are granted care and maintenance authority may establish care funds. The DAHP encourages all care and maintenance

certificate holders to seek guidance from the DAHP for any restoration or protection activities. The DAHP web page offers links to specific guidelines for certain restoration and cemetery care and will be compiling a Washington Historic Cemetery Preservation Handbook in the future to provide guidance on historic preservation activities in historic cemeteries.

Activities Requiring a Permit

Any proposed preservation, care, maintenance, restoration, or protection project undertaken by the certificate holder that will cause any subsurface disturbance must seek prior approval by the DAHP. Possible ground disturbing activities might include installation of signage, walkways, fencing, tree removal, etc. Such work may require an archaeological permit issued under RCW 27.53 and the presence of a qualified archaeologist during ground disturbing activities.

Disallowed Activities

The care and maintenance certificate issued by the DAHP **does not** grant the authority to make burials into the cemetery. In order to activate a historical cemetery for burials, an applicant must apply for a certificate of authority to operate a cemetery from the funeral and cemetery board.

The care and maintenance certificate issued by the DAHP **does not** grant ownership of the cemetery property. Certificate holders **may not** prohibit visitation of the cemetery by the public (see applicable law). State law prohibits any other use of cemetery property for anything other than a cemetery and for cemetery purposes.

Liability

Washington state law protects certificate holders from liability to those claiming burial rights, ancestral ownership, or any other person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county where the abandoned cemetery is located. State law also protects the certificate holder from liability for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

Yearly Report

A yearly report of the care and maintenance activities performed by the certificate holder should be submitted to the DAHP at the completion of each calendar year. The report should also project future care and maintenance activities for the coming year.

Competing Interests

Where you have two otherwise qualified care and maintenance entities, preference will be given to an entity that can demonstrate it is comprised of or controlled by people who are living descendants of the people buried in the cemetery. Other factors that might be used to decide between dueling entities are whether the members of one or the other are local and thus more able to stay on top of maintenance, and whether they have a demonstrated interest in the cemetery and its preservation.

Revocation of Certificate

DAHP's certificate of authority for care and maintenance may be revoked under certain circumstances, including but not limited to those below:

- If the maintenance and preservation corporation has dissolved,
- if the maintenance and preservation corporation loses its non-profit status,
- if the maintenance and preservation corporation violates state laws protecting historic cemeteries.

Following revocation of the certificate the disposition of burial records, maps, and other historical documents will be with state archives.