

**A.C.A. § 5-38-207** *Extracted from Arkansas Code of 1987 Annotated Official Edition*  
*Current through all laws of the 2018 Fiscal Session and 2018 Second Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission.*

- *Arkansas Code Annotated Title 5 Criminal Offenses Subtitle 4. Offenses Against Property Chapter 38 Damage or Destruction of Property Subchapter 2-- Offenses Generally*

**5-38-207. Destruction or removal of a cemetery or grave marker.**

(a) **It is unlawful for any person, corporation, company, or other entity to destroy or carry away any cemetery marker or grave marker.**

(b) Destruction or removal of a cemetery marker or grave marker is a Class C felony.

History

Acts 1997, No. 1244, § 1; 2005, No. 1994, § 327; 2005, No. 2232, § 3; 2007, No. 265, § 1; 2009, No. 748, § 24.

Arkansas Code of 1987 Annotated Official Edition

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**5-39-212. Cemeteries -- Access -- Debris -- Disturbance.**

(a)

(1) **It is unlawful for any person, firm, corporation, partnership, or association to construct any fence on any property in such a manner as to enclose any cemetery, graveyard, or burying place unless reasonable access by automobile to the cemetery is provided by gate or otherwise.**

(2) As used in this subsection, "cemetery" is not intended to apply to any private family burial plot that:

(A) Contains fewer than six (6) commercial grave markers;

(B) Has not been used for a burial purpose for at least twenty-five (25) years; and

(C) Has not had an access road to the burial plot for at least thirty (30) years.

(3) Nothing in this section prohibits the placement of a fence around any cemetery for the purpose of defining a boundary or protection of a grave site, if any fence or gate is sufficiently maintained.

(b)

(1) Any person, firm, corporation, partnership, or association violating any provision of this section is guilty of a violation and upon conviction shall be fined in any sum not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

(2) Every day that the violation exists is a separate offense.

**14-14-812. Cemetery access roads.**

(a) A "cemetery", as used in this section, means any burying place for the dead, a burial plot, a graveyard, or any land, public or private, dedicated and used for the interment of human remains which includes at least six (6) grave markers.

(b)

(1) The county judges of the several county governments in Arkansas shall be authorized to improve and maintain any roads across public or private lands used or to be used for access to a cemetery.

(2) **The cemetery access roads shall be constructed to a standard and nature to permit their use by automobiles.**

**A.C.A. § 18-15-1408**

Current through all laws of the 2018 Fiscal Session and 2018 Second Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission.

- *Arkansas Code Annotated Title 18 Property Subtitle 2. Real Property Chapter 15 Eminent Domain Subchapter 14-- Cemeteries*

**18-15-1408. Public property.**

(a) **If a cemetery located on land of a private landowner has been open to public use for a period of at least fifty (50) years, then the cemetery shall be deemed to be public property** unless:

(1) The property has been enclosed by the landowner for at least one (1) year prior to an order of the quorum court providing for the care and management of the cemetery as provided for under subsection (b) of this section; or

(2) The cemetery has been operated by the landowner for at least one (1) year prior to an order of the quorum court providing for the care and management of the cemetery as provided for under subsection (b) of this section.

(b)

(1) If, upon the petition of any person, the quorum court determines that a cemetery is public property under this section, the quorum court may issue an order providing for the management and care of the cemetery. The county may manage and care for the cemetery or may enter into an agreement allowing a nonprofit association or corporation to provide for the management and care of the cemetery.

(2) Upon issuing an order for the management and care of the public property, the quorum court shall notify the landowner of its order, based on the quorum court's finding that the property has become public property, and shall include a copy of the provisions of this section. The notice shall be by certified mail.

(3) No person or his or her heirs shall have, sue, or maintain any action or suit, either in law or equity, for any cemetery lands more than six (6) months after the person receives the notice required under this section.

(c) The rights of the public to cemetery property under this section shall be in the nature of an adverse possession. No additional conditions for adverse possession shall be imposed in addition to those provided by this section.

History Acts 1995, No. 716, § 1.

## **A.C.A. § 20-17-901**

*Current through all laws of the 2018 Fiscal Session and 2018 Second Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission. Arkansas Code Annotated Title 20 Public Health And Welfare Subtitle 2. Health And Safety Chapter 17 Death and Disposition of the Dead Subchapter 9-- Cemeteries Generally*

### **20-17-901. Registration required.**

All cemeteries now existing in the state shall be registered with the county judge, if under his or her jurisdiction, or with the mayor, as the case may be, and a copy of the registration shall be filed with the Department of Health. This registration shall show the location and boundaries of the cemetery.

History

Acts 1929, No. 204, § 2; Pope's Dig., § 6447; Acts 1985, No. 1014, § 2; A.S.A. 1947, § 82-402.

### **20-17-902. Burial in registered cemetery required -- Records.**

(a) It shall be unlawful to bury a dead body outside of a registered cemetery.

(b) The sexton or person in charge of the cemetery shall keep a correct record on a form prescribed by the Department of Health of each body buried in the cemetery.

History

Acts 1929, No. 204, § 3; Pope's Dig., § 6448; Acts 1985, No. 1014, § 3; A.S.A. 1947, § 82-403.

### **20-17-903. Application to locate or extend boundaries.**

(a) Whenever it is proposed to locate a cemetery or to extend the boundaries of an existing cemetery, the party so proposing shall make written application to the county judge or to the mayor of an incorporated city or town, according to whether the cemetery or extension of a cemetery is to be located in the jurisdiction of one (1) or the other of these authorities. The written description shall describe accurately the location and boundaries of the proposed cemetery or extension of a cemetery.

(b) Before acting upon the application, the county judge or the mayor, as the case may be, shall refer the application to the Department of Health for investigation from a sanitary standpoint. In making such an investigation the department shall take into consideration the proximity of the proposed cemetery or extension of a cemetery to human habitations, the nature of the soil, the drainage of the ground, the danger of pollution of valuable springs or streams of water, and such other conditions as would bear upon the situation.

(c) Having completed its investigation as promptly as can be done, the department shall submit a report to the judge or the mayor, as the case may be, and either approve or disapprove the application.

(d) Having received the report from the department, the judge or the mayor, as the case may be, as recommended by the department, shall either grant or deny the application.

(e) Should the application be granted, the judge or the mayor, as the case may be, shall issue to the party making the application in such form as may be prescribed by the department a permit to establish or extend the cemetery in question.

(f) The permit shall be recorded in the office of the county judge or the mayor and a copy forwarded to the department.

### **20-17-904. Perpetual care trust.**

(a) By trust instrument or will, any person may establish a trust fund in perpetuity with the income from the trust fund to go to the upkeep of certain specified burial lots or plots in one (1) or more cemeteries or burial grounds in the State of Arkansas.

(b)

(1) No amount placed in trust pursuant to subsection (a) of this section by any one (1) trustor or testator shall be in excess of the sum of two hundred thousand dollars (\$200,000).

(2) The trust fund shall be:

(A) Invested in state, municipal, or federal obligations;

(B) Deposited for interest in a savings and loan association whose funds are insured by the Federal Deposit Insurance Corporation; or

(C) Placed on interest-bearing time deposit in a bank whose funds are guaranteed by the Federal Deposit Insurance Corporation.

(3) The trust fund shall be so invested or deposited as directed by the circuit court of the county in which are located the burial grounds specified in the trust instrument of the trustor or will of the testator.

(c) The trustee of the fund shall file an annual report in the circuit court of the county in which the burial grounds are located showing the receipts and disbursements from the trust fund.

(d) The provisions of subsections (a)-(c) of this section are in addition to any other laws relating to cemeteries and trust funds.

(e) No rule against perpetuities shall apply to property or funds set aside or trust created for the perpetual care of burial lots in cemeteries.

## **20-17-905. Abandonment.**

(a) The circuit court of the county may order the removal of the dead from an abandoned cemetery which lies outside the limits of any city of the first class of one hundred thousand (100,000) or more in population.

(b) Notice of the filing of a petition for the removal of the dead from an abandoned cemetery under this section shall be in a newspaper having general circulation in the county where the cemetery is located, and hearing on the petition shall be held not earlier than twenty (20) days following this publication.

(c) Upon the hearing, if the court finds that the cemetery is abandoned as defined in subsection (e) of this section, it shall authorize the removal of the dead to another cemetery for which a permanent maintenance fund has been established as provided in § 20-17-1013.

(d) After removal of the dead from a cemetery pursuant to this section, the petitioners shall file with the court a report that the removal has been done, and thereupon the court shall enter an order declaring the cemetery abandoned for cemetery purposes. Upon the entry of the order, the property shall become subject to taxation like other property.

(e) For the purposes of this section, an "abandoned cemetery" is a cemetery:

(1) For which no permanent maintenance fund as provided in § 20-17-1013 has been established;

(2) Which is not suitably maintained and preserved as a cemetery;

(3) In which there have been no interments for a period of fifteen (15) years; and

(4) Which contains at least six (6) permanent grave markers.

History

Acts 1965, No. 392, §§ 1-3; A.S.A. 1947, §§ 82-431 -- 82-433; Acts 1993, No. 403, § 14; 2005, No. 2001, § 1.

## **20-17-909. Minimum maintenance for petitioned abandoned cemeteries.**

Petitioned abandoned cemeteries that are no more than one (1) acre in size are eligible for minimum maintenance.

History

Acts 2005, No. 2001, § 2.

## **20-17-910. Abandoned cemeteries on private property.**

(a) If a petitioned abandoned cemetery is on private property with no access by the public, the property owner may grant permission to the county abandoned cemetery registration board to enter for maintenance by providing a written statement.

(b) The statement shall be notarized and shall provide a conditional easement to the board for ingress and egress for the purpose of maintenance.

(c) The easement shall be recorded at the county courthouse within sixty (60) days after signing.

History Acts 2005, No. 2001, § 2.

## **20-17-911. Minimum maintenance providers.**

Minimum maintenance for petitioned abandoned cemeteries may be secured from any source the county abandoned cemetery registration board can obtain, including work-release prisoners.

History Acts 2005, No. 2001, § 2.