

## **REQUEST FOR BOARD ACTION**

### **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** February 15, 2012

**SUBJECT:** Cemetery Advisory Committee request for Burial Standards in the Land Development Code

**PRESENTER:** Jay Jackson, Chairman, Cemetery Advisory Committee

**ATTACHMENTS:** Proposed Text Amending LDC

#### **SUMMARY OF REQUEST:**

The Henderson County Cemetery Advisory Committee has been meeting since 2005 to ensure the preservation and maintenance of historic cemeteries in Henderson County. Before the current Board of Commissioners was seated in 2010, the committee requested an amendment to the Henderson County Land Development Code (LDC) requiring new burials on private land meet minimum requirements. That amendment was part of TX-2010-02 and the required public hearing was held on November 17, 2010. The Cemetery Advisory Committee requested this requirement to ensure that private burials were well documented so that no resting place was ever disturbed.

Since those amendments were first presented, there have been four private burials that the committee is aware of. One burial was on a .60 acre lot in a very dense subdivision. Health Department regulations do not regulate burial setbacks after utilities are already installed. Without any recorded plat of burials there will be no proof that a person is buried on a property after their family no longer owns the property.

There are no regulations or permits required to bury individuals on private land. The committee hopes that this amendment will help mark the property on the ground and provide a legal record of these burials.

There are several single burials that we have marked in GIS so that there is some record of a burial. Without a plat and deed these burials will disappear after family no longer owns the property.

#### **BOARD ACTION REQUESTED:**

The Board is requested to consider approving this amendment to the Land Development Code in order to establish guidelines for family burials on private property.

#### ***Suggested Motion:***

*I move the Board approve amending the Land Development Code to regulate private family burials as presented.*

**Non-subdivision Related Text Amendments**  
**(LDC 2010 Annual Text Amendments (TX-2010-02))**

**LDC Text Amendment : Family Cemetery.**

**Issue:** The Cemetery Advisory Committee had requested adding family cemeteries to the permitted use table and had recommended specific standards and setback requirements for this type of use.

**Recommendation:** Add family cemeteries as a permitted use in all residential zoning districts with standards (SR 5.3).

USE TYPE	GENERAL USE DISTRICT											
	P=Permitted; S=Special Use Permit											
	R1	R2	R2R	R3	R4	OI	MU	LC	CC	RC	I	SR
<b>5. EDUCATIONAL AND INSTITUTIONAL USES</b>												
Cemetery, Family	P	P	P	P	P							5.3

**SR 5.3. Cemetery, Family**

- (1) Site Plan. Major *Site Plan* required in accordance with §200A-299 (Major Site Plan Review).
- (2) Plot Setback. Plots shall be:
  - a. Twenty (20) feet from any property line.
  - b. One hundred (100) feet from any structure.
  - c. One hundred (100) feet from an existing well.
  - d. One hundred (100) feet from the high-water mark of any spring, stream, lake, reservoir or other know source of water. Family cemeteries shall not be located in *a special flood hazard area*.
- (3) Security. The family cemetery shall be enclosed by a fence or wall at least four (4) feet in height constructed of metal, masonry or stone.
- (4) Private/Public Easement. A minimum twenty (20) foot private or public *easement* shall be recorded to provide access to a family cemetery.
- (5) Certification, Licensure and Permitting. A family cemetery shall comply with all applicable local, state and federal environmental and public health laws (including the requirements of N.C.G.S. 65-Cemeteries).
- (6) Prohibitions. Family cemetery shall not include above ground structures including a mausoleum or columbarium.
- (7) Plat. A family cemetery shall be recorded on a plat in the Register of Deeds office.
- (8) Marker. Each container of human remains shall be buried beneath the surface of the ground and shall be indicated by a permanent visible marker or monument. The marker or monument should be made of granite or bronze, mounted on at least a four inch concrete base and have a minimum dimension of one (1) inch wide by two (2) inches tall and be four (4) inches thick. The marker should be placed as soon as practicable after the remains are interred and shall bear the name, year of birth and year of death of the deceased.
- (9) Responsibility. The owner of any property which contains all or part of a family cemetery is responsible for maintaining the family cemetery in compliance with local, state and federal regulations.

**Subdivision Amendment 1: Existing Cemeteries in a Subdivision.** The Henderson County Cemetery Advisory Committee requested new subdivisions require existing cemeteries be deeded as a separate lot with road access. Cemetery lots are non-standard and will not count toward overall density calculation.

The proposed amendment requires existing cemeteries be deeded as a separate lot with a minimum 20 foot wide private or public easement. Major subdivision shall provide access with a minimum 20 foot wide right-of-way (ROW) (road construction is not required).

#### **§200A-86. Cemeteries**

Existing cemeteries shall be deeded as a separate lot in the subdivision and shall be accessed by a minimum twenty (20) foot wide private or public easement. Major subdivisions shall provide access with a minimum twenty (20) foot wide *right-of-way* (road construction is not required).