



PART III

Policy and Funding Recommendations

Chapter 9

Regulations and Laws

This chapter provides an overview of the laws and regulations governing cemetery preservation and management, including a brief analysis of how current local, state and federal laws and regulations may affect preservation and maintenance activities in municipal cemeteries, and a discussion of specific laws that may apply to issues such as:

- the archeological identification of unmarked graves, cemetery expansion and construction within cemetery boundaries;
- severely deteriorated grave sites that pose health and safety concerns; and
- plot ownership and right of burial.

Please note that all information in this chapter is provided for reference purposes only and does not constitute legal advice. The City of Austin should seek qualified legal counsel before acting on any information included in this report. In addition, the information provided is current as of the completion of this report; however, laws change over time, and the specific statutes discussed here should be reviewed on a regular basis to ensure that City staff have access to the most current versions for reference.

OVERVIEW OF LAWS AND REGULATIONS

The management and preservation of cemeteries are subject to federal and state laws, as well as local (city, county, and/or township) ordinances. In cases where a conflict arises between federal and state laws, the United States Constitution provides that federal laws take precedence.

Federal Statutes and Regulations

Federal laws, established by the United States Congress, that are pertinent to the management of Austin's cemeteries primarily deal with:

- Cemeteries as historic properties
- Archeological concerns
- Grave markers for veterans
- Consumer protections

The Secretary of the Interior publishes standards and guidelines for preservation planning; the identification, evaluation, registration, and documentation of historic and archeological resources; and the treatment of those resources. For more information, see Chapter 3, Preservation Treatment Approach.

Cemeteries as Historic Properties

The **National Historic Preservation Act** of 1966 (as amended) (NHPA) requires the federal government to consult with state, tribal, and local entities to ensure that any projects on federal property or involving federal funding, or requiring a federal license or permit, both identify cultural and historic resources and also take steps to avoid, minimize, or mitigate any negative impacts to significant resources. Compliance with **Section 106** of NHPA provides for the identification of historical and cultural resources within a proposed project area, consultation with state and local parties and Native American Tribes, and a public input process to ensure that citizens have the opportunity to be heard.

The **National Environmental Protection Act of 1969** (as amended) (NEPA) similarly provides a process for evaluating the potential environmental impacts on natural and cultural resources of a federally funded or permitted project. Although NEPA and NHPA compliance can be conducted simultaneously, compliance with NEPA does not, in and of itself, fulfill the requirements of NHPA.

The **National Register of Historic Places** officially recognizes those historic resources deemed worthy of preservation. This program is administered by the National Park Service (Department of the

Interior), which works through State Historic Preservation Offices and Tribal Historic Preservation Offices. While listing on the National Register affords no direct protection for historic properties, eligibility for listing on the National Register is used to identify historic and archeological resources during Section 106 and NEPA compliance activities.

Archeological Concerns

The **Archeological Resources Protection Act** of 1979 (as amended) (ARPA) strengthened protections for archeological sites on public (federal) lands and Native American tribal lands.

The **Native American Graves and Repatriation Act** (NAGPRA) protects the discovery of Native American human remains or grave goods on federal lands and/or tribal lands, or if they are at any time retained by a repository that receives federal funding.

If cultural materials (including human remains, funerary objects, sacred objects, or items of cultural patrimony) are removed from federal lands, the **Curation of Federally Owned and Administered Archeological Collections** is regulated as well.

Grave Markers for Veterans

The first Federal laws governing the provision and design of grave markers for deceased veterans were enacted in the early 1860s and have been continually updated and expanded since then by (in succession) the U.S. War Department, Department of the Army, Veteran's Administration (VA), and Department of Veteran Affairs. Today, grave markers furnished by the U.S. Government for veterans and their qualifying family members fall under the management of the National Cemetery Administration.

The sizes, materials, designs, and inscriptions of veterans' markers are regulated by law. They may be obtained for all veterans who were not dishonorably discharged, as well as their surviving spouses and dependent children. In 2001, **Public Law 107-103** allowed the VA to furnish government markers for the graves of veterans buried in private cemeteries, even if the deceased's grave is already marked with a non-government marker.

Following a six-year study funded by the Department of Veteran Affairs and conducted by the National Center for Preservation Technology and Training, with assistance from the Harvard University School of Engineering and Applied Science, the VA has implemented policies for cleaning bacteria, fungi, and algae from government-issued marble headstones.

Consumer Protections

In 1982, the Federal Trade Commission enacted **Funeral Rule 195** which provides protections to consumers when dealing with funeral homes. This includes services that may be provided by funeral homes, such as the burial of human remains. Deceptive practices prohibited by the Rule include representing that state or local laws or cemetery regulations require embalming, the use of caskets or outer burial containers, or the purchase of specific funeral goods or services, when that is not the case. Funeral providers are required to identify and describe in writing to the consumer any applicable laws or regulations that do require the purchase of funeral goods and/or services.

No Federal law regulates the management or operation of non-National cemeteries or mausoleums unless the cemetery sells both funeral goods and funeral services, in which case the Funeral Rule applies. In addition, if a state agency or commission finds that its own rules effectively provide the same or greater overall level of protection to the consumer, then that state agency or commission may apply to the Federal Trade Commission for the exemption of the Funeral Rule. In that case, the State becomes responsible for the administration and enforcement of these requirements.

State Laws

State laws in Texas regulate cemeteries through the Texas Health and Safety Code (primarily Chapters 711–715), the Texas Administrative Code (Title 13, Part 2, Chapter 22), and the Texas Penal Code (Sections 28, 31, and 42). These laws, along with any applicable municipal ordinances, are enforced by local (county and municipal) law enforcement officials. State agencies do not enforce cemetery laws.

Laws enacted by the State of Texas that are applicable to cemeteries have to do with:

- Establishing a cemetery (dedication of land)
- Cemetery management and operations, including the organization of a cemetery association and provisions for perpetual care
- Responsibilities and authorities of municipal and county governments to establish, maintain, and control cemeteries within their boundaries or jurisdictions
- Criminal activities, including theft, graffiti, and the desecration of graves
- Abandonment, as well as the discovery of an abandoned cemetery and petitioning for conservatorship of an abandoned cemetery

Establishing a Cemetery

The Texas Health and Safety Code regulates the establishment of a cemetery, including where the cemetery can be located, how deep the burials must be, and who has access to the property. While the process of dedicating a cemetery may include filing a deed of dedication with the county property records office, enclosing the burial ground with a fence, or placing grave markers of some kind, none of those activities are required in order to establish a cemetery. The presence of one or more burials is sufficient to consider a cemetery “dedicated.” On the other hand, a property that has been formally dedicated for cemetery use is considered a cemetery even if it has no burials.

Case law has established that property previously dedicated for cemetery purposes can be sold, as long as it is still used as a cemetery and maintained for that purpose. (*Barker v. Hazel-Fain Oil Co.*, 219 S.W. 874 (Tex. Civ. App.–Fort Worth 1920, writ ref’d))

Only a corporation can establish a cemetery today. Chapter 711 of the Texas Health and Safety Code states that any new cemeteries must be established as perpetual care cemeteries.

Cemetery Management

The operation of perpetual care cemeteries is regulated by the Texas Department of Banking, as outlined in Texas Health and Safety Code, Chapter 712.

Anyone who wants to visit a cemetery may do so, even if there is no established route in or out of the property, and even if that requires travel over private property. The property owner can designate a route for reasonable access during reasonable hours, but cannot prevent someone from visiting a cemetery. That portion of Chapter 711 of the Texas Health and Safety Code was upheld in case law (*Davis v. May*, 135 S.W.3d 747 (Tex.App.–San Antonio 2003, pet. denied)).

Responsibilities of Local Governments

Several sections of the Texas Health and Safety Code give municipal governments the authority to establish (or purchase) and operate cemeteries. A municipal government also may take over a cemetery in the interest of public health and safety, as long as the property is not a perpetual care or family cemetery. Once a municipality has control of a cemetery, it is responsible for maintaining it for the protection of public health, safety, comfort, and welfare.

A county commissioners court may take over the maintenance of a neglected public or private cemetery within the county, as outlined in Chapter 713 of the Texas Health and Safety Code.

Criminal Activities

Section 28 of the Texas Penal Code states that damaging, destroying, or marking a human burial site with graffiti are all state felonies.

- Theft of any property, regardless of value, from a human corpse or grave, including the theft of a military grave marker, is a state jail felony offense. (Section 31)
- Disrupting a funeral service is a Class B misdemeanor. (Section 42)
- Disturbing, disinterring, or treating a human corpse or cremated remains in an offensive manner is a Class A misdemeanor. (Section 42)
- Vandalizing, damaging, or treating in an offensive manner a space where a human corpse or cremated remains are known to have been interred or laid to rest is also a Class A misdemeanor. However, this does not apply to a member or agent of a cemetery organization that removes an item from a grave that either was placed in the cemetery in violation of the organization's rules or has become "wrecked, unsightly, or dilapidated." (Section 42)

Abandonment of a Cemetery

Once a property is dedicated for use as a cemetery, it cannot be used for any other purpose unless the dedication is removed. This requires the action of a district court. Furthermore, no improvements can be made to the property, even if the cemetery is considered neglected or abandoned.

If a previously unknown or abandoned cemetery is discovered, the person making the discovery is required by the Texas Health and Safety Code to file a notice of the discovery with the county clerk where the cemetery is located. The notice must be filed within 10 days of the discovery and must include the legal description of the property, the approximate location of the cemetery, and a description of the evidence of burial(s). The Texas Historical Commission provides detailed instructions and sample notice forms for completing this process. For more information, contact the Cemeteries Coordinator at the THC.

It is possible to form a non-profit association for the purposes of gaining legal responsibility for a historic cemetery in order to assure its preservation. Chapter 715 of the Texas Health and Safety Code provides more information about how to petition the court for conservatorship of a cemetery; the THC Cemeteries staff are a resource for this, as well.

Other State Regulations and Statutes

In addition to the state laws described above, the following state statutes or regulations authorize state agencies to affect cemeteries and their operation.

The Antiquities Code of Texas protects historical and archeological sites on property owned by the state or by local governments.

The Texas Government Code (Chapter 442) establishes the Texas Historical Commission and its duties, including the state historical marker program, recognition of Historic Texas Cemeteries, and protection for Recorded Texas Historic Landmarks. THC also manages programs at the state level for cemetery preservation, education, and outreach.

Texas Local Government Code (Chapter 318) provides for the establishment of County Historical Commissions, which administer the state historical marker program at the local level and are frequently involved in cemetery preservation.

Texas Health and Safety Code (Sec. 716.302) permits the disposition of cremated remains in three ways:

- in a crypt, niche, grave, or scattering area of a dedicated cemetery;
- by scattering the remains over uninhabited public land, sea, or other public waterways; or
- on private property as directed by the authorizing agent with the written consent of the property owner.

Unless the container is biodegradable, the remains must be removed from the container before scattering.

Local Ordinances

Current rules and regulations for cemeteries in the City of Austin are located in the Code of the City of Austin, Texas, *Title 10 Public Health Services and Sanitation, Chapter 10-1, Cemeteries*.

City Code regulates the administration of the city-owned cemeteries, the establishment and management of the perpetual care fund, and restrictions on:

- The use of city cemetery property for construction staging or construction activities;
- The burial of persons within the city limits except in a dedicated cemetery;
- The use of streets within a cemetery to haul heavy loads or for any purpose other than conducting cemetery business or visiting a cemetery; or
- The burial of any person in a cemetery within the city without the cemetery administrator's written approval and the written consent of the owner of the burial lot or grave.

PARD requires the completion of an interment authorization form for all burials, dis-interments, or re-interments, whether casketed or cremated remains. This includes the identification of the person authorized to make arrangements for the disposition of the remains, per state law. The same form would be required for the scattering of cremated remains in a scatter garden or placement in a columbarium.

LEGAL ISSUES OF PARTICULAR INTEREST

The City of Austin has asked for a summary of archeological laws and regulations that govern the identification of unmarked graves, cemetery expansion, and construction within cemetery boundaries; as well as recommendations to resolve legal issues related to severely deteriorated grave sites that pose health and safety concerns and to guide legal determinations of plot ownership and the right of burial.

As stated previously, this report is provided for informational purposes only and does not constitute legal advice. The City of Austin should seek qualified legal counsel before acting on any information included in this report.

Unmarked Graves and Cemetery Construction or Expansion

No state laws either empower or prohibit the identification of unmarked burials or the boundaries of unmarked or abandoned burial grounds. However, once discovered, a cemetery or unmarked grave is protected under the National Historic Preservation Act (NHPA), the Antiquities Code of Texas, The Texas Health and Safety Code (Chapter 711), and potentially the Native American Graves Protection and Repatriation Act (NAGPRA).

Within a known cemetery, grave markers or the lack thereof do not, in and of themselves, indicate the locations of all graves within the cemetery. Burial records may be incomplete or lost altogether, such as in the case of Plummers Cemetery, or in the “pauper’s grounds” within Oakwood Cemetery, Oakwood Cemetery Annex, and Evergreen Cemetery.

The eastern half of Evergreen Cemetery and adjacent property (particularly down the slope toward Tannehill Creek), which includes land believed to have been used, in part, for the earlier Highland Park Cemetery, also may include unmarked graves.

If an unmarked burial is discovered during a construction project or any other activity, state law requires the person undertaking the activity to:

- Stop work immediately.
- Contact the Texas Historical Commission’s Archeology Division.
- Record the location of the grave or cemetery by filing a Notice of Existence with the county clerk in the county where the cemetery or burial is located, within 10 days of discovery.

For projects in or near areas where burials are known to be located, or where unmarked burials may be located, it may be advisable to have a qualified archeologist perform an exploratory investigation or be present on site during any excavation activities. In any case, the City should consult with a qualified archeologist during the planning stages of a project.

Severely Deteriorated Grave Sites

Members of City staff and the public have raised concerns about the deteriorated condition of grave markers, box tombs, and other historic resources, as well as less serious problems, such as sunken earth over graves, markers that have sunk or been partially buried in the earth over time, and tilted and fallen grave markers.

For much of the nineteenth and early twentieth centuries, lots within cemeteries in Austin were sold as real property, with the deed for each lot conveyed and recorded in county property records. Today, buyers purchase interment rights (the right to utilize a burial space) rather than *fee simple* ownership of the property.

Most, if not all, of the burial lots in Oakwood Cemetery and Oakwood Cemetery Annex—where most of the severely deteriorated grave sites and markers are located—were purchased as real estate. As families have dispersed over time and ownership rights have been diluted, it may be difficult or nearly impossible to establish who has the right to make changes to grave sites, grave markers, and associated resources or to conserve or repair those historic resources.

In some other states, particularly in New England and the eastern seaboard, where cemeteries are much older than those in Texas, statutes contain language that allows cities and/or non-profit organizations to clean, repair, or even reproduce grave markers and associated “ancient” resources in the interest of their preservation. However, Texas law does not enable that activity. Applicable Texas statutes enable municipalities to maintain cemeteries within its control “for the purposes of public health, safety, welfare, and comfort.”

In general terms, *public health* refers to the “prevailing healthful or sanitary condition of the general population.”²⁰¹ The exposure of human remains as a result of a collapsing box tomb could, conceivably, constitute a threat to public health. However, “the inherent powers of the state to protect the public’s health, safety, and welfare are limited by individual rights to autonomy, privacy, liberty, property, and other legally protected interests.”²⁰²

201. Lawrence O. Gostin, “A Theory and Definition of Public Health Law,” Georgetown University Law Center, 2007, 7, <http://scholarship.law.georgetown.edu/facpub/95>.

202. Ibid.

The term *public safety* typically is used in the United States to describe the prevention of or protection from events or activities that could endanger the general public or cause injury or property damage. *Public safety* at the municipal level is often focused on law enforcement and emergency services, but it can also include building inspections and code enforcement.

Code enforcement (per Texas Local Government Code, Chapter 214, Subchapter A, "Dangerous Structures") is primarily focused on substandard buildings, although Section 214.002 states that:

- (a) If the governing body of a municipality finds that a building, bulkhead or other method of shoreline protection, fence, shed, awning, or other structure, or part of a structure, is likely to endanger persons or property, the governing body may:
 - (1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the part of the structure, within a specified time; or
 - (2) repair, remove, or demolish the structure, or the part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

In historic preservation terms, a fence, shed, or awning would be considered a *structure* or part of a structure, but a grave marker or related resource would be considered an *object*.²⁰³ It likely would be difficult to make the case for classifying a grave marker or box tomb as a structure.

It should be noted that this section also requires that:

- (b) The governing body shall provide by ordinance for:
 - (1) the assessment of repair, removal, or demolition expenses incurred under Subsection (a)(2);
 - (2) a method of giving notice of the assessment; and
 - (3) a method of recovering the expenses.

Should the City determine that it would be practical or desirable to utilize code enforcement as a means for repairing graves or grave markers in the city cemeteries, it probably would need to adopt an ordinance providing for the evaluation of graves in order to objectively assess each potential threat to public health or safety, as well as the means by which property owners would be contacted in advance of the repair, and how or from what sources the repair expenses could be recovered. Perhaps a non-profit organization such as Save Austin's Cemeteries

203. National Park Service, *How to Apply the National Register Criteria for Evaluation*, National Register Bulletin 15, 1990 (revised 1997), 4-5.

might establish a fund to pay for repairs in cases where property owners could not be located or could not afford to reimburse the City for those expenses.

The question of eminent domain, and whether the City could condemn a burial lot within a cemetery for the purpose of addressing public safety issues, has been raised by members of the public. The Texas Local Government Code, Chapter 251, enables a municipality to acquire property by eminent domain for the purpose of (among other things, “the providing, enlarging or improving of a municipally owned ... cemetery.” Should the City wish to exercise this power, the process for doing so is governed by Chapter 21 of the Texas Property Code and involves notice to the property owner, the opportunity for the property owner to voluntarily accept a bona fide purchase offer for the property, and (if an agreement for purchase cannot be reached) the legal condemnation of the property through petition to a court, which will then appoint a panel of three special commissioners to assess the damages to be paid to the owner of the condemned property. It seems unlikely that the pursuit of eminent domain in these cases would be cost-effective for the City, nor would it likely be viewed positively by the community.

LEGAL DETERMINATIONS OF PLOT OWNERSHIP AND THE RIGHT OF BURIAL

As previously mentioned, the ownership of grave lots within the city cemeteries, and the right of family members to be buried in family plots, has become diluted over time.

The Texas Health and Safety Code, Section 711.039, addresses plot ownership and rights of interment. In summary:

The person named on the certificate of ownership of the burial plot is considered the exclusive owner of that plot.

If the plot owner leaves a will that explicitly provides for the disposition of the burial plot, or files or records a written declaration for the disposition of the plot with the cemetery office, the legal interest in the burial plot property passes as stated in the will or declaration. If the disposition of the burial plot has not been provided for by one of those instruments, the Health and Safety Code provides for the burial of surviving spouses and children in any remaining graves, niches, or crypts in the plot *without the consent of a person claiming an interest in the plot.*

However, a surviving spouse or child may each waive his or her right to be buried in the plot in favor of a relative of the owner or the owner's spouse.

Once the plot owner has been interred, only a will or a written declaration filed with the cemetery office, or a surviving spouse or the owner's heirs-at-law may convey the right of interment in that burial plot.

Multiple people cannot be buried in the same plot without the consent of each owner of the plot.

If more than one person has an ownership interest in a burial plot, they may designate one person (by written notice) to represent the plot with the cemetery office. Without such notice, the cemetery office may inter or permit the interment in a plot at the request or direction of any one of the registered co-owners.

Should an individual claim the right of burial in a family plot, it should be their responsibility to provide sufficient evidence to support that claim. The Cemeteries Manager or staff should not be expected to determine whether or not the individual has the right of burial.

Heirship and the disposition of ownership rights to a burial plot may be traced through wills or (in the absence of a will) affidavits of heirship filed with the county clerk's office as an alternative to settling an estate with limited assets through probate court.

The tracing of a chain of title for each cemetery property is possible, but likely to be time-consuming and best accomplished by a researcher familiar with property records research and the Travis County Property Records office. The City, should it wish to enable such research for the benefit of the public, might partner with local non-profit organizations, such as Save Austin's Cemeteries, Preservation Austin, or the Austin Genealogical Society, or any other appropriate non-profit, which could provide that service for a fee, if desired. Research assistance of this sort would be most successful if it were well planned in advance, included sufficient training for volunteer researchers, and provided a structured format for capturing and storing data and applicable documentation, ensuring a consistent product that meets the City's requirements.

RECOMMENDATIONS

Many chapters in this section include a review of best practices as well as recommendations. However, the laws of other states, which may enable different actions in those locations, are unlikely to be of help to the City of Austin beyond serving as examples or references.

It may be possible for the City to utilize its authority as a home rule city to enact an ordinance which gives PARD the ability to make repairs to graves, grave markers, and associated historic resources. Such an ordinance should require the City to hire qualified cemetery conservation professionals to carry out those repairs. In the absence of municipal funding or reimbursement by surviving family members, a coalition of like-minded non-profit organizations, such as those named on the previous page, could help raise the money needed for that sort of work.

In any case, the City would likely benefit from engaging an attorney specializing in cultural resources law to advise on these issues.



Chapter 10

Cemetery Oversight

The management and review of proposed changes to historic and cultural resources within Austin’s five historic cemeteries is overseen by the Parks and Recreation Board, with additional oversight for designated historic resources provided by the Historic Landmark Commission.

Austin City Council has created a number of boards and commissions for the purpose of providing specialized management within the city in a variety of areas. These boards and commissions are comprised of Austin citizens, who serve on a volunteer basis. The two entities that review proposed projects within the city cemeteries include the Parks and Recreation Board and the Historic Landmark Commission.

In the recent past, several changes to individual gravesites or family plots, or other proposed projects, have indicated that additional advising from a panel of individuals with specialized cemetery knowledge would benefit both the Parks and Recreation Department (PARC) and stakeholders.

This chapter reviews the current structure of cemetery oversight, discusses best practices, examines several recent cases in Austin that make a case for change, and provides recommendations for organizational improvement.

CURRENT STRUCTURE

The city cemeteries are currently overseen by the Parks and Recreation Board and the Historic Landmark Commission. Individuals who are interested in participating on either board or commission must apply to serve. After being selected by Council, they are then sworn in and complete training in basic governmental procedures (such as the Texas Open Meetings Act, Robert's Rules of Order for conducting meetings, and ethics). Afterward, they attend meetings on a generally monthly basis. Terms of service are staggered to ensure continuity as members cycle on and off each board or commission; members of both the Parks and Recreation Board and the Historic Landmark Commission serve for three years.

Parks and Recreation Board

The purpose of the Parks and Recreation Board is to advise the city council and the city manager regarding:

- the acquisition, development, improvement, equipment, and maintenance of city parks and public playgrounds;
- the future development of city parks, playgrounds, and recreational facilities, and the purchase of additional land for those purposes; and
- improvements in the maintenance, operation, and general welfare of the city's parks, playgrounds, and recreational facilities and their use by the public.

Within the Parks and Recreation Board, two committees provide oversight for (1) Contracts and Concessions, and (2) Land, Facilities, and Programs. Both of these committees are advisory in nature and consist of at least three Board members, with support from a member of city staff.²⁰⁴

As indicated above, the focus of the Parks and Recreation Board is not on cemeteries; this is understandable, since the management of the cemeteries was outsourced for 23 years. Since April 2013, the city cemeteries have been directly managed by the Parks and Recreation Department.

Historic Landmark Commission

When cemeteries are designated by the City as local landmarks, as are Oakwood Cemetery and Oakwood Cemetery Annex, they subsequently are protected by the City historic preservation ordinance. Any proposed changes to historic resources within these two cemeteries are to be reviewed and approved in advance by the Historic Landmark Commission. This approval process, which is utilized for the protection and management of historic resources nationwide, involves the

204. Bylaws of the Parks and Recreation Board, as approved August 26, 2014.

submittal of an application to the Historic Landmark Commission for a Certificate of Appropriateness (COA); that is, permission to proceed.

The commission is charged with ensuring that the proposed project complies with City ordinances, and its reviews of COA applications are based on the Secretary of the Interior's Standards for the Treatment of Historic Properties. The applicant is not permitted to begin work without a COA.

In the past, cemetery staff have not always been provided the training to recognize the need for Historic Landmark Commission approval before they begin work or permit work to be conducted in the cemetery. This limits the commission's ability to fulfill its responsibilities.

The Need for Specialists

Within the historic preservation profession, cemetery resources and related materials are an area of specialization. Many historic preservation professionals focus on buildings and historic districts, whereas cemeteries are part of a collection of related resource types known as *cultural landscapes*. Therefore, even people who work in the preservation field may not have much knowledge of the unique needs of cemeteries. Private citizens—even those with an enthusiasm for cemeteries, genealogy, etc.—are even less likely to have the technical knowledge needed to make informed decisions.

Neither the Parks and Recreation Board or the Historic Landmark Commission are required to seat members with expertise or specialized knowledge in cultural landscapes or the types of historic resources found in cemeteries, although several historic preservation professionals and architects currently serve on the Historic Landmark Commission; ostensibly, they should know how to locate a cemetery resources specialist when one is needed. However, when engaged on an ad hoc basis, such a person would be unlikely to develop and impart institutional knowledge to the commission.

The City of Austin is fortunate to have ready access to the University of Texas School of Architecture's Architectural Conservation Laboratory, led by conservator Frances Gale. No formal association has been established between the City and the University in this area.

Without access to expert advice, the Parks and Recreation Board (and less directly, the Historic Landmark Commission) are not being served as well as could be.

CEMETERY ADVISORY COMMITTEES

Dozens of cities across the United States maintain a Cemetery Advisory Committee to provide specialized counsel to City officials and staff. Many of the cities utilizing this sort of committee are relatively small, in terms of population, but some are responsible for more than a dozen historic cemeteries. Such a committee is not limited to small cities, however; larger cities (such as Tempe, Arizona, and Sarasota, Florida) use this format as well. Therefore, the use of a cemetery advisory committee may be considered a best practice relevant to Austin.

The role of the Cemetery Advisory Committee varies from city to city, and may be defined with as little detail as “assist the Parks Board in matters related to cemetery operations.” A review of available information indicates that many of these committees provide the following services:

- Advise city officials on the condition of city cemeteries.
- Advise city staff on the maintenance and administration of city cemeteries.
- Advocate for the preservation and improvement of city cemeteries.
- Identify grants and other funds for the benefit of the cemeteries upkeep.
- Make recommendations to improve the present services being offered by the cemetery.
- Make recommendations concerning the future needs of the cemetery, including activities or improvements that will enhance the attractiveness of the cemetery.
- Conduct research and provide advice on matters that will ultimately elevate the financial success of cemetery operations, through marketing activities or service deliveries that are deemed appropriate for a municipal cemetery operation.

The size of these committees is generally 3–5 members. In some cities (such as Tempe, Arizona), they are a subset of a larger city Parks board, but in many cases, they exist separately from a Parks board or commission.

As is sometimes the case for boards or commissions, commission seats may be reserved for people who meet specific requirements, such as general area of residence, professional experience or education, or membership in a community organization, such as the local historical society. *Ex officio* members often include representatives from the local historic commission and/or other relevant boards.

Cemetery Advisory Committees generally work with one staff liaison; in some cases, a second staff member provides additional support. The committee may meet monthly or on an as-needed basis; this likely varies from one municipality to another, depending on the average caseload to be considered.

Cleaning and Conservation

When historic markers and related resources require conservation or cleaning, this is currently accomplished by volunteers. PARD should support these efforts by ensuring that there is guidance from persons with materials conservation knowledge to ensure that the historic value and sensitive materials present in many monuments and markers are not compromised.

Programming Proposals

During the development of the master plan, stakeholders have voiced concerns and objections about the types of programming that might be held in Austin's historic city cemeteries. It is possible and desirable to have respectful and appropriate programming in historic cemeteries, and proposals can be evaluated by objective criteria.

RECOMMENDATIONS

A Cemetery Advisory Committee would be well-positioned to make recommendations to the Cemetery Division on a variety of issues, including programming. A citizens advisory committee of this type was also recommended in the Comprehensive Business Analysis prepared by Texas State University for Austin's cemetery operations, in 2010.²⁰⁵

Responsibilities

The role of a Cemetery Advisory Committee would be as follows:

- To regularly evaluate and report on the condition of City cemeteries;
- To advise City staff, as needed, on maintenance activities that could inadvertently threaten historic or cultural resources;
- To advocate for the preservation and improvement of City cemeteries; and
- To help PARD identify grants and other funding opportunities to support the activities recommended in this plan.

205. Thomas Longoria, PhD. *Austin Cemeteries: A Comprehensive Business Analysis*, October 5, 2010.

Structure

PARD could work with the community to determine the number of members and terms of advisory committee members. University of Texas faculty member Frances Gale or her designee might be invited to serve in an *ex officio* capacity.

The committee would make recommendations to PARD and serve as a resource for staff and the community.

Benefits

A Cemetery Advisory Committee could provide not only additional oversight but also technical and/or design assistance to plot owners, family members, and non-profit partners.

It could establish a review process to ensure that city staff have professional expertise to guide their decisions about historic resources which could, individually or collectively, adversely affect the cemetery's historic integrity. Finally, the committee could be responsible reviewing and making recommendations to PARD about programming and/or interpretation proposals related to the City cemeteries. (See Chapter 15.)

Importantly, such a committee could provide this assistance for those cemeteries not currently designated as City historic landmarks: Plummers Cemetery, Evergreen Cemetery, and Austin Memorial Park Cemetery.

Chapter 11

Emergency Preparedness

In recent years, stewards of cultural resources have increasingly studied ways in which they can prepare for emergencies and disasters, both natural and man-made. This report is based on the extensive writing on this topic that has been prepared in service of that goal.

This chapter identifies emergencies that could threaten Austin's city cemeteries, reviews best-practice planning processes and procedures as advocated by leaders in the field of cultural resources, and recommends actions that the City of Austin can take to prepare for disaster or emergency events.

Much has been written about this issue by specialists, including the Federal Emergency Management Agency (FEMA), National Center for Preservation Technology and Training (NCPTT), and Chicora Foundation. Professional assistance is available to city and state governments and non-profit organizations through professional emergency and disaster management consulting firms. While this chapter discusses these issues, the master plan team are not experts in this area; our recommendations, therefore, defer to those who are.

An *emergency* or *disaster* is a sudden event that causes extensive property damage, injury, or loss of life. For the purposes of this report, the terms will be used interchangeably. These events may be caused by natural forces, such as tornadoes or floods, or be the result of human negligence, error, or intent, or the failure of a man-made system.

POTENTIAL THREATS

Austin's city cemeteries and the historical and cultural resources within them may be at risk from the following natural disasters:

- Fire, principally as a threat to trees, buildings, and records in cemetery offices
- Tornadoes, tropical storms, or other windstorm events, which could damage cemetery trees and cause related damage to monuments, markers, buildings, and other structures as a result of downed trees, broken tree limbs, or windthrown trees or grave furnishings
- Rain events and associated flooding or flash flooding
- Earthquakes, which have been increasingly frequent in parts of Texas

Man-made emergencies or disasters might include:

- Failure of the drainage channel at Oakwood Cemetery, which could cause adjacent markers and parts of gravesites to fall into the channel
- Destruction of above- or below-ground resources, due to vehicular impacts, vandalism, theft, etc.

In any of these cases, good preparation is necessary to ensure that damage is mitigated to the extent possible and that further damage is not inadvertently caused by volunteers or staff during the disaster recovery process.

BEST PRACTICES

The following best practices are summarized from publications by FEMA, NCPTT, and Chicora. Detailed plans, forms, and other technical information is available from those sources.

Planning

Preparation for emergencies is the key to an efficient and swift response. Planning activities include:

1. Identify sources of technical and professional assistance in advance.

Many natural disasters are not site-specific, but rather strike a large area at once. Having arrangements made in advance with tree companies, flood mitigation firms, etc., can benefit the City in terms of priority response. In addition, some disaster/emergency management firms may contract with local agencies and organizations to provide services only on an as-needed basis. Many cultural organizations in Galveston either had contracts with such firms before Hurricane Ike or now have similar arrangements. Establishing those relationships in advance also would allow the City to work with these knowledgeable professionals to identify and prioritize potential needs at a relaxed pace, which would likely lead to more well-informed decision-making.

2. Conduct a regular threat assessment/gap analysis.

In addition to the issues identified in this plan, previous studies have identified issues such as the potential loss of paper-based records management; as a result, the City has taken steps to move its cemetery records into an electronic database. Other existing programs involve tree crews regularly identifying and removing dead limbs that might fall on visitors or historic markers.

The ongoing identification of new threats and monitoring of known threats will allow the City not only to plan to deal with those threats, but also to keep that plan up-to-date over time.

3. Mitigate threats.

Once threats are identified, they can be mitigated. FEMA recommends the development and implementation of a hazard mitigation plan. Ideally, a community-wide plan would include cultural resources, such as cemeteries.

4. Train staff.

Some disaster events can be forecasted with enough notice to make preparations. Staff need to be trained so that they are prepared to secure facilities, vehicles, etc., and (to the extent possible) ensure the safety of the public.

Staff should know the chain of command: who is to be in charge, and what each person's role is, during or immediately following an emergency event. Note that the normal chain of command may not be appropriate during a disaster. Also, the only person talking to the media should be a designated media representative.

5. Assemble equipment and supplies.

In the event of a disaster, the Cemeteries staff may need to rope off areas, close roadways, and document conditions through notes and photography. They may need access to personal protective equipment or foul weather gear, first aid supplies, gloves, emergency electrical power, fuel for power tools, etc.

While the City may not need to keep such supplies and equipment on hand year-round, knowing what should be available and having the ability to assemble it quickly is important.

In the Event of Disaster

Although planning is important, if such a plan is not yet available when the City is faced with an emergency event, the basic response should be to:

1. Ensure human safety first.

Following disaster events, the first priority must be to ensure the safety of any staff, professionals, or volunteers responding to the scene. Identify and rope off any areas where structures, markers, or trees are unstable and present a risk to those on the ground. Make a note of and similarly prevent access to any other hazards, such as electrical wires, hornet or wasp nests, holes in the ground, etc.

2. Document damage.

Take photographs, complete appropriate forms, and otherwise record the condition of the area.

3. Clear roads and walkways.

Ensure that emergency and repair crews can access areas as needed.

4. Stabilize any precarious trees, objects, or structures to prevent further damage until repair crews arrive.

5. Follow established procedures for identifying, tagging, and temporarily relocating, if necessary, any damaged markers or marker fragments.

Pieces of markers should not be moved before they are identified. Marker fragments can be very difficult to reassemble or repair once removed from their original context.

CITY RESOURCES

City of Austin Departments to contact, in case of emergency, include:

- Austin Police Department
- Austin Fire Department
- Austin Energy (for downed power lines)
- Public Works Department (for water mains, sewer lines, etc.)

RECOMMENDATIONS

The following actions are recommended.

Conduct a disaster assessment, following prescribed practices as established by FEMA or other organizations. If possible, work with the Texas Historical Commission, which has experience in disaster documentation and recovery efforts.

Identify and prioritize threats.

Create and implement a hazard mitigation plan for different scenarios, including the training of staff and/or volunteers.

Update the threat assessment (and, as needed, mitigation plan) on a regular basis.

Establish contractual relationships with disaster recovery firms or repair crews well in advance of need. Involve these parties in the review and plan update process.



Chapter 12

Historic Designations

The process of designating historic landmarks at the national, state, and local level is used to convey various degrees of recognition and/or protection. Cemeteries may be designated as “historic” in several ways. Each of these processes uses its own set of criteria for evaluating the significance of a cemetery and determining whether it qualifies for designation.

Government agencies are responsible for evaluating the significance of historic resources and conferring historic designations to those resources for which an application, supported by evidence of significance, has been brought forward. This takes place at the local, state, and Federal level. At the local level, a municipal or county government may designate a local historic landmark or historic district. The State of Texas, through the Texas Historical Commission (THC), recognizes Recorded Texas Historic Landmarks, State Antiquities Landmarks, and Historic Texas Cemeteries. THC also recognizes historically important people, places, and events through its subject marker program. Finally, THC administers the National Register of Historic Places for the State of Texas on behalf of the National Park Service, which is a part of the U.S. Department of the Interior. Through the National Register, cemeteries can be recognized as National Historic Landmarks, Historic Landmarks, or Historic Districts.

Austin's five City-owned cemeteries currently hold the following historic designations:

- Austin Memorial Park Cemetery – Historic Texas Cemetery
- Evergreen Cemetery – no designations
- Oakwood Cemetery – City of Austin Historic Landmark, Historic Texas Cemetery, National Register of Historic Places
- Oakwood Cemetery Annex – City of Austin Historic Landmark, National Register of Historic Places
- Plummers Cemetery – no designations

The remainder of this chapter explains the different historic designations for which Austin's municipal cemeteries could be nominated, the criteria against which their significance would be evaluated, the documentation required to substantiate significance, and recommendations for pursuing additional designations.

THE NATIONAL REGISTER OF HISTORIC PLACES

The National Register of Historic Places was established as part of the National Historic Preservation Act of 1966. It is the United States' official Federal list of buildings, structures, sites, objects, and districts that have been deemed worthy of preservation due to their significance in American history, culture, architecture, archeology, or engineering. The nomination of burial places to the National Register is described in that program's *Bulletin 41: Guidelines for Evaluating and Registering Cemeteries and Burial Places*.

Anyone can nominate a cemetery to the National Register. The nomination process involves conducting research and completing a nomination form. The Texas Historical Commission's National Register staff can provide guidance to interested parties who are preparing nominations. Completed nominations are submitted to the THC's State Review Board for review prior to being forwarded to the National Park Service for consideration.

Please note that this master plan and its discussions of significance and potential eligibility for the National Register for each cemetery do not include all of the information that would be needed in order to prepare a National Register nomination. In order to nominate a property to the National Register, the preparer must place the property within at least one historic context and evaluate the property within that context. As explained in the *Bulletin*, "Decisions about the relative significance of cemeteries and burial places can be made only with knowledge of the events, trends, and technologies that influenced practices of caring for and commemorating the dead, and with some concept of the quality and quantity of similar resources in the community, region, state, or nation. Such background provides the

context for evaluating significance.” The research needed to develop a historic context and National Register nomination for this cemetery was not within the scope of work of the Master Plan project, although the data gathered and presented in this report should provide a starting point and guidance for future researchers who might wish to pursue such a designation.

Cemeteries and burial places may be nominated to the National Register in several different ways, depending on their size and context. As noted in the *Bulletin*:

A burial place may be classified as a “site,” “district,” “building,” “structure,” or “object.” A single or compound burial of limited scope, such as trailside graves or small family plots, would be classified appropriately as a “site.” Also, when a cemetery is nominated as a significant or “contributing” feature within a larger historic district, such as a village or company town, it is counted as a “site.”

A complex burial site, such as a cemetery encompassing a multitude of burials, developed landscape features, and buildings, is a “district.” Its component parts are enumerated and described, and those which contribute to the significance of the nominated area are distinguished from non-historic features which are unrelated to the period of significance. Individual monumental tombs may be classified as “structures,” and grave markers having artistic merit or cultural significance may be counted as significant “objects.” The overall landscape design including roadways, ponds, and plantings may be counted as a “site” within the district if the design is a significant feature.

A National Register nomination for a historic district also identifies resources within that district as Contributing to the qualities that make the district significant, or Non-Contributing. In cemeteries, the site itself is usually Contributing, as are any significant buildings (e.g., sexton’s cottage, gate house, mausoleum), structures (e.g., internal plot curbing, fencing), or objects (e.g., markers, monuments, grave furnishings).

Eligibility for Listing

Properties may be nominated to the National Register on the basis of their significance in one or more of four areas. The Criteria for Evaluation of Significance are presented below, with applicable text quoted from *Bulletin 41*.

These Criteria for the Evaluation of Significance include:

Criterion A: *Properties can be eligible for the National Register if they are associated with events that have made a significant contribution to the broad patterns of our history.* In order to qualify under this Criterion, “the events or trends with which the burial place is associated must be clearly important, and the connection between the burial place and its associated context must be unmistakable.”

Criterion B: *Properties can be eligible for the National Register if they are associated with the lives of persons significant in our past.* For a cemetery to qualify under this Criterion, “the person or group of persons with which the burial place is associated must be of outstanding importance to the community, state, or nation as required by Criteria Consideration C.”

Criterion C: *Properties may be eligible for the National Register if they embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.* According to the *Bulletin*, “Under Criterion C, funerary monuments and their associated art works, buildings, and landscapes associated with burial places must be good representatives of their stylistic type or period and methods of construction or fabrication. Alternatively, such property types may represent the work of master artists, designers and craftsmen, or the highest artistic values of the period. Appropriate areas of significance would be architecture, art, or landscape architecture.”

Criterion D: *Properties may be eligible for the National Register if they have yielded, or may be likely to yield, information important in prehistory or history.* The *Bulletin* states, “While commonly understood to apply to archeological research, Criterion D also encompasses information important in the study of material culture and social history.” This includes the ability of a cemetery to provide information about the spiritual beliefs of a group of people as evidenced by burial practices, such as the practice of placing specific types of objects on graves, which has been traced back to West Africa and can be observed in African-American cemeteries in the southern United States.

If a burial ground (not just the grave of a historical figure) meets Criteria D, it need not also meet the requirements of least one of the Criteria Considerations. Otherwise, a cemetery additionally must qualify under Criteria Consideration C or D, and may also qualify under Criteria Consideration A or one of the other Criteria Considerations.

The Criteria Considerations include:

- a. A religious property is eligible if it derives its primary significance from architectural or artistic distinction or historical importance.
- b. A property removed from its original or historically significant location can be eligible if it is significant primarily for architectural value or if it is the surviving structure most importantly associated with a historic person or event.
- c. A birthplace or grave of a historical figure is eligible if the person is of outstanding importance and if there is no other appropriate site or building directly associated with his or her productive life.
- d. A cemetery is eligible if it derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.
- e. A reconstructed building is eligible when it is accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.
- f. A property primarily commemorative in intent can be eligible if design, age, tradition, or symbolic value has invested it with its own historical significance.
- g. A property achieving significance within the past fifty years is eligible if it is of exceptional importance.

The two Criteria Considerations that apply to Austin's city-owned cemeteries are Criteria Consideration C and D.

When nominating a cemetery under Criteria Consideration C, the *Bulletin* provides the following guidance: "A historical figure of outstanding importance is one whose contributions to local, State or national history were truly extraordinary. The accomplishments of such a person must stand out in kind and degree from those of others active at a comparable level in the same field and during the same period of time."

When making a case for Criteria Consideration D, the *Bulletin* advises, "To be considered a person of transcendent importance, an individual would have to meet the same test as that for a grave. To qualify for its age, a cemetery must date from an early period within its geographic and cultural context. The age of a burial place might be considered early relative to the period for which we have information about human activity, or relative to the exploration, settlement, and development of an area by a particular group. As with any other type of property, a cemetery may be eligible for the quality of design represented in its funerary art, construction or engineering techniques, landscape architecture, or other values recognized under National Register Criterion C. Likewise, under Criterion A, a cemetery may possess significant associations with historic events, including general events that reflect important broad patterns in our history."

Typical Strategies for Nominating Cemeteries to the National Register

Oakwood Cemetery was listed on the National Register as part of the East Austin Historic Resource Area submission in 1985. The description of the cemetery in that document is very brief—a single paragraph—as was typical of nomination documents from that period. The cemetery is identified as being significant under Criterion C for Architecture, based on its "Gothic Revival structures," which likely refers to grave markers, as well as the Chapel.

Oakwood Cemetery Annex was listed on the National Register in 2003. That nomination is typical of today's standards for research and documentation. The property was nominated under Criteria A, for its association with "persons of individual and collective importance that shaped the city's urban development," and under Criterion C for Art and Landscape Architecture. As a cemetery with distinctive design features, it meets Criterion Consideration D at the local level of significance. Five Contributing resources were identified at Oakwood Annex: three buildings (the small brick gatehouse and the Rather and Wooten mausoleums), one site (the cemetery grounds), and one structure (unidentified).

A review of other contemporary Texas cemetery nominations to the National Register reveals that most, like Oakwood Cemetery Annex, are nominated as Historic Districts under Criteria A and C, as well as Criteria Consideration D and sometimes also Criteria Consideration A. Typically, the site itself is identified as Contributing, as are a small number of other buildings, structures, and/or objects. City cemeteries in Brownsville, Del Rio, and San Antonio have all been listed on the National Register in recent years. However, these examples are primarily applicable to Oakwood and Oakwood Annex, which functioned as the official City Cemetery in Austin and are contemporaneous with the listed cemeteries in those other cities.

In order to determine potential strategies for listing Evergreen Cemetery and Plummers Cemetery, the author reviewed a sample of National Register listings for African American cemeteries in other states. Most of these examples seem to be more similar to Plummers than to Evergreen, in terms of age, history, resources, and plan.

Golden Hill Cemetery in Clarksville, Tennessee, is one example that may provide a model for nominating Plummers Cemetery. Like Plummers Cemetery, Golden Hill is relatively small (just under eight acres) and was established by an individual. It was listed as an Historic Landmark (site) on the basis of Criteria A and C, with Criteria Consideration D, in the areas of ethnic heritage, art, and settlement patterns. Plummers Cemetery may be eligible for listing within the context of Texas rural folk cemeteries, as well as for the presence of handmade markers which are found throughout the site. Although Plummers Cemetery lacks the distinctive work of a master stonemason, which is present in Golden Hill Cemetery, it does contain a number of headstones—likely made by the same individual or business—that are distinctive for their use of concrete with an aggregate or cast surface of relatively large pieces of mica. The bibliography in the Golden Hill nomination also provides assistance to future researchers.

Evergreen Cemetery was established in 1926 and is still active. Only the oldest sections of Evergreen Cemetery are likely to be eligible for listing in the National Register at this time. Section A was the first part of the cemetery to be developed, and it contains burials dating from the 1920s through the 1950s, including the graves of many prominent families and individuals. The next section to be developed, Section C, was platted in 1938 but prices for the lots there were not set until 1947, with the earliest burials taking place that year. Section B opened in the 1950s, and Section D was platted in 1959. Sections B and D and all later sections appear to contain predominantly burials that would be too recent to qualify for the National Register.

Section A, and possibly Section C, of Evergreen Cemetery may be eligible under Criterion A, for association with segregation and the development of the African American community in East Austin following the 1928 City Plan, as well as the Civil Rights movement; and under Criterion B, for association with a group of persons of outstanding importance to the African American community. Criteria Consideration D would apply based on the presence of handmade grave markers (particularly, but not exclusively, in Section A) and the graves of individuals of transcendent importance. A detailed survey of the graves located in the section to be nominated, with biographical information about the deceased buried there, could help to substantiate their importance to the community.

Austin Memorial Park Cemetery, established in 1927, is in a similar situation. Only Blocks 1, 2, and 3 are likely to be old enough and contain enough historic graves to qualify for the National Register, along with the entrance structures and historic cemetery buildings. An earlier reconnaissance-level survey conducted by Hardy Heck Moore, Inc., in 2011 recommended Austin Memorial Park Cemetery for potential inclusion on the National Register based on Criterion A for community development, Criterion B for the presence of graves of historically important persons, and Criterion C for the architecture of the gates and buildings at the entrance to the cemetery. Additionally, that report recommended that a future nomination might make the case for the presence of persons of transcendent importance as described in Criteria Consideration D.

STATE DESIGNATIONS

The State of Texas, through the Texas Historical Commission (THC), recognizes cemeteries as Historic Texas Cemeteries or, less commonly, State Antiquities Landmarks. THC also recognizes historically important people, places, and events through its subject marker program. All three designations may be announced to the public through the placement of a large cast aluminum plaque, generically referred to as a marker.

Historic Texas Cemeteries

The Historic Texas Cemetery (HTC) designation is perhaps the easiest of all designations to obtain, as its primary purpose is to notify present and future owners of adjacent property of the cemetery's existence. The HTC program was established in 1996; the first designation was completed in 1998. Since then, more than 1,600 Texas cemeteries have been recognized through this program.

To qualify, a cemetery must have been established at least 50 years before the date of application, unless it is exceptionally significant. While some research is required in order to complete the application and document the history of the cemetery, and its development and associations, this documentation is far less extensive than that required for any other designation.

Anyone may nominate a cemetery for the HTC designation. The property owner and all adjacent property owners will be notified by the Texas Historical Commission before the designation is completed.

The current HTC application and guidelines for completing the application are available from the Texas Historical Commission.

If approved for designation, the applicant is required to record an official Declaration of Dedication with the county clerk's office, which transfers with the sale of the property and notifies future owners of the cemetery's presence on their land. The HTC designation does not, however, restrict property owners' use of the land adjacent to the cemetery or the operation of the cemetery itself. A cemetery that has been designated as a Historic Texas Cemetery may display an official HTC marker, which includes a distinctive seal that differentiates it from other Texas historical markers.

Complete information about the Historic Texas Cemeteries program is available on the Texas Historical Commission website at www.thc.state.tx.us.

Austin Memorial Park Cemetery and Oakwood Cemetery are already recognized as Historic Texas Cemeteries. While the boundaries of Oakwood Cemetery Annex are clearly marked and, therefore, the HTC designation is not necessary, an HTC designation would provide value for both Evergreen Cemetery and Plummers Cemetery.

Subject Markers

The Texas Historical Commission also uses historical “subject” markers to commemorate people who made lasting contributions to the State of Texas, community organizations, or businesses, and to recognize events that changed the course of local or state history.

The earliest Texas historical markers were erected in the 1800s, primarily to mark early military heroes and state leaders. These were followed by monuments at the graves of Stephen F. Austin and Elizabeth Crockett (wife of David Crockett), a series of 123 pink granite markers along the Camino Real, and more than 1,100 monuments erected to mark the Texas Centennial in 1936. The current Texas Historical Marker program was established in 1962, and has placed more than 15,000 markers throughout the state.

Anyone may initiate the application for a marker. The Texas Historical Marker program is administered through the state’s County Historical Commissions (CHC). Applications are accepted by the Texas Historical Commission only during a specified period each year (currently September 1 through November 15), and applicants are advised to begin working with their local CHC well in advance of the application period.

The application for a Texas Historical Marker must be adequately researched and documented. The CHC approves all marker applications and submits them to the THC for review. Applicants interact solely with the CHC during the marker application, review, approval, and dedication process.

Complete information, forms, and contacts for the Texas Historical Marker program can be found on the Texas Historical Commission website at www.thc.state.tx.us.

Oakwood Cemetery is the subject of a Texas Historical Marker, erected in 1972 (prior to the establishment of the Historic Texas Cemeteries program); Oakwood also contains subject markers at the graves of several notable people, including:

- Susanna Dickinson, who (with her infant daughter) was one of the two white/Anglo survivors of the Alamo
- John Crittenden Duval, last survivor of Fannin’s Army, who died in 1897
- Swante Palm, an early leader of Swedish immigration to Texas
- Major William “Buck” Walton, who served as the Texas attorney general

Due to the availability of Historic Texas Cemeteries markers, pursuit of general subject markers for Austin’s municipal cemeteries is not recommended.

State Antiquities Landmarks

Cemeteries located on public or private land may be designated as State Antiquities Landmarks (SAL). Because any changes to a designated SAL (including excavations) must be approved in advance by the Texas Historical Commission, this designation is not recommended for City of Austin cemeteries.

LOCAL LANDMARK DESIGNATIONS

The City of Austin designates local historic landmarks through the application of a zoning overlay, which is added to the base zoning for a specific tract of land. This overlay does not change the base zoning, but rather adds a layer of protection for the property. Designation at the local level provides the highest level of protection. While listing on the National Register of Historic Places is primarily a method of recognition, and the Historic Texas Cemeteries designation serves to alert property owners to the presence of a cemetery, only a local Historic Landmark designation provides for ongoing management and preservation.

In order to be designated as a City of Austin Historic Landmark, a property must meet the following criteria:

- The property is at least 50 years old and represents a period of significance of at least 50 years ago, unless the property is of exceptional importance as defined by National Register Bulletin 22, National Park Service (1996); and
- The property retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance and does not include an addition or alteration which has significantly compromised its integrity; and
- The property is individually listed in the National Register of Historic Places; or is designated as a Recorded Texas Historic Landmark, State Antiquities Landmark, or National Historic Landmark OR demonstrates significance in at least two of the following categories:
 - (i) Architecture. The property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; exemplifies technological innovation in design or construction; displays high artistic value in representing ethnic or folk art, architecture, or construction; represents a rare example of an architectural style in the city; serves as an outstanding example of the work of an architect, builder, or artisan who significantly contributed to the development of the city, state, or nation; possesses cultural, historical, or architectural value as a particularly fine or unique example of a utilitarian or vernacular structure; or represents an architectural curiosity or one-of-a-kind

building. A property located within a local historic district is ineligible to be nominated for landmark designation under the criterion for architecture, unless it possesses exceptional significance or is representative of a separate period of significance.

- (ii) Historical Associations. The property has long-standing significant associations with persons, groups, institutions, businesses, or events of historic importance which contributed significantly to the history of the city, state, or nation; or represents a significant portrayal of the cultural practices or the way of life of a definable group of people in a historic time.
- (iii) Archeology. The property has, or is expected to yield, significant data concerning the human history or prehistory of the region;
- (iv) Community Value. The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or a particular group.
- (v) Landscape Feature. The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

The City Historic Landmarks Commission reviews all applications for designation. Once designated, any changes to a City Historic Landmark must be approved in advance by the Commission. A property owner who desires to make a change (including removing, altering, or constructing a new marker, memorial, monument, building or structure) must submit an application for a Certificate of Appropriateness to the Commission. City Planning staff in the Historic Preservation office can assist applicants with this process.

For complete information about applying for a Historic Landmark designation or a Certificate of Appropriateness, visit the City of Austin Planning and Development Review department website at <http://www.austintexas.gov/department/historic-landmarks>.

Oakwood Cemetery and Oakwood Cemetery Annex are both designated as City Historic Landmarks. Based on the criteria for local designation, it is unlikely that any of the other three cemeteries would qualify for local Landmark status, for the following reasons:

- The periods of significance for Evergreen Cemetery and Austin Memorial Park Cemetery, in their entirety, do not end at least 50 years ago (in 1965, by the time an application could be prepared and approved by the Landmarks Commission). One might, however, explore the possibility of designating the original boundaries of Evergreen Cemetery and the early blocks of Austin Memorial Park Cemetery. Evergreen Cemetery could

be nominated on the basis of its historical associations and community value, while Austin Memorial Park Cemetery could be nominated on the basis of its historical associations, community value, architecture, and landscape features.

- The period of significance for Plummers Cemetery could be argued to end in the 1960s. While the integrity of the site has been impacted to some extent by time and damage to markers, it could be nominated for local landmark designation on the basis of its historical associations and community value. Indeed, the designation of Plummers Cemetery as a local landmark and the cemetery's preservation and protection were listed among the Top Ten Action Items in the East MLK Combined Neighborhood Plan of 2002.

RECOMMENDATIONS

Based on the above review of potential designation opportunities, the following next steps are recommended:

Higher Priority

- Pursue Historic Texas Cemetery designations for Evergreen Cemetery and Plummers Cemetery.

Lower Priority

- Pursue City Historic Landmark designations for Plummers Cemetery, Evergreen Cemetery, and Austin Memorial Park Cemetery.

To Be Completed by Volunteers

- Pursue a listing on the National Register of Historic Places for Plummers Cemetery.
- Pursue a listing on the National Register of Historic Places for Evergreen Cemetery.
- Pursue a listing on the National Register of Historic Places for Austin Memorial Park Cemetery.



Chapter 13

Grave Ornamentation

Although the City of Austin established rules governing the operation of the cemetery and the responsibilities of owners of properties or burial rights, the rules specific to gravesite ornamentation have, for many years, been unenforced. The City is currently conducting a public engagement initiative, intended to find a balance between the need to maintain the cemetery appropriately and sensitivity to cultural considerations, as well as the needs of cemetery users to memorialize and commemorate loved ones.

This chapter summarizes the history of this issue. A complete review of the rules process, including a review of best practices and recommendations for developing alternative solutions, which then can be vetted publicly, is being conducted separately. While parts of that process were originally intended to be part of this master plan, the expanded scope of work has since been separated from the plan.

The current rules and regulations governing gravesite ornamentation, along with other administrative and operational issues, were developed sometime in the 1970s. For many years, starting with the establishment of Oakwood Cemetery in 1839, the maintenance of the cemetery grounds and care of graves was left to individual family members. However, as discussed in Chapters 2, 4, and 5, changing burial practices and societal notions about death led to a greater professional aspect to the care of cemeteries.

It is not known when the City first established rules for grave ornamentation. Most early rules simply governed the conduct of cemetery workers and visitors. Also unknown is whether, to what extent, or for how long the grave decoration rules were enforced by InterCare Corporation, Inc., which contracted with the City for the

maintenance of management of the city cemeteries from 1990 to 2013. What is known is that grave ornamentation was not regulated for many years, and as a result, many people grew accustomed to decorating graves.

In part, this is increasingly a cultural issue. Mexican American traditions include a strong and ongoing relationship with the deceased, which is demonstrated by decorating graves for holidays and special occasions. As the Latino (primarily Mexican American) population of Austin has increased—from just over 10% in 1960 to more than 35% in 2015 (Figure 568)—the presence of continually decorated graves has almost certainly increased in city cemeteries.

This change can be seen particularly in Evergreen Cemetery, which was historically an African American burial ground but, in recent years, has—in the newer sections—become the resting place for many Latino and Latina Austinites.

The city's Asian population is also growing rapidly, and many of those cultures maintain burial traditions that include grave offerings. This is especially evident in Austin Memorial Park Cemetery.

In that cemetery, many Anglo family members, particularly those with loved ones buried in Section 5, have either appropriated these cultural practices or created their own decorating traditions. In addition to leaving grave goods, people have placed site furnishings, erected trellises and arbors, affixed decorations to or hung them from nearby trees, and created plot enclosures or covers using a variety of materials. Many of the additions are colorful; some are designed to move in the wind. The effect is exuberant and lively, but

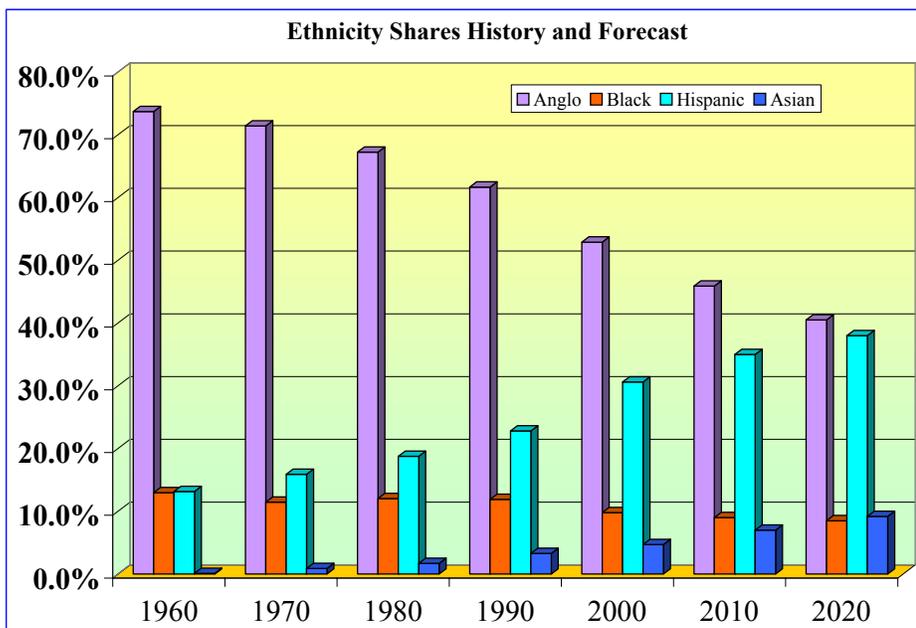


Figure 568. Changing demographic trends in Austin (City of Austin)

the number and general coverage of these items creates a challenge for maintenance staff, who are charged with mowing and trimming grass in these areas. In addition, beauty is in the eye of the beholder, and these decorations are either considered attractive or an eyesore, depending on who is doing the considering. One particular issue is the deteriorated condition of benches, which are not always well maintained and must be removed by cemetery crews when they become a hazard.

In October 2013, PARD Cemetery Management announced the intention to perform consistent enforcement of the existing rules, giving several months' notice through the placement of signs at cemetery entrances. Some community members expressed concerns and the opinion that the existing rules were outdated and did not allow for cultural expressions of grief and commemoration.

Subsequently, PARD Cemetery Management was directed, by City Council resolution, to engage the community in a review and revision of the rules and regulations. Smith/Associates, Inc., a public engagement firm from San Antonio, was contracted to conduct several meetings in May and June 2014, in order to collect feedback from attendees on a select subset of the existing rules. A revised set of rules was then drafted and, in July, circulated for review and comment. PARD then chose to conduct further analysis of the rules and regulations.

Since the master plan scope of work already included a review of the rules for grave ornamentation, PARD asked the master plan team to expand their scope of work. McDoux Preservation (which had been leading the public engagement portion of the cemeteries master plan process) drafted a revised scope of work, to include an analysis of the data gathered through the Smith/Associates public engagement process, a new review of best practices, the development of criteria for the evaluation of alternatives, and a few examples of such alternatives. McDoux was not tasked to draft revised rules. The City will be responsible for bringing forward any proposed revisions to the existing rules and regulations governing grave ornamentation.



Chapter 14

Funding and Revenue

The City of Austin's Cemeteries division budget for FY 2014 was nearly \$2.5 million, out of a total PARD budget of about \$58.5 million. PARD currently funds all of the operation of all five cemeteries through the city's General Fund. All income generated from sales of plots at Evergreen Cemetery and Austin Memorial Park Cemetery is recorded as revenue to the City's General Fund, as is interest generated by the Perpetual Care Fund.

This chapter reports on the stability and viability of the current Perpetual Care Fund model and whether current funding levels are adequate to meet the community's expected standard of care. Additional opportunities for funding of operations and/or special projects include earned income, particularly from fees associated with additional interment options, and grants to support research, educational programming, documentation, and materials conservation.

Several members of the public raised a question, during the comment period for the draft master plan, regarding the lack of current and pro forma budgets in this section. PARD has had only two budget years (FY2014 and FY2015) since resuming management of the cemeteries, both of which have included start-up expenses related to items such as equipment rental or purchase, staffing changes, and one-time operational costs associated with updating sales and burial records and creating an electronic database for cemetery record-keeping, where before there was none. These budget years may not be typical or indicative of future financial performance, therefore, were not used to develop pro forma budgets.

THE PERPETUAL CARE FUND

The City of Austin currently maintains two separate accounts for the operation of its municipal cemeteries.

The **Perpetual Care Fund Principal** is the *corpus* or body of the fund; it is managed as an investment to generate income, and it cannot be used to fund any expenses. For the past 10 years, this fund has maintained a balance of \$981,217, indicating that all interest generated has been drawn off.

The **Perpetual Care Interest Fund** is the holding account for interest generated by the Principal Fund, as well as any earned income from InterCare when cemetery operations were contracted. The investment and contract income added to this fund each year has fluctuated wildly, from \$109,484 in 2006 (a very good year for investors) to just \$1,589 in 2012, based on revenues and approved project expenses.

In addition to the Perpetual Care accounts, PARD uses Capital Improvement Municipal Bonds to fund infrastructure projects in the cemeteries. Those activities are outside the scope of this chapter but serve to underscore the City's commitment to providing excellent service at the city cemeteries.

When investment accounts are managed for conservative growth, the anticipated resulting interest growth may be estimated at between 4–5 percent per year, on average. Over the period from 2006–2012, total investment income was \$341,311, or an average of \$43,664 per year—nearly a 13% rate of return, but not enough to contribute in any meaningful way toward the total cost of cemetery operations.²⁰⁶

In addition, if the Perpetual Care Principal is not added to over time and the balance never grows, the interest generated over time will fall farther and farther behind rising costs.

This topic is of interest to cities across the United States. As the interest generated from perpetual care funds falls short of needs, city governments are beginning to consider different types of funding sources, including developing different sources of income that could be placed into revolving funds or other investment instruments.

One potential source for additional income of this kind might be one or more endowment funds, established by and contributed to by community groups, grant-making foundations, business leaders, and individuals. A citizen has suggested that civic and community leaders might institute an annual fundraising campaign for such an endowment, which would retain its corpus in perpetuity and provide interest-generated income for either specific types of projects, such as marker conservation or educational programs, or general cemetery operations.

206. City of Austin, "Report of Response to Cemetery Workgroup Meeting Questions and Requests for Information," http://www.austintexas.gov/sites/default/files/files/Parks/Cemeteries/response_to_meeting_2_questions.pdf

EARNED INCOME OPPORTUNITIES

Additional earned income and expenses have varied considerably over the past 10 years. Revenues were especially strong in 2006–2008, but after 2009, perhaps in part due to the economic downturn, sales of grave plots decreased dramatically, falling nearly 30 percent, from an annual average of 546 sales between 1992–2009 to an all-time low of 277 in 2009. As plot sales were decreasing, expenses hit an all-time high in 2012, in part because of contractual terms with InterCare Corp. that required the City to pay the vendor the difference between estimated and actual retained revenue.

While the City contracted with InterCare for the management and maintenance of the five cemeteries, between 1995 and 2012, it (the City) may have earned income primarily from the sale of interment rights and deeds, as well as 20% of the fees related to interment services provided by InterCare.

Although PARD resumed active management and maintenance duties in April 2013, it continues to contract with InterCare for interment and burial services, having executed a five-year agreement worth \$3.8 million, or about \$760,000 per year.²⁰⁷

The average sales of previous years has apparently resumed, with PARD Cemeteries reporting sales of approximately 600 burial spaces between April 2013 and October 1, 2014, and collecting approximately \$1.7 million in revenue.²⁰⁸

New Services

The business analysis conducted by Texas State University professor Thomas Longoria indicated that the City's greatest opportunities for increased income are likely to be in the form of additional interment options and services, such as scatter gardens, columbarium interment, and natural or green burials. Space requirements for scatter gardens and columbaria, especially, are significantly smaller than for traditional burial spaces, enabling a higher rate of revenue per square foot. Longoria noted that the rate of cremations in Austin was likely to exceed 50 percent by 2020 and increase, at a rate of about two percent per year, to as much as 70 percent. About half of all cremations are interred, rather than kept or scattered privately. Even if cremated remains are not interred, options for memorializations—such as wall plaques or laser-carved paving blocks— may prove to be popular alternatives and additional revenue opportunities. The potential net income from a 500-space columbarium, for example, could be \$600,000. Please refer to the 2010 *Austin Cemeteries: A Comprehensive Business Analysis*, by Dr. Thomas Longoria, for detailed information.

207. Ibid.

208. City of Austin, *Cemetery Sales Administration and Management Audit*, November 2014.

Fees for Cemetery-Related Events and Rental Income

Another opportunity for earned income might be fees associated with the rental or use of cemetery space (either buildings or grounds) for events, including wakes or memorial services or other appropriate programming. This is common practice at historic and contemporary cemeteries throughout the United States, particularly those with building spaces that are not used on a regular or continuous basis.

The rehabilitation of the Oakwood Cemetery chapel and Austin Memorial Park Cemetery building complex provide an opportunity to create spaces that can serve the community. The costs of rehabilitating those buildings are being paid for through the Capital Improvements Bond Fund, so those expenses do not affect the cemetery operating budget.

Chapter 16 contains a discussion of programming opportunities, including events and activities for which PARD could receive a portion of admission or registration fees. See that chapter for further information.

GRANT FUNDING OPPORTUNITIES

While most grant funding opportunities for historic preservation and materials conservation-related activities have been eliminated or vastly reduced, following the economic downturn experienced by the United States in 2008 and the subsequent re-evaluation of mission and giving focus by many philanthropic foundations, some small grants are still available for worthy projects, through organizations such as the Texas Historical Foundation.

Projects with an educational focus or greater community benefit are more likely to be funded than those which do not directly benefit people. Finding intersections between research needs could lead to partnerships with school or university groups (discussed in Chapter 15), which may be eligible for grants targeted toward history education, particularly if the projects result in replicable materials that can be disseminated widely to a diverse population.

Grants for technical research and work are available on an annual basis through the National Center for Preservation Technology and Training.

The Texas Historical Commission's recently relaunched Texas Preservation Trust Fund grant program might be an option for a future materials conservation project at Oakwood Cemetery. The City, in partnership with a non-profit organization such as Save Austin's

Cemeteries, might pursue such a grant for conservation activities there. Public-private partnerships that utilize in-kind donations of supplies and volunteer labor, under the supervision of a trained professional, are likely to be attractive to grant funders, who seem to prefer collaborative approaches with greater community benefits.

OPTIONS FOR RESETTING SMALL-SCALE FEATURES

A large number of small-scale features need to be repaired, restored, conserved, and reset. If a grant-seeking, public-private partnership (such as the one mentioned above) focuses on materials conservation, the City could pursue resetting activities separately. Options for a program in this area include:

- **Fee for service.** The City is not legally obligated to reset markers, and (as noted in Chapter 9) the extent of its ability to address deteriorating or damaged private property may be limited to those items which create a public safety hazard. PARD already offers this service to private individual or family who wishes to have a marker reset, in the event that it is tilted, displaced, or fallen but the amount of tilting or displacement is not sufficient to classify that marker as public safety hazard. This could be better publicized so that individuals and families are aware that the service is available.
- **Adopt-A-Marker program.** The growing popularity of cemetery tourism, combined with the potential increase in awareness and appreciation for the city cemeteries and historic resources, may provide an opportunity for individuals, families, community organizations, co-workers, or other groups to “adopt” a marker or monument in need, helping to raise the funds and (potentially, depending on the work to be done) participate in the project in some way. This could be an excellent opportunity to get local elementary, secondary, college, or university students engaged in and aware of these historic cemeteries.
- **Crowdfunded projects.** The opportunity to make a difference in the cemetery with a small donation can result in a strong fundraising program, with sufficient participation. Options could include making a one-time gift or a recurring monthly, automatic payment via credit or debit card.

In order to evaluate options and determine what would work best for the City, a monuments conservator should be engaged to survey potential subject resources for resetting, calculate the weight of those markers/monuments, and make recommendations for equipment needed to accomplish the resetting. While smaller markers can be reset using a tripod hoist constructed from wooden posts, larger and much heavier features are likely to require specialized equipment load-rated for the weight ranges of those larger features.

The City may elect to train staff or volunteers to calculate the weight of stones and determine, based on weight and the work needed, which markers could be reset by staff/volunteers and which will require the services of a professional. In some cities, this work is accomplished with student volunteers using portable hoists, although the City would want to consider its liability before pursuing that option.

RECOMMENDATIONS

- Hire a monuments conservator to train staff (and possibly volunteers) in resetting smaller markers and evaluating larger monuments for potential resetting.
- Establish which markers will be prioritized for resetting, based in part on degree of tilt, the position of the marker's center of gravity over the base, and the resulting likelihood to fall.
- Establish a variety of funding programs to generate new income to pay for these activities.

Chapter 15

Partnerships, Programming, and Tourism

Many of the recommendations in preceding chapters include the establishment or strengthening of public-private partnerships between the City of Austin and community organizations, schools and universities, and other groups. The benefits of collaborative efforts cannot be overstated; they include increased local awareness, appreciation, and support; enhanced opportunities for funding; and the overall improvement of Austin's historic cemeteries for the greater benefit of the community. In addition, the location of Oakwood Cemetery and its Annex near downtown Austin provides opportunities for heritage tourism programs that link the cemeteries to other properties throughout the City.

This chapter includes a discussion of heritage tourism programs, the development of historical data on persons buried in the cemeteries, and ways in which the City can strengthen existing partnerships and establish new partnerships to support activities such as research, inventory, survey projects, and docent programs that utilize volunteers. It also includes recommendations for a programming review and approval process that would involve the Cemetery Advisory Committee described in Chapter 10.

PARTNERSHIPS

As mentioned in other chapters, collaborative public-private partnerships can benefit the City in many ways. The City currently has informal relationships with organizations such as Save Austin's Cemeteries, Preservation Austin, and the African American Cultural Heritage District.

As the City builds additional partnerships, with an eye toward programming that benefits both parties as well as the public, it might consider working with partners developed through projects such as those described below.

Conservation and Clean-Up Projects

Currently, with proper training, volunteers from Save Austin's Cemeteries provide cleaning of grave markers. Other conservation activities could be added, including resetting grave markers and other features (see previous chapter) and some repairs, under the supervision of a professional monuments conservator. The enthusiasm of the SAC membership leads one to believe that that group would be particularly welcoming of additional opportunities for hands-on work in the cemeteries.

An Adopt-A-Marker program could provide other business or community groups with the opportunity to receive appropriate training and provide this type of hands-on assistance on a volunteer basis. An organization might be further encouraged to provide some measure of financial support if their employees or members have shown an interest in these efforts.

Documentation Projects

The Austin Genealogical Society (AGS) has long provided valuable research for many of the people buried at Oakwood and other Austin city cemeteries, and their work has informed this plan as well. The challenge is how to build upon that foundation over time, and through the efforts of more people.

The City of Austin could create an online open-source database, through the Austin History Center, for collecting and making available information developed or provided by descendants, genealogists, historians, or other enthusiasts, as well as by City staff from various departments. A wiki or other crowd-sourced database would best allow members of the public to contribute to this effort, even in the event of finding some tiny piece of information that, by itself, would be of little value.

Educational and outreach programs to make the public aware of the project, including providing links to the database on library computers,

would serve to build interest and participation. The City could also encourage and support projects that demonstrate the value of the information being gathered.

Managing Cemeteries as Historic Sites

Across the United States, many communities are managing their less-active historic cemeteries as historic sites or outdoor museums. The master plan team recommends that the City collaborate with the PARD History, Art, and Nature Division in order to provide appropriate programming at Oakwood Cemetery, Oakwood Annex, and Plummers Cemetery. Maintenance would still be provided by the Cemetery Division but paid for through the General Fund.

These cemeteries, where very few burials take place annually, are best utilized as community assets that can be linked programmatically with other city-owned museums and attractions. For example, a visual arts program in cooperation with the Austin-based Texas Society of Sculptors might create an alliance of museums and locations with outdoor sculpture, including the Umlauf Sculpture Garden, Elisabet Ney Museum, Laguna Gloria, University of Texas campus, and Oakwood Cemetery, and create walking tours, educational programming, and other activities that encourage respectful enjoyment of the many artistic markers and monuments at Oakwood.

Passive activities, such as walking tours and interpretive signage, could be provided for Evergreen Cemetery and Austin Memorial Park Cemetery, as these cemeteries are still active with burials on nearly a daily basis.

Volunteer Management

In many cities, a non-profit partner manages volunteers. For example, the Bureau of Cemeteries website for the City of Norfolk, Virginia, provides a link to volunteer opportunities which takes the viewer to the Norfolk Society for Cemetery Conservation. The NSCC trains and manages volunteers and helps to raise money for conservation efforts in that city's eight historic cemeteries. The NSCC also holds a wide variety of recreational and educational programs in that city's eight cemeteries.

Save Austin's Cemeteries, Preservation Austin, and other established non-profit organizations in Austin might be willing/able to take on a similar role in cooperation with the City. It might be helpful to have a single organization that is in charge of all volunteer management, in order to reduce the potential for conflict or confusion.

Programming

Based on much input from cemetery stakeholders, the master plan team has developed the following recommendations for educational and recreational programming. (“Recreational,” in this context, refers to leisure time activities, rather than organized sports or exercise classes.)

While some people are open to many kinds of programming, others want no programming whatsoever to take place in any cemetery for any reason. While the master plan team respects all viewpoints, it is clear that best practices for historic cemeteries include activities that bring people into cemeteries on a regular and ongoing basis. Security is improved when people are present, and regular visitors are likely to notice and report potential problems in a timely manner. Finally, when a member of the community spends time in a city cemetery and has a positive experience, he or she is more likely to support the City’s efforts to maintain and improve the cemetery grounds and facilities.

As mentioned on the previous page, a collaboration with the History, Arts, and Nature program would focus programming activities at Oakwood Cemetery and the Oakwood Cemetery Annex, and to a lesser extent, Plummers Cemetery. Proposals for programming activities, including heritage tourism activities, which have (in some cases) drawn scrutiny from community members, could be filtered through a Cemetery Advisory Committee in order to give the public a voice in the review and approval process.

RECOMMENDATIONS

To address all of these issues, the City could develop a *Community in Austin Cemeteries Program* to encourage community organizations to develop educational and recreational/leisure programs and events that bring people into Austin's oldest historic city cemeteries to experience history, art, culture, and nature.

The City of Austin Parks and Recreation Department (PARD) currently is interested in working with partners to engage visitors in a positive, respectful way with Oakwood Cemetery, Oakwood Annex Cemetery, and Plummers Cemetery. As Evergreen Cemetery becomes less active, PARD would begin working with community groups to create programming for that cemetery as well. (The City has no plans to develop programming for Austin Memorial Park Cemetery at this time.)

Although Oakwood Cemetery, Oakwood Cemetery Annex, and Plummers Cemetery are largely inactive today, a few burials take place at these cemeteries every year. In addition, family and friends visit the graves of their loved ones in these cemeteries. Visitors to all cemeteries are expected to be respectful of each other and of the deceased.

The City of Austin is a diverse community. Different ethnic groups have their own cultural traditions in terms of funerals, burials, and ongoing connections to deceased loved ones. Non-profit organizations and their members also have a wide variety of interests. The City of Austin does not favor any group over another. PARD recognizes that any program or event could be considered appropriate by one group but considered inappropriate or disrespectful by others. The master plan team has developed the sample process described on the following pages to apply clear, fair, objective guidelines for the evaluation and selection of programs and events to be held in the city cemeteries.

The Proposal Process

This process ideally would utilize the proposed Cemetery Advisory Committee and is described below as if that committee were in place.

The Cemetery Advisory Committee could review all proposals for organized programming in Austin city cemeteries and make recommendations to PARD. A sponsoring organization would submit a proposal in advance of a proposed event. PARD would consider its approval of an event after receiving a recommendation from the Cemetery Advisory Committee. Members of the sponsoring organization and the public would be welcome to attend and speak at the committee meetings during which the proposal was presented and discussed.

Proposals would be reviewed and considered on a case-by-case basis. Organizations would be encouraged to contact the Cemetery Programs Coordinator in advance to discuss program ideas.

No organization would be allowed to advertise an event or program for which they had not received approval.

PARD could reserve the right to review proposed marketing materials and plans as part of the program/event proposal package.

A Note About “Recreation”

The term *recreation* is used in this context to describe leisure activities, rather than physical exercise, organized sports, or games.

- Organized exercise classes would not be permitted in the cemeteries.
- Individuals who wish to enjoy leisure time in the cemeteries are welcome to do so at their convenience, and are not required to ask for or receive approval. However, individuals may not engage in activities that might damage cemetery resources.
- Individuals are welcome to walk for exercise on paved roads or gravel paths, but should avoid walking over gravesites.
- Individuals may ride bicycles on paved streets, but not on gravel paths or grassy areas. Bicycles absolutely may not be ridden over graves.

Sample Guidelines for Proposals

Proposed programs/events could be evaluated based on the following guidelines.

- Programs/events should engage visitors and enhance their experience and understanding of the City of Austin and its historic cemeteries.
- Programs/events should highlight or draw attention to a particular aspect of the cemetery (such as history, art, culture, or nature).
- Programs/events would occur within the cemeteries and be temporary in nature (one year or less), with the exception of projects designed to be more permanent, such as the development of interpretive materials, self-guided walking tours, and similar passive informational programs.
- Presentations should be based on credible information, gathered and documented through research.
- Programs/events should have little or no impact on historical, cultural, or natural resources.
- Programs/events should be sensitive to accessibility and safety issues for both visitors and staff.
- Programs/events should include contingency planning, in order to respect the privacy of any persons visiting the graves of loved ones or mourners who may be present in the cemetery.
- The proposal would need to explain how the sponsoring organization would: Provide participants with a copy of PARD cemetery etiquette guidelines; require participants to behave appropriately during the program/event; and remove participants whose behavior is inappropriate or could damage historical, cultural, or natural resources in the cemetery.
- Parking is not available at Plummers Cemetery. Programs/events planned at that cemetery should describe how transportation and parking would be managed.

Selection Criteria

Projects could be selected based on the following criteria. (PARD might develop a scoring matrix to help the committee with this process.)

- Ability to increase awareness and appreciation of Austin's historic city cemeteries
- Potential to engage a diverse group of residents
- Potential to benefit the cemetery in some way
- Quality of program content
- Projected attendance and ability of sponsoring organization to manage expected number of participants
- Ability to ensure safety, accessibility, and security

Eligibility

Non-profit organizations, educational institutions, and for-profit organizations with an element of public programming could be encouraged to submit proposals.

Financial Information

The sponsoring organization should be responsible for all costs associated with the program/event.

In addition, the sponsoring organization could be required to share a portion (possibly 15%) of gross registration or admission fees with PARD. These funds are applied directly to the preservation of historic, cultural, and natural resources within the cemetery where the program takes place.

This type of proposal, transparent review process, and criteria for consideration and selection would help to ensure that Austin residents would have the opportunity to both propose programming ideas and be heard in their support for or opposition to those ideas. It would provide a consistent approach and could encourage partnerships that benefit both sponsoring organizations and the City by building awareness of and appreciation for Austin's historic cemeteries.



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WEST

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