

## Chapter 63. Burial Sites Preservation

[HISTORY: Adopted by the County Council of Dorchester County 5-19-2015 by Bill No. 2015-5.  
Amendments noted where applicable.]

### **GENERAL REFERENCES**

Grading, erosion and sediment control — See Ch. **100**.

Subdivision regulations — See Ch. **140**.

Zoning — See Ch. **155**.

### § 63-1. Title; purpose.

- A. This chapter shall be known and may be cited as the "Burial Sites Preservation Code of Dorchester County."
- B. The purpose of this chapter is to foster the protection and preservation of burial sites, cemeteries, burial grounds and funerary objects in Dorchester County, including trees, shrubs, and plantings located thereat. Nothing in this chapter shall preclude the routine maintenance of trees, shrubs, and plantings located at burial sites, cemeteries, or burial grounds.

### § 63-2. Jurisdiction; applicability.

The provisions of this chapter shall apply in the unincorporated areas of Dorchester County, Maryland. The governing body of any municipality may request application of this chapter within a municipality's corporate limits by submitting a duly adopted written request to the County Council. Any agreement to apply this chapter within a municipality shall include provisions for coordinating the issuance of permits and plan approvals for development.

### § 63-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **BOARD**

The Burial Sites Preservation Board created pursuant to this Chapter **63**.

#### **BURIAL SITE**

Any land or structure, including any natural or prepared physical location, whether originally located below, at, on, or above the surface of the earth, in Dorchester County used for the interment of human remains or the deposit of funerary objects, including vaults other than vaults used as columbaria. The sprinkling of ashes or their burial in a biodegradable container or their placement in a columbarium shall not constitute the creation of a burial site. The term "burial site" shall include the terms "graveyard," "cemetery," "burial ground," and "burying ground."

#### **CODE**

Dorchester County, Maryland, Code.

#### **DEPARTMENT**

#### **DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including, but not limited to, any construction, reconstruction, modification, extension or expansion of buildings or other structures, placement of fill or concrete, construction of new or replacement infrastructure, dumping, mining, dredging, grading, paving, drilling operations, storage materials, land excavation, land clearing, land improvement, landfill operation, or any combination thereof. This term shall also include the subdivision of land.

#### **FUNERARY OBJECT**

An item of human manufacture or use that is intentionally placed with human remains at the time of or in connection with interment at a burial site, including, but not limited to, gravestones, monuments, tombs, or other structures in or directly associated with a burial site.

#### **PERSON IN INTEREST**

A person who:

- A. Is an ancestor or descendant of, or individual otherwise related by blood or marriage to, the person interred in a burial site, or the representative thereof;
- B. Has an interest in a burial site that the Office of the State's Attorney recognizes in the public interest after consultation with the Board; or
- C. Any current voting member of the Board.

### **§ 63-4. Burial Sites Preservation Board.**

- A. Establishment. There is hereby established a Burial Sites Preservation Board to carry out the purposes of this chapter.
- B. Membership and meetings.
  - (1) Number of members: The Board shall have a voting membership of not more than nine and not less than three voting members. The Board may designate or appoint an unlimited number of ex officio and other nonvoting advisors. The Board may appoint nonvoting members to various committees or otherwise to provide advice and expertise to the Board.
  - (2) Qualifications for voting members.
    - (a) Voting members of the Board shall be residents of Dorchester County. A voting member's tenure on the Board shall terminate immediately, without any further action required, when that member ceases to reside in Dorchester County.
    - (b) All voting members shall be appointed by the County Council, who shall consider the expertise and experience of available candidates.
    - (c) Each member shall serve for a term of four years.
    - (d) No member shall serve for more than three consecutive terms.
  - (3) The Board shall elect a Chair and Vice Chair from among the voting members at its first meeting in each calendar year.
  - (4) The Board shall adopt rules of procedure.
  - (5) The members and the Board shall be subject to, and act in accordance with, the Dorchester County Code of Ethics and Chapter **88** of the Code.

- (6) Meetings of the Board shall be held in compliance with the State Open Meetings Act, including provisions governing closed meetings.
- (7) The Board shall meet at least twice a year, and shall meet as soon as practicable at the request of the Chair, the County Planning and Zoning Administrator, or the County Council.
- (8) The Board shall not be empowered to enter into any contracts or hire any compensated employees, staff, advisors, or other personnel except as may be specifically authorized by the County Council. The Board may, with the consent of the County Manager, avail itself of the services of the County's staff and advisors.

## § 63-5. Powers and duties of Board.

The Board shall have the following powers and duties:

- A. To respond to complaints of alleged violations of County and state burial site protection laws.
- B. To respond to information that would lead to the identification of a burial site.
- C. With the oral permission of the property owner, given in the presence of a witness, or with the written permission of the property owner, to enter onto property to investigate a complaint or to inspect a burial site, and, if entry is refused or not obtained when a violation is suspected, the Board is authorized to pursue recourse as provided by law.
- D. To encourage access by persons-in-interest for the purposes of viewing, maintaining or restoring burial sites by utilization of a permission to enter agreement in accordance with § 14-121 of the Real Property Article of the Annotated Code of Maryland.
- E. In cooperation with the Department, to establish and maintain an inventory of all known burial sites in the County, which includes a description of the geographical location and record of the owners of each burial site.
- F. To recommend guidelines for the appropriate maintenance of burial sites.
- G. To recommend guidelines for, and supervise, the repair and reconstruction of burial sites in accordance with the most suitable restoration techniques.
- H. To establish a program of burial site protection awareness education for realtors, developers, owners, and community groups.
- I. To promptly refer to the Office of the State's Attorney any knowledge of a criminal act pertaining to burial sites.
- J. To recommend guidelines for burial site protection in the development of land.
- K. To coordinate and work cooperatively with the Dorchester County Historical Society and Maryland Historical Trust, and other entities as appropriate.
- L. <sup>[1]</sup>To have available to it the advice and counsel of the County Attorney.

[1] *Editor's Note: Former Subsection L, regarding reviewing and providing assessment of and comment on burial site area boundaries, was repealed 10-4-2022 by Bill No. 2022-10. This bill also redesignated former Subsection M as Subsection L.*

## § 63-6. Discovery of burial site.

- A. Discovery. Upon the discovery by any person of the existence of previously unknown remains, tombstones, funerary objects, or other evidence of a cemetery or burial site which reasonably indicates the presence of a cemetery or burial site, in the course of grading, construction or work of any kind, that person shall stop all work immediately in the area of discovery and shall give

immediate notice of the discovery to the County by contacting the Department (if during normal business hours) or by contacting the Dorchester County Department of Emergency Management via telephone by dialing 911. The County shall immediately notify all appropriate agencies, including the Sheriff, the State's Attorney, the County Health Officer, and the Board. All permits issued by the Department shall be suspended in regard to the area of discovery, and the property owner shall stop work in the area of discovery until a determination is made pursuant to § **63-6B**. Reasonable accommodation shall be made to protect the area of discovery until the proper authorities arrive. Board members may accompany a sworn officer of the law when investigating an alleged violation of this chapter for the purpose of providing information and guidance.

- B. Determination. The Board, in consultation with the Department, shall determine, within a reasonable time, if the area of discovery is a cemetery or burial site. The property owner is responsible for all costs relating to the above determination, unless responsibility for costs is waived by the Department for good cause. In making this determination, the Department, in consultation with the Board, may require the property owner to comply with all development and zoning regulations regarding burial sites. If it is determined that the area is not a cemetery or burial site, the stop-work order shall be lifted and the suspended permits shall be released by the issuing department.
- C. Burial site protection. If it is determined that the area of discovery is a burial site, the property owner shall comply with the requirements of all development and zoning regulations regarding burial sites.
- D. A person who observes a potential violation of this chapter may report such violation as specified in § **63-6A** above.

## § 63-7. Appeals.

Any person specifically aggrieved by any decision made under this chapter may, within 30 days thereof, appeal the decision to the Circuit Court for Dorchester County.

## § 63-8. Violations and penalties.

A violation of this chapter shall constitute a civil infraction pursuant to the provisions of Chapter **147** (Violations of Ordinances) of the Code. In addition, where there is any violation of this chapter or any action taken thereunder, Dorchester County shall institute appropriate action to compel compliance with the provisions of this chapter. Violations of this chapter may also be referred to the State's Attorney for criminal prosecution, if applicable.