

4.4.6 INACTIVE CEMETERIES**A. Definition:**

Inactive cemetery, for the purposes of this section, shall mean any cemetery, private or family cemetery, church cemetery, or historic or prehistoric burial ground not used for interment of human remains within the last ten years.

Cemetery with undefined boundaries, for the purposes of this section, shall mean any cemetery or burial ground the limits of which are not delineated on any a map, in a written description in wills or deeds, or by a wall or fence. or specific cemetery vegetation. This term shall also apply to any burial site(s) where graves are discovered outside of defined cemetery boundaries.

NOTE: *The procedure for the removal and relocation of a cemetery is set out in KRS 381.720 - KRS 381.767.*

B. Requirements:

A parcel of land on which an inactive cemetery is located or an adjacent parcel of land may be used as allowed by the site's zoning classification and other applicable regulations, with the following additional restrictions:

1. **Preservation:** All existing cemeteries and burial grounds shall be preserved and maintained in accordance with applicable Kentucky Revised Statutes, Kentucky Administrative Regulations, and federal laws and regulations state law. Relocation or removal of gravesites shall occur only as specified in applicable federal, state and local laws and regulations. The Jefferson County Office of Historic Preservation and Archives shall be notified in writing by supplying to the office copies of all state and local applications and permits prior to the relocation procedure.
2. **Notification:** The applicant shall notify the Jefferson County Office of Historic Preservation and Archives and the Kentucky Historical Society of the location of any cemetery or burial ground prior to development or subdivision of the parcel.
3. In preserving a cemetery while at the same time developing a parcel, an applicant, property owner, or developer has the following options:
 - a. Transfer the existing cemetery as part of a buildable lot. Ownership and maintenance of the cemetery shall be transferred to the individual lot owner.

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- b. Make the existing cemetery a separate lot permanently preserved from development of structures or other non-cemetery improvements. Ownership and maintenance of the cemetery shall be transferred by written agreement to either a subdivision Homeowner's Association, a local legislative unit, or an historical organization. A legally created transfer agreement must be finalized and executed, and a copy provided to DPDS, within 90 days of any final approval of a record plat or development plan. The Planning Commission or its designee may grant up to two thirty-day extensions for the execution of said transfer agreement. Failure to execute the agreement or provide the copy may render the final approval of a subdivision plan or district development plan null and void.
 - c. The applicant shall inform the Planning Commission which of the above listed options they choose to pursue prior to approval of any development or subdivision.
4. Building Setbacks
- a. For cemeteries with defined boundaries (such as a wall or fence), all buildings and structures other than fences and walls shall be set back at least 30 feet from the perimeter. Land disturbance within 30 feet of the perimeter except as described in number 6 below shall not be allowed. Prior to initiating any site disturbing activities and for the duration of the site preparation and construction processes, the 30-foot buffer area shall be delineated by installation of temporary fencing so as to be readily identifiable.
 - b. For cemeteries with undefined boundaries, the Commission may require certification of a cemetery with undefined boundaries by an archaeologist (as defined in 36 CFR Part 61). Documentation of acceptance of the cemetery boundaries by the Historic Landmarks Commission or delegated staff persons shall be provided for Planning Commission and building permit agency files prior to initiation of any site disturbance activities. After the boundary has been approved, all buildings and structures other than fences and walls shall be set back at least 30 feet, or another distance set by the Jefferson County Historic Landmarks Commission.

5. Security: Existing cemetery fences and walls shall be maintained and repaired. The property owner or developer is required to erect a new permanent enclosure (if one does not exist) surrounding the cemetery. For cemeteries with undefined boundaries, the location of the fence shall be established in accordance with procedures acceptable to the Jefferson County Historic Landmarks Commission. The new permanent fence shall be made of a material compatible with the character of the existing cemetery and surrounding residences. If a portion of an original wall or fence remains, and it is a compatible material (e.g. stone, brick, cast iron, wooden picket) the permanent fence or wall shall be properly repaired using the same material. If the existing fence is an inappropriate material (e.g. barbed wire or farm fence), it shall be replaced with a new fence of an appropriate material. Although the permanent fence must be erected as soon as practical, a temporary fence must be erected and maintained at all times during site development and construction. The Jefferson County Historic Landmarks Commission shall be responsible for determining the appropriateness of materials.
6. Maintenance: Existing cemetery planting or foliage shall be pruned and generally left in its natural state. The Jefferson County Historic Landmarks Commission shall be responsible for determining the appropriateness of landscaping used in and immediately surrounding all inactive cemeteries. Cemeteries shall be maintained both during site development and after construction is complete in accordance with Chapter 96 of the Jefferson County Code of Ordinances.
7. Public access shall be provided and permanently maintained to an existing cemetery with a minimum 15-foot recorded ingress-egress access easement.
8. A statement by the property owner, applicant, or developer shall be made on the site plan or subdivision plan regarding permanent cemetery ownership and maintenance. This information shall also be included on a Final Plat for a subdivision if recorded after the effective date of this regulation.
9. A deed restriction in a form approved by the Planning Commission legal counsel shall be recorded acknowledging the location, site, ownership, and maintenance of a cemetery.
10. Yard Requirements: No area occupied by graves may be counted toward the area required for front, side, street-side or rear yard requirements.
11. If human remains are discovered during the excavation or development of a site the applicant shall immediately cease excavation activities and notify the Jefferson County Coroner and the Jefferson County Historic Landmarks Commission