

COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND

LEGISLATIVE BILL #2007-6

INTRODUCED BY: COMMISSIONERS COLE, LAYTON AND GHRIST  
INTRODUCED ON: SEPTEMBER 18, 2007

ATTEST:   
JOHN W. COLE, PRESIDENT

PUBLIC HEARING: OCTOBER 2, 2007, COURTHOUSE, 109 MARKET STREET,  
RM. 106, DENTON, MARYLAND, BEGINNING 9:30 AM

THIRD READING: OCTOBER 9, 2007  
ENACTED: OCTOBER 9, 2007  
EFFECTIVE: NOVEMBER 24, 2007

A BILL ENTITLED

**BURIAL SITES PRESERVATION CODE**

*FOR the purpose of adding a new Chapter 89 to the Code of Public Local Laws of Caroline County, Maryland (the "Code") to foster the protection and preservation of burial sites, cemeteries, burial grounds, and funerary objects in Caroline County, including trees, shrubs, and plantings located thereat; providing for the establishment of a Burial Sites Preservation Board and providing for the membership in and the powers, duties, and operations of a Burial Sites Preservation Board; providing that certain activities at or concerning burial sites and suspected burial sites be restricted or prohibited; providing for certain requirements concerning burial sites; providing for certain civil penalties; providing that this title be deemed a fair summary of this public local law for all purposes; and relating generally to burial sites in Caroline County, Maryland.*

RECITALS

WHEREAS, the County Commissioners of Caroline County, Maryland (the "County") are authorized pursuant to § 13 of Article 25B of the Annotated Code of Maryland to exercise, *inter alia*, those powers enumerated in § 5 of Article 25A, except for subsections (A), (P), and (S); and

WHEREAS, the County is authorized pursuant to § 5(S) of Article 25A of the Annotated Code of Maryland to exercise generally the right to legislate to protect and maintain the peace, good government, health, and welfare of the County; and

WHEREAS, the County is desirous of promoting the general welfare by fostering the protection and preservation of burial sites, cemeteries, burial grounds, and funerary objects in Caroline County, including trees, shrubs, and plantings located thereat, and providing for a Burial Sites Preservation Board to accomplish said desires.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND, IN LEGISLATIVE SESSION, THAT THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY, MARYLAND, CHAPTER 89, BURIAL SITES PRESERVATION CODE, IS HEREBY CREATED TO READ AS FOLLOWS:**

**Chapter 89, Burial Sites Preservation Code**

**§ 89-1. Title; purpose.**

**A. This Chapter shall be known and may be cited as the Burial Sites Preservation Code of Caroline County.**

- B. The purpose of this Chapter is to foster the protection and preservation of burial sites, cemeteries, burial grounds and funerary objects in Caroline 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.

**§ 89-2. Jurisdiction.**

The provisions of this Chapter shall apply in the unincorporated areas of Caroline 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 Commissioners. Any agreement to apply this Chapter within a municipality shall include provisions for coordinating the issuance of permits and plan approvals for development.

**§ 89-3. Definitions.**

**BOARD** --- The Burial Sites Preservation Board created pursuant to this Chapter 89.

**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 Caroline 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** --- The Code of Public Local Laws of Caroline County, Maryland.

**DEPARTMENT** --- The Caroline County Department of Planning and Codes Administration.

**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.

**§ 89-4. 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 non-voting advisors. The Board may appoint non-voting 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 Caroline County. A voting member's tenure on the Board shall terminate immediately, without any further action required, when that member ceases to reside in Caroline County.**
  - (b) **All voting members shall be appointed by the County Commissioners, who shall consider the expertise and experience of available candidates.**
  - (c) **Each member shall serve for a term of 4 years.**
  - (d) **No member shall serve for more than 3 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 Caroline County Code of Ethics and Chapter 33 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 Codes Administrator, or the County Commissioners.**
- (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 Commissioners. The Board may, with the consent of the County Administrator, avail itself of the services of the County's staff and advisors.**

**§ 89-5. Powers and duties.**

**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 Caroline County Historical Society and Maryland Historical Trust, and other entities as appropriate.
- L. To review and provide assessment and comment to the Department regarding the establishment of burial site area boundaries for recordation of approved boundaries in the Land Records of Caroline County, as appropriate.
- M. To have available to it the advice and counsel of the County Attorney.

**§ 89-6. Discovery of a 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 Sheriff's Department. With the authorization of the Sheriff, the Sheriff's Department shall promptly notify the State's Attorney, the County Health Officer, the Board contact person or persons, and the Department. 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 § 89-6.B. 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 Chapter 175 and 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 Chapter 175 and all development and zoning regulations regarding burial sites.
- D. A person observing potential violations of this Chapter may report such violations to the Caroline County Sheriff's Department, which shall proceed in accordance with the provision of this Chapter.

§ 89-7. Appeal.

Any person specifically aggrieved by any decision made under this Chapter may, within thirty (30) days thereof, appeal the decision to the Circuit Court for Caroline County.

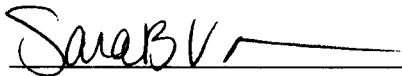
§ 89-8. Enforcement.

A violation of this Chapter shall constitute a Class A civil infraction pursuant to the provisions of Chapter 92 (Civil Infractions) of the Code. In addition, where there is any violation of this Chapter or any action taken thereunder, Caroline 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.

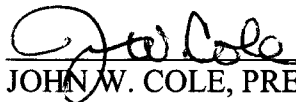
ENACTED THIS  NINTH  DAY OF  OCTOBER  2007.

ATTEST:

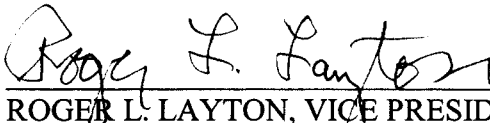
COUNTY COMMISSIONERS OF  
CAROLINE COUNTY, MARYLAND



~~LEIGH SANDS~~  
EXECUTIVE ASSISTANT  
SARA B. VISINTAINER

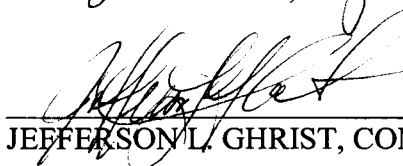


JOHN W. COLE, PRESIDENT



ROGER L. LAYTON, VICE PRESIDENT

(SEAL)



JEFFERSON L. GHRIST, COMMISSIONER