



What are the rights and duties of an owner of land that has graves located on it?

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QUESTION: I have a buyer client who is very interested in purchasing a small tract of land, but there's a hitch: the property has a small graveyard located on it, fifteen headstones located in a corner of the property reasonably close to the main road. I don't think the location of the graves would affect my client's plans to build a home and install a septic system, but we do have a few questions: Is the owner of property with a family graveyard on it required to allow family members or others to visit the graves? Is the owner required to maintain the graves in any way? May the owner have the graves removed from the property?

ANSWER: North Carolina law permits certain persons to enter public or private property to "discover, restore, maintain, or visit" a grave or abandoned public cemetery. Persons having this right include not only descendants of the person whose remains are reasonably believed to be interred in the grave or their designees, but also "any other person who has a special interest in the grave." Entry can be with the consent of the landlord ([NCGS 65-101](#)) or without the consent of the landowner ([NCGS 65-102](#)). If the landowner does not consent, the person desiring entry onto the land must file a special proceeding with the Clerk of Court in the county where the land is located. If the clerk issues an order allowing entry onto the land, the order may specify dates and daylight hours that the petitioner may enter and remain on the land, grant the petitioner the right to enter the property periodically, and specify a reasonable route for the petitioner to enter and exit the property.

[NCGS 65-106](#) sets forth a procedure for the "disinterment, removal, and reinterment" of a grave by certain entities and persons, including the landowner. The process is quite involved and all expenses are borne by the party effecting the disinterment, removal, and reinterment.

A landowner is under no duty to maintain graves located on their property, but they should at least leave them alone because there are criminal penalties for removing, altering, defacing, or desecrating graves.

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