

# Oregon Commission on Historic Cemeteries

## Position Paper

*The Oregon Commission on Historic Cemeteries has created several position papers to convey their opinion of best practices on various topics related to historic cemeteries.*

### Pet Cemeteries and Related Issues

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Pet cemeteries and disposition of pet remains fall outside the specific purview of the Oregon Commission on Historic Cemeteries (OCHC). Yet the fact remains that pet cemeteries in Oregon will, in time, become of age-eligible for consideration as historical places under the regulations of the National Register for Historic Places and similar state and local programs. Pet cemeteries can function as community resources and assets in the same ways as do human cemeteries, and because they are recognized by many people as cemeteries, it is likely that when the public has questions or concerns about pet cemeteries, one place they will turn to for information and advice is the Oregon Commission on Historic Cemeteries. For these reasons, it is important for the OCHC to outline its viewpoint about pet cemeteries and related issues.

ORS 97.010 defines a *cemetery* as "...any place dedicated to and used, or intended to be used, for the permanent interment of *human* remains" (emphasis added). Under this definition pet interments are not allowed on dedicated land in Oregon cemeteries. Disposition of pet cremains are allowed, subject to individual cemetery rules. Oregon law is silent about pet memorial markers in cemeteries, but individual cemetery rules can allow, regulate, or disallow such markers.

Oregon state law also is silent about home burial of pets, and it is allowed in most local jurisdictions, though sometimes with local restrictions or limitations. A different section of Oregon law covers disposal of dead animals and clearly pertains to farm livestock and wild animal remains. ORS 601.140 stipulates that dead animals may not be buried within ½ mile of a dwelling or ¼ mile of a running stream of water, and carcasses must be disposed of by burial, burning or removal within fifteen hours of death. Buried carcasses must be interred at least four feet below ground, covered with quicklime and at least four feet of earth. Oregon Department of Environmental Quality (DEQ) also has regulations and recommendations concerning burial of animal remains near wells, septic systems and streams. These also pertain mainly to farm livestock and wild animal remains, but common sense suggests that even small pet remains should not be disposed of near wells or other water sources.

While Oregon law cited above defines the word "cemetery" specifically in terms of human remains, the word itself has been, and continues to be, used to describe places where pet animal remains are interred. It is unlikely that any jurisdiction would forbid the use of the word "cemetery" to describe such places, even though state law suggests this could be done. Pet cemeteries and memorials have a long history, including the ancient Egyptian practice of mummifying cats and other animals, though it is unclear whether these animals were considered pets or religious sacrifices. The oldest pet cemetery in the United States is the Hartsdale Pet Cemetery and Crematory in Hartsdale, New York, opened around 1896. The Oregon Humane Society operates the oldest pet cemetery on the West Coast, opened around 1918. Since pet cemeteries are more loosely



regulated than human cemeteries, it is difficult to get an accurate count of those currently operating. One source suggests there may be between five and six hundred nationwide. A quick and admittedly cursory search turned up at least seven pet cemeteries in Oregon.

Nationally and worldwide, public attitudes are changing about pet cemeteries and disposition of pet remains. Without delving into the sociology and psychology underlying these changes, suffice it to say that in the United States and much of the developed world, non-farm domestic animals of many sorts are filling roles as companions and service animals to an extent never before seen in the long history of human-animal relationships. Laws are evolving to echo these changing public viewpoints. In some jurisdictions laws are beginning to allow pet interments in human cemeteries and conversely, human burials in pet cemeteries. Florida currently is the only state to allow human remains to be buried in pet cemeteries. A couple of years ago, a bill in the Washington legislature would have allowed this, but it died in committee. Other legislative attempts are likely in coming years. Hartsdale Pet Cemetery, in Westchester County, New York, the oldest pet cemetery in the United States, allows human cremains to be inurned in compliance with New York state law and estimates that some 700 sets of human cremains currently rest in Hartsdale along with thousands of sets of animal remains and cremains.

The issues of main concern at this time to the OCHC are as follows:

- Pet burials in human cemeteries. Continue to monitor evolution of law and public sentiment nationwide and in Oregon. If changes begin to allow this, then consider impacts on historical character of historic cemeteries and impacts on their roles as community resources and assets.
- Pet cremains in human cemeteries. Consider impacts of both scattering and inurnment on the historic character of the cemetery and on native and heritage vegetation. Consider impacts on roles of historic cemeteries as community resources and assets. Recommend that if historic cemeteries choose to allow disposition of pet cremains, the cemetery should adopt clear regulations for their disposition. Such regulations may be modeled after regulations governing disposition of human cremains, or may be more restrictive. Suggest careful consideration of whether to allow pet cremains throughout the cemetery or limited to a defined area of the cemetery.
- Pet memorial markers in human cemeteries. Consider impacts of pet markers, memorials or cenotaphs, on the historic character of the cemetery. Strongly recommend that if pet markers, memorials or cenotaphs are allowed, they must be stylistically and visually consistent with the human markers, memorials or cenotaphs allowed in the cemetery.
- Pet cemeteries. Monitor development of public sentiment and law pertaining to pet cemeteries as more of these approach the age of eligibility for historic status consideration (currently 50 years for National Register of Historic Places eligibility). If Oregon state law evolves to allow human burials or inurnments in pet cemeteries, then ORS 97.010, cited above, comes into play. These would then become “cemeteries” under the definition of Oregon law, and if human remains of an individual who died prior to February 14, 1909 were to be interred or inurned in such a cemetery, then that cemetery would fall under the purview of the OCHC and be eligible for registration as an Oregon Historic Cemetery.

ORS 97.440 states that “Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes until the dedication is removed....” One way that pet burials may impact human cemeteries



is if a portion of a dedicated cemetery has the dedication legally removed and pet burials are allowed in the undedicated section. The same result could be achieved by having a pet cemetery on property adjacent to a human cemetery. For instance, the Chehalem Pet Cemetery in Newberg, Oregon is adjacent to Valley View Memorial Park, an operating human cemetery. Waukesha and Milwaukee Counties in Wisconsin are exploring allowing pet burials “in segregated and generally otherwise unusable areas of the cemeteries,” recognizing a growing public demand for pet cemeteries as human mobility these days makes home pet burials less feasible and satisfactory than in the past. They also recognize the potential revenue in providing this kind of service (Journal Sentinel, online. Milwaukee, Wisconsin, February 26, 2007).

The place of pets and small service animals in our society is certainly undergoing change and the acceptable disposition of their remains will continue to be an issue of keen interest and concern for many people. As public attitudes and norms change and develop, the laws that govern our society also evolve. Along with consideration of what is legal and socially acceptable concerning disposition of pet remains, over time there will be questions about the historical value of the places where those remains are located.

The Oregon Commission on Historic Cemeteries will be a part of this conversation even though, technically, pet cemeteries fall outside our statutory purview. This paper is a snapshot of the key issues at this point in time. It will need to be reviewed and updated as time passes and the issues continue to evolve.

### **For more information or help**

Advice and help is available from Kuri Gill, Program Coordinator for OCHC, and the OCHC Commissioners. Please contact Kuri for more information.

