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# Public Acts of 1993 Chapter 352

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Public Acts of 1993 Chapter 352

**SECTION 1.** This act shall be known and may be cited as the "Cemetery Access Road Maintenance Act of 1993".

**SECTION 2.** The General Assembly finds and declares that: Many public cemeteries are accessible only by means of ingress and egress over private roads. Many landowners have cheerfully allowed ingress and egress to such cemeteries over private roads or easements that cross their land. Many landowners cannot maintain such roads to make such ingress and egress accessible to visitors to the cemetery. As a matter of public policy, counties should be able to provide maintenance for such roads to provide ingress and egress for its citizens without having to accept the private roads as public, undertake condemnation proceedings or take the roads by offers of dedication. With the permission of the landowner in question, counties should be allowed to provide minimal maintenance for such access roads without the liability associated with a public road.

**SECTION 3.** As used in this act, unless the context clearly requires otherwise: (1) "Cemetery" means a place for the burial of human remains which offers plots for sale to the public at large and in which lots have actually been utilized for human burial. Family cemeteries and cemeteries owned, operated or run by a religious organization are specifically excluded.

(2) "Access Road" means a private or non-public road which the owner of the land has allowed the public at large to use freely to gain access to a public cemetery.

(3) "Road Maintenance" or "Maintenance" means road work by the county to enable the access road to be minimally passable in order that the public at large may have ingress and egress to the cemetery.

(4) "Permission" means any written permission or authorization given by the owners of a particular parcel of land which shall allow the road maintenance by the county to take place on or about the access road.

**SECTION 4.** (a) Notwithstanding the provisions of any other law to the contrary, county highway departments, upon approval of their county legislative bodies, may use county vehicles, equipment or supplies to provide minimal maintenance to non-public access roads to provide ingress and egress to public cemeteries.

(b) Such approval shall be obtained pursuant to the following procedures:

(1) Any person may ask the county executive to approach the owner of a parcel of land to seek permission for the county to maintain a private access road;

(2) If written permission is granted, the county executive shall present such request to the county legislative body for approval;

(3) The county legislative body must approve such request by a three-fourths (3/4) majority.

(c) Approval by a county legislative body to provide minimal maintenance for an access road does not make such road a public road, does not act as a condemnation or taking of the land, nor is a dedication of the road made.

(d) Authorization or approval to maintain an access road may be withdrawn by a three-fourths (3/4) majority vote of the county legislative body with no less than ten (10) days notice to the original party seeking such maintenance and the owner of the parcel of land and by notice in a newspaper of general circulation in the county.

(e) Upon withdrawal of maintenance, no party may claim damages for such withdrawal and no further duty exists on the part of the county with regard to such access road.

**SECTION 5.** Once permission is granted by a landowner for the county to conduct road maintenance on a non-public access road to a public cemetery, such landowner waives any claim for inverse condemnation, condemnation, injury, damage or any action based upon such road maintenance by the county.

**SECTION 6.** This act shall have no effect unless it is approved by a two-thirds (2/3) majority vote of the county legislative body of any county have a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 Federal Census or any subsequent Federal Census. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

**SECTION 7.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provision of this act are declared to be severable.

**SECTION 8.** For the purposes of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 6.

Passed: May 5, 1993.

**COMPILER'S NOTE:** This is a special public act and is not codified in Tennessee Code Annotated.

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