



Ohio Revised Code

Section 961.05 Removal of land restriction.

Effective: January 30, 2014

Legislation: House Bill 72 - 130th General Assembly

(A) After a declaration has been filed pursuant to section 961.02 of the Revised Code, the land described in the declaration shall be used for pet cemetery purposes only unless the restriction for such use is removed by order of the court of common pleas in the county where the land is located in a proceeding brought by the pet cemetery owner or the owner's heirs or assigns.

(B) The court of common pleas may remove the restriction on the land upon proof satisfactory to the court that either of the following has occurred:

(1) No interments have been made in, or all pet remains have been removed from, the land from which the restriction is sought to be removed;

(2) The owner of the pet cemetery or the owner's heirs or assigns have received, from those persons who own burial rights in the pet cemetery or their heirs or assigns, written authorization, acknowledged before a notary public, to remove the restriction from the land. Any person granting this authorization who wishes to have a pet that is already interred in the pet cemetery removed and reinterred elsewhere shall so state on the authorization and the pet cemetery owner shall, at the owner's expense, remove the pet remains and have them reinterred elsewhere and shall provide proof of this removal and reinterment. A pet cemetery owner need not obtain the authorization described in division (B)(2) of this section from a person who has purchased a burial right in the pet cemetery but who has not yet used that right for the interment of a pet, if the owner refunds to the purchaser or the purchaser's heirs or assigns all moneys taken for the burial right, plus interest computed in the manner and at the rate agreed upon between the cemetery owner and the owner of the burial right.

(C) The court of common pleas may remove the restriction on a portion of the land described in the declaration, if the portion of the land that remains subject to the restriction is not less than three acres in size, upon proof satisfactory to the court that the situations described in either division (B)(1) or (2) of this section have occurred with respect to that portion of the land from which the



restriction is sought to be removed.

(D) A holder of a lien on the restricted land may object to the removal of the restriction and the court of common pleas shall consider any such objection before issuing an order to remove the restriction.

(E) An order issued by the court of common pleas removing a restriction pursuant to this section shall be filed in the office of the county recorder of the county in which the land is located, who shall record it in the official records.