


Abandoned Cemeteries and Municipal Responsibilities

DAVID F. FLEMING, JR.




FEATHERSTONHAUGH,
WILEY & CLYNE, LLP
ATTORNEYS AND COUNSELLORS AT LAW



“ We face a crisis of previously unimaginable proportions in regard to expected impacts for taxpayers and lot owners. ”

Association of Towns, Albany, 2016



There are
approximately
6,000 cemeteries

OF EVERY TYPE IN NEW YORK STATE



NYS Regulated Cemeteries

are a fraction of this number

New York State Cemetery Board

- ▶ DOS Designee Chair
- ▶ AG Designee
- ▶ DOH Designee
- ▶ NYS Division of Cemeteries





74% of large
cemeteries

ARE UNDERFUNDED



66% of New York's
small cemeteries

ARE UNDERFUNDED



In 2011 there
were 1,800
regulated
cemeteries
in New York



By August 2016
that number had
dropped to **1750**

► A drop of 3% in just 5 years



One year later:
5 more state regulated
cemeteries would be
abandoned to
localities.

By January of
2023, the
number had
dropped to
1,686



A photograph of a cemetery with numerous tombstones of various shapes and sizes scattered across a green lawn. Large trees with green foliage are in the background, and a small American flag is visible near the bottom center. The scene is peaceful and well-maintained.

Since 2011, we've lost more than 6% of regulated cemeteries to town abandonments.

- ▶ 114 cemeteries and millions of \$\$\$ in town maintenance and operational charges.



The fiscal impacts for localities are going to get worse.

An aerial photograph of a large, ornate stone monument situated on a grassy hill. The monument features a tall, slender column topped with a statue, and a base with multiple tiers and a central archway. The surrounding landscape includes a cemetery with numerous headstones, a paved path, and a dense line of trees. In the far background, a cityscape is visible under a cloudy sky. A red rectangular graphic element is positioned in the upper right corner of the image.

What is going on?
What is driving
abandonment?



Shift in markets



Considerable Societal Shifts.

ECONOMIC OUTMIGRATION
ACROSS NEW YORK



Changes in
the value of
importance
of religious
and funeral
customs.



The move to cremation.

NATIONAL CREMATION RATE WILL HIT 77.8% BY 2035

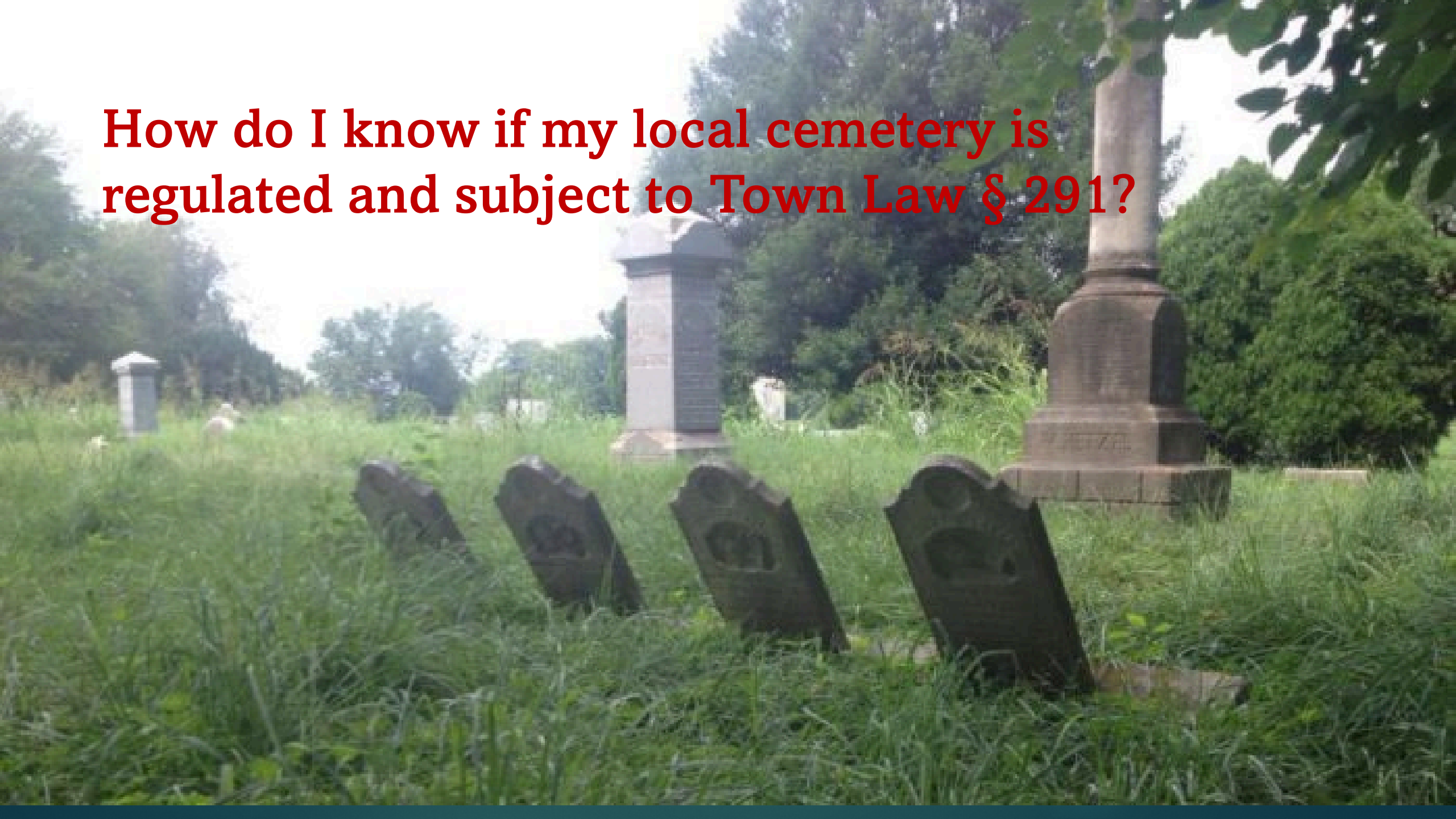


Town Takeover Background



NYS Town Law § 291

How do I know if my local cemetery is regulated and subject to Town Law § 291?



1st Class Cemetery

- ▶ Title vested to town by virtue of usage
- ▶ Fencing encircling the cemetery
- ▶ Must be mowed at least 3x per year

A wooden gavel with a dark, polished head and handle rests on a matching wooden block. In the background, a brass scale of justice is visible, slightly out of focus. The entire scene is set against a dark, textured background with a red vertical bar on the right side.

Conn v Boylan

224 N.Y.S. 2d 823 (Sup. Ct. Suffolk 1962)



Town v Village and City



What can my town do proactively to prevent abandonment?

Simple outreach.

- ▶ Inventory
- ▶ Conversations with volunteer board members

A worker wearing a red hard hat and an orange safety vest is using a chainsaw to cut through a tree trunk in a wooded area. The scene is dimly lit, suggesting dusk or dawn. The text "Municipal Assistance Law" is overlaid on the image in a large, white, sans-serif font. The word "Municipal" is on the first line, and "Assistance Law" is on the second line. The text is centered horizontally and slightly to the left of the center vertically. A solid red vertical bar is located in the top right corner of the image.

Municipal Assistance Law

§ 165-A OF NYS GENERAL MUNICIPAL LAW



Mergers

A TOWN'S OPTION FOR ASSISTANCE

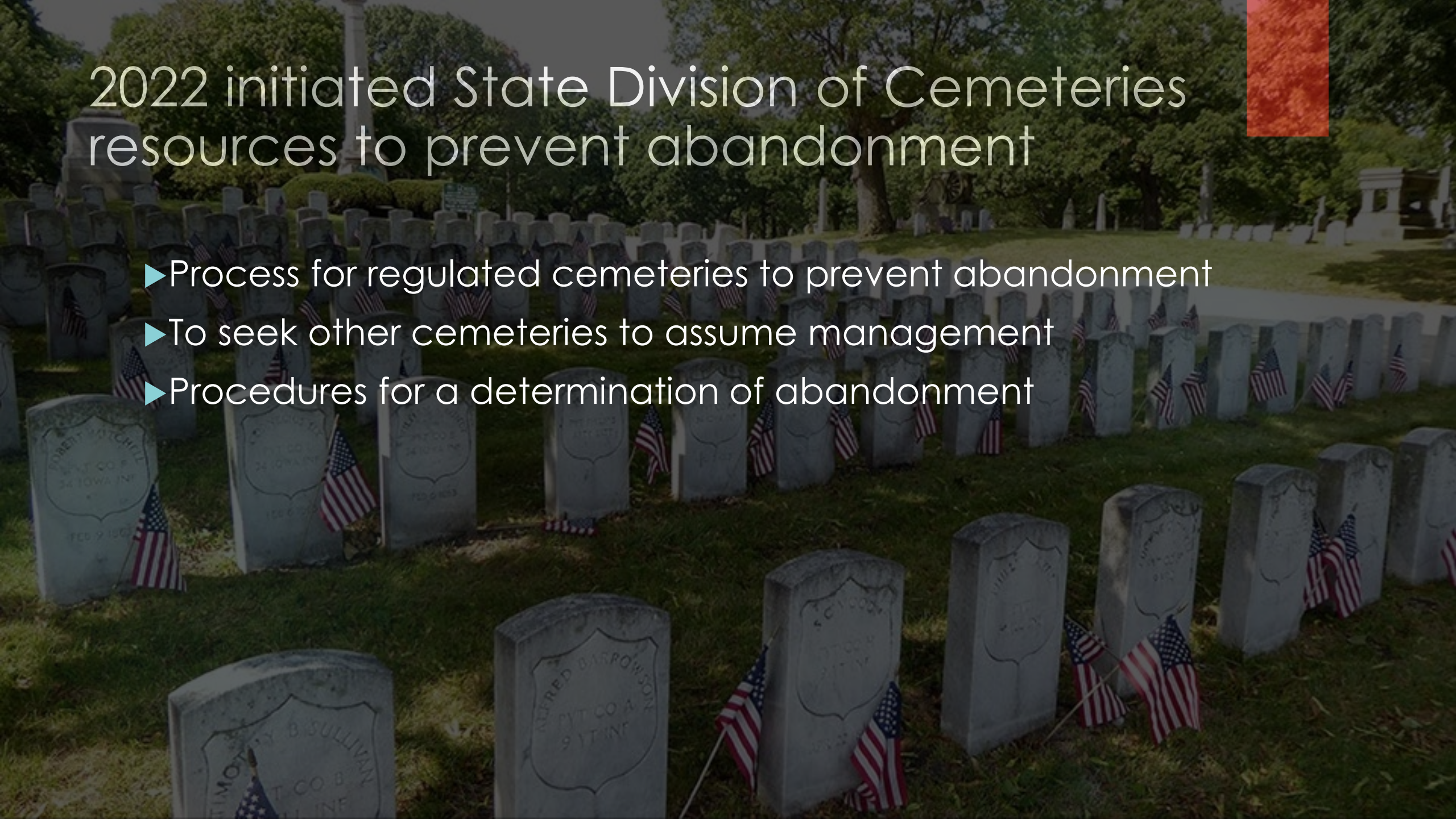


Cemetery Abandonment Prevention Regulations

PART 202 OF TITLE 19 NYCRR

2022 initiated State Division of Cemeteries resources to prevent abandonment

- ▶ Process for regulated cemeteries to prevent abandonment
- ▶ To seek other cemeteries to assume management
- ▶ Procedures for a determination of abandonment



Formal Declaration of Abandonment

▶ IS TECHNICALLY APPEALABLE BY TOWNS

▶ 60-DAYS TO COMMENT FOLLOWING NOTICE BY THE STATE DIVISION OF CEMETERIES



One of our town cemeteries is abandoned.
NOW WHAT?



Adopt a resolution for the takeover

CREATES A DATE SPECIFIC RECORD



Active vs. Inactive Cemetery Operation



Abandonment Funds

NYS CEMETERY VANDALISM RESTORATION, MONUMENT REPAIR AND
REMOVAL AND ADMINISTRATION FUND

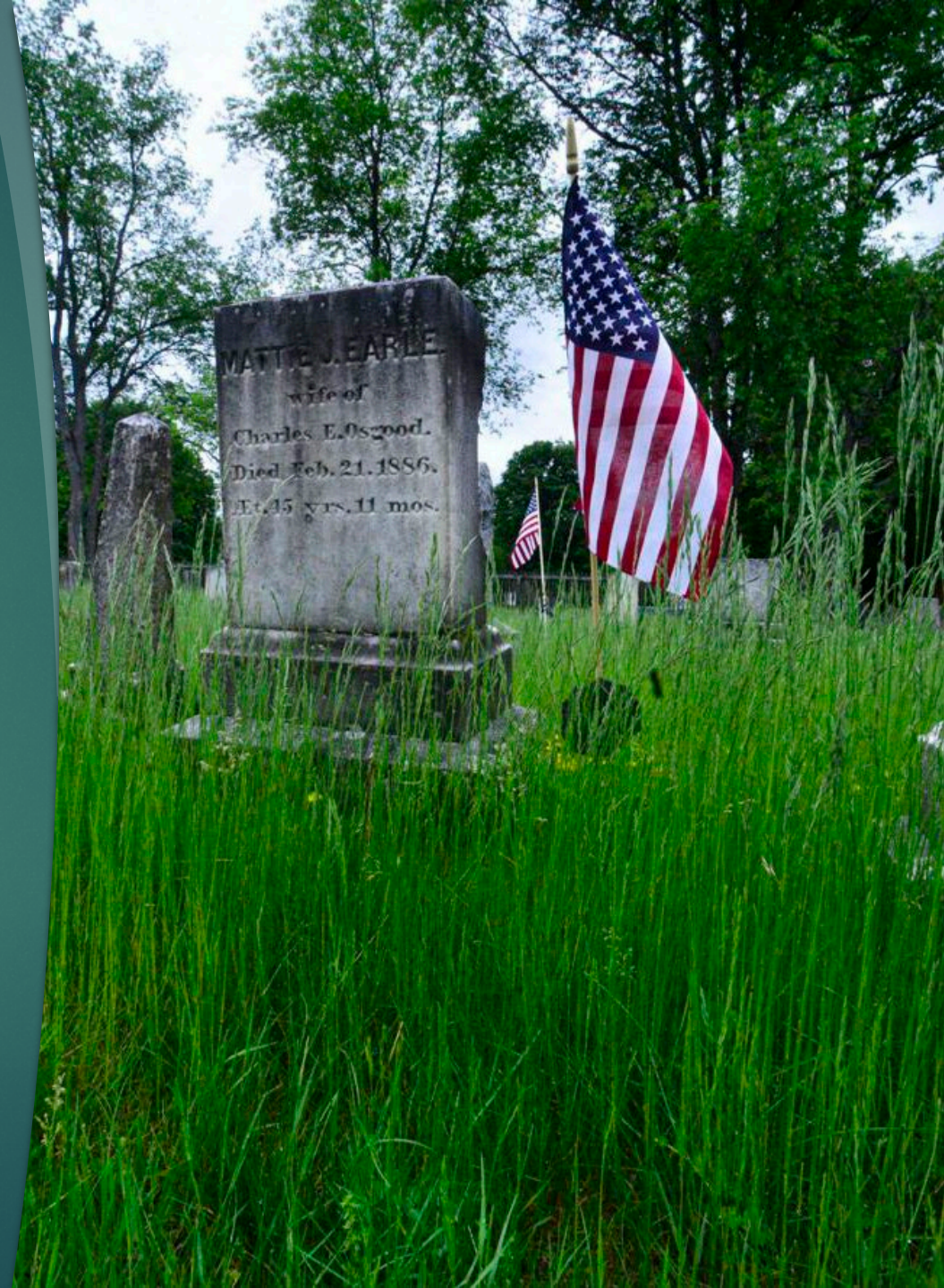


5-Year Limit for Application

REPAIR, RESTORATION,
EQUIPMENT

Maintaining a recently abandoned cemetery

- ▶ Town Law Requires Maintenance
- ▶ Doesn't Dictate The Who
- ▶ Highway Departments
- ▶ OSHA Trench Work etc.





Dealing with the records, mapping and documentation

A TOWN CLERK'S FAVORITE JOB!



Burial rights, rates and charges, deeds, rules and regulations

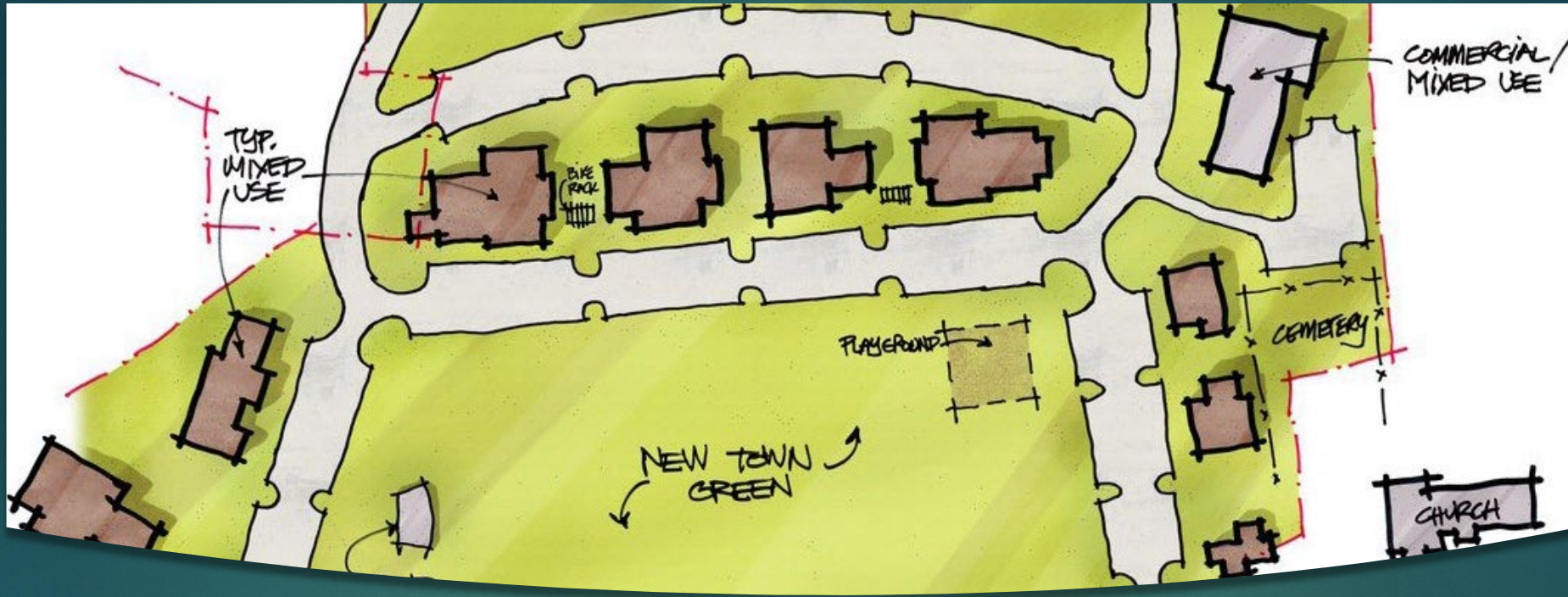
THERE ARE ONLINE RESOURCES AND THERE IS TECHNICAL ASSISTANCE.

Monument and foundation application

IMPORTANT DOCUMENT NOT TO BE OVERLOOKED

Signature _____

Date _____



Zoning Issues

MUNICIPAL ZONING ISSUES WITH CEMETERIES



Crematoriums are
cemetaries.

Backyard Burials

- ▶ Zoning decision
- ▶ Long-term consequences
- ▶ Access, access, access...





Leasing of Cemetery Lands for Income and Local Impacts

Chapter 200 of the Laws of 2022



Religious as well as private installations impacted by state law since 2018

Stand-Alone Mausoleum and Columbarium Prohibitions



Natural Organic Reduction

NEW FINAL DISPOSITION OPTION AVAILABLE SUMMER 2023



Questions...

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