

Burial of Human Remains on Private Property

UNZONED

In Montana, burial may generally take place on any rural private property. If there are plans for eventual interment of six or more persons, official designation as a cemetery may be necessary. Remember that property containing burial grounds is sometimes difficult to sell to non-relatives.

To avoid future complications, the following suggestions are made:

1. You may wish to ensure relatives have future access to the proposed burial plot by creating an easement; your realtor and attorney can advise you regarding this.
2. The proposed burial plot should be at least 100 feet from any well, body of water or agricultural land; it should be forever set aside from agricultural use.
3. If any other persons have an interest in the land, their written permission or waiver should be obtained in advance.
4. The precise geographic description (longitude/latitude) of the proposed burial ground should be determined and provided to the funeral home of choice.
5. As with any funeral detail a person feels strongly about, complete instructions should be on file with the funeral home and discussed with family members (or personal representative, in the absence of living relatives). You should be aware that funeral prearrangements are not necessarily legally binding on the next-of-kin; however, most families follow such instructions, when they have been previously discussed.

State law contains no requirement for grave marker or headstone.

A burial vault or grave liner is not required by Montana law. These are concrete, metal or fiberglass enclosures which surround the casket and prevent the grave from collapsing. For both aesthetics and landowner liability, one should be considered. No grave should be dug in areas of high seasonal groundwater.

The grave could be prepared by a friend or relative when needed. Most often, the funeral home arranges for an independent contractor to "open and close" a grave. You should ask about the cost in advance.

Prepared from information provided by Linda Crowley, Vital Statistics.
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