



**BOARD OF COUNTY COMMISSIONERS POWELL COUNTY, MONTANA**

**DISPOSITION OF BODIES  
BURIAL OF PERSONS ON PRIVATE PROPERTY  
RESOLUTION No. 2023 - 18**

**WHEREAS**, State statute does not prohibit burial of human remains on private property ;

**WHEREAS**, the State and its citizens have an obligation to protect from disturbance or destruction all human skeletal remains, burial sites, and burial material , including those in marked, unmarked , unrecorded , registered, or unregistered graves or burial grounds located on state or private lands that not protected as cemeteries or graveyards under existing state law as provided by § 22-3-802, MCA;

**WHEREAS**, Powell County wishes to promote and protect the health, safety and welfare of its citizens; and

**WHEREAS**, unregulated burial of human remains upon private property in Powell County can lead to health concerns, law enforcement concerns, land-planning concerns and property disputes between neighbors; and

**WHEREAS**, Powell County understands that burial upon private property may not be unlawful, but, private property burial is not recommended. Cemeteries exist for legal burial of bodies. Once legally dedicated to cemetery purposes , land so dedicated remains sacred and may not be used for any other purpose. Those contemplating private property burial should consider the extent to which the burial ground will remain sacred to future owners of the property.

**NOW, THEREFORE, BE IT RESOLVED**, that the Powell County Commissioners hereby creates the following policy in regards to the burial of human remains upon private property in Powell County outside of a cemetery district.

- A. Advanced planning is recommended for any person planning on creating a private burial site.
- B. A person planning on creating a private burial site is required to consult with the County Sanitarian regarding the proposed location of the remains

related to groundwater or water sources.

- C. Only a person possessing the right to determine the method of disposition of the deceased human's remains under Montana Code Annotated Title 37, Chapter 19, Part 9 (the "Responsible Party") and the owner of the private land to be used for burial of the human remains (the "Landowner") may jointly authorize burial of human remains on private non-cemetery land.
- D. Prior to burial, the family of the deceased must contact the County Coroner to verify the cause and manner of death. The Coroner will provide instruction on proper notifications and completion of the death certificate. Coordination with the family physician is a required step in this process.
- E. The location of a burial site must be owned outright or permission must be granted in writing by all lien-holders.
- F. The family of the deceased is required to complete a Private Family Burial Grounds Notice. This Notice includes: the name of the deceased, specific location of burial per GPS coordinates, and the legal description of the burial site as per township/range designation or description on a recorded survey document. The Notice is required to be filed in the County Clerk and Recorder's Office within ten (10) days of the person's demise.
- G. The family of the deceased is also required to record an amended deed for the property on which the burial is located. This deed also includes notice of the burial of a body on the property with a survey or legal description and GPS location of the burial. This is to be recorded at the same time of the filing of the Private Family Burial Grounds Notice. Recording fees may apply.
- H. Guarantee of future access, by easement or other means, is the responsibility of the party contributing the burial, by the way of an appropriate recording at the Clerk and Recorder's office. Fees apply.
- I. Burial sites must have a grave marker that is well-kept and written information on the deceased shall be placed in a waterproof container that shall be attached to the casket or in the casket for identification purposes.
- J. Human remains must be placed in the ground at least six (6) feet vertically above the ground-water table with a minimum fill of four (4) feet covering the body.
- K. Burials must include the body being placed in a casket built with wood or some stronger material to permit the removal of a body *if* necessary in the future.
- L. A minimum lot size of one (1) acre is required for any human remains to be buried on private property. The burial site must be at least one hundred (100) feet down gradient from any private water well, stream or open

water and three hundred (300) feet down gradient from any public, shared or community water well. The burial site shall not be upon a 100 year flood plain.

- M. Burial plots shall be located at least one hundred (100) feet from all property boundaries or street lines and at least fifty (50) feet radius from any structures or buildings.
- N. A maximum of five (5) bodies may be buried on the one-acre site without designating the site a cemetery per Montana Statute.
- O. The care and maintenance of the burial site is the responsibility of the family and/or landowner, and not the responsibility of the County or of a Cemetery Association or District.
- P. In accordance with 37.16.103, A.R.M., a body must be buried within forty-eight (48) hours after the time of death or the body must be embalmed or kept refrigerated inside at thirty-five (35) degrees Fahrenheit or colder. Until burial, a body must be covered or shielded from public view unless during a funeral.
- Q. If the burial site is removed or changes locations, a new recording of such notice as well as a new deed shall be filed with the Clerk and Recorder's Office after contacting the County Coroner.
- R. Any violation of the policy may result in the removal of said body by Powell County with cost of removal and re-burial assessed to property-owner.

**THIS RESOLUTION ADOPTED AT PUBLIC MEETING NOTICED AND HELD ON June 6, 2023 IN POWELL COUNTY MONTANA.**

**DATED** this \_\_\_\_\_ y of July, 2023

Powell County Commissioners

By: 

Dan Sager, Presiding Officer

By: 

Ralph Mannix, Chairman

By: 

Ruth Koehler, Member

Attest:

By: 

Jody Walker, Clerk and Recorder