

HOME BURIALS





AGENDA

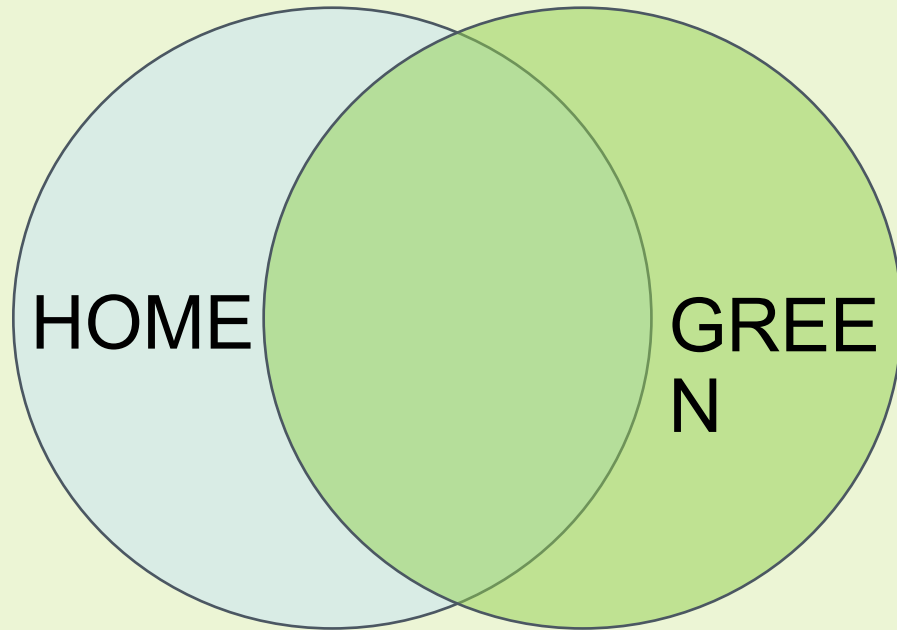
What is a Home Burial?

Existing laws

Recommended process

Miscellaneous considerations

WHAT IS A HOME BURIAL?





WHAT DO THE REGULATIONS
SAY?

- No “home burial” or “green burial” CMR in MA
- All burials need to follow M.G.L.’s regarding disposition of remains as well as protecting PWS (310 CMR 22)



EXISTING REGULATIONS RE: BURIALS

M.G.L. Title XVI Chapter 114 Cemeteries and Burials

- Private home burial applicable sections are:
 - **34** Use of land for burial; new cemeteries or extensions; approval of board of health; description of land
 - **35** Lands to be used for burial
 - **43A** Ownership, maintenance and operation of cemeteries; private profit
 - **43M** Permanent disposition of dead bodies or remains



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MGL CH 114 SECTION 43M

PERMANENT DISPOSITION OF DEAD BODIES OR REMAINS

- [This is the M.G.L.](#) that states that bodies/remains must be buried in a cemetery or entombed in a mausoleum or crypt
- Specifically states conditions for having any bodies/remains not entirely underground
- Identifies that cremains must be “buried or disposed of in any manner not contrary to law”
 - i.e., must follow different regulations for scattering of ashes
 - E.g., ash scattering at sea must occur at least 3 nautical miles from shore as per Federal Clean Water Act





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MGL CH 114 SECTION 34

Except in the case of the erection or use of a tomb on private land for the exclusive use of the family of the owner, no land, other than that already so used or appropriated, shall be used for burial, unless by permission of the town or of the mayor and aldermen of the city in which the same lies; but no such permission shall be given until the location of the lands intended for such use has been approved in writing by the board of health of the town where the lands are situated after notice to all persons interested and a hearing; and the board of health, upon approval of the use of any lands either for new cemeteries or for the extension of existing cemeteries, shall include in the records of the said board a description of such lands sufficient for their identification. For every interment in violation of this section in a town in which the notice prescribed in section thirty-seven has been given, the owner of the land so used shall forfeit not less than twenty nor more than one hundred dollars.

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Essentially says that giving cemetery status to a property requires Board of Health approval followed by approval of the governing body for the municipality.

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M.G.L CH 114 SECTION 43A

No cemetery established on or after July first, nineteen hundred and thirty-six, shall be owned, maintained or operated except by a municipality or other political subdivision of the commonwealth, a church, a religious or charitable society, or by a cemetery association incorporated as provided in section one, nor shall such a cemetery be maintained or operated for the purpose of private profit or gain, directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining and operating the same. A cemetery lawfully established prior to said date may continue to be owned, maintained and operated under the form of organization adopted therefor.



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MGL CH 114 SECTION 35



Lands to be used for burial; approval

MGL CH 114 SECTION 35



Lands to be used for burial; approval

No land other than that so used and appropriated on April tenth, nineteen hundred and eight, shall be used for the purpose of burial if it be so situated that surface water or ground drainage therefrom may enter any stream, pond, reservoir, well, filter gallery or other water used as a source of public water supply, or any tributary of a source so used, or any aqueduct or other works used in connection therewith, until a plan and description of the lands proposed for such use have been submitted to, and approved in writing by the department of environmental protection.

MGL CH 114 SECTION 35



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MGL CH 114 SECTION 35



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RECOMMENDED PROCESS

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Homeowner decides location, hires soil evaluator for (minimum 1) test hole

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Homeowner decides location, hires soil evaluator for (minimum 1) test hole



Homeowner hires engineer to create hydrogeology site plan

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Homeowner submits site plan and burial description to BOH for a hearing

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If DEP approves, letter of approval (along with previous documents) are submitted to Select Board for approval

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If DEP approves, letter of approval (along with previous documents) are submitted to Select Board for approval



If Select Board approves, all documents submitted to Registry of Deeds



Town of Orleans Health Department

19 School Road, Orleans, MA 02653

health@town.orleans.ma.us ~ Phone: (508) 240-3700 Ext. 2450 ~ Fax: (508) 240-3746

Home Burial Requirements:

1. Approval from BOH
 - o Any shrouding/encasement of the deceased must be biodegradable material
 - o Submit site plan that includes property line setbacks and setbacks to all known wells/bodies of water in the immediate area (200 ft)
 - o Hydrogeological evaluation
 - Property should be evaluated by licensed surveyor if proposed burial location is within 75 feet of the property line
 - Soil profile
 - Body must have minimum 3 ft separation from bottom of burial to top of ESHWT and covered with minimum 3 ft soil
 - DEP recommends that BOH agent witness the soil evaluation, but it is not required (being performed by a certified soil evaluator *is* required), one test hole is sufficient should soil be acceptable
 - Cannot be in Zone I of PWS, Zone A, FEMA Velocity Zone, 100 yr. flood zone, or 500 yr. flood zone
 - Slope must not exceed 3:1
 - o Additional consideration should the cause of death be serious infectious agent that could potentially impact local environment
2. Following BOH approval, DEP needs to approve site to confirm that no source of drinking water will be impacted
3. Select Board grants final approval following BOH and DEP
4. Land must be owned by descendants and burial site plan recorded as an addendum to the property deed at Registry of Deeds



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 - o Hydrogeological evaluation
 - Property should be evaluated by licensed surveyor if proposed burial location is within 75 feet of the property line
 - Soil profile
 - Body must have minimum 3 ft separation from bottom of burial to top of ESHWT and covered with minimum 3 ft soil
 - DEP recommends that BOH agent witness the soil evaluation, but it is not required (being performed by a certified soil evaluator *is* required), one test hole is sufficient should soil be acceptable
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ADDITIONAL CONSIDERATIONS: CAUSE OF DEATH



COMMUNICABLE AND OTHER INFECTIOUS DISEASES REPORTABLE IN MASSACHUSETTS BY HEALTHCARE PROVIDERS*

*Reportable infectious diseases and conditions are not limited to those designated below. This list includes *only* those which are *primarily* reportable by clinicians. A full list of reportable diseases in Massachusetts is detailed in 105 CMR 300.100.

REPORT IMMEDIATELY BY PHONE!

This includes both suspected and confirmed cases.

All cases should be reported to your local board of health;

if unavailable, call the [Massachusetts Department of Public Health](#):
Telephone: (617) 983-6800 Confidential Fax: (617) 983-6813

REPORT PROMPTLY (WITHIN 24 HOURS)

This includes suspected and confirmed cases.

Isolates should be submitted to the State Public Health Laboratory

- Anthrax
- Any case of an unusual illness thought to have public health implications
- Any cluster/outbreak of illness, including but not limited to foodborne illness
- Botulism
- Brucellosis
- Cholera
- Chikungunya virus
- Creutzfeldt-Jakob disease (CJD) and variant CJD
- Diphtheria
- Encephalitis, any cause
- Foodborne illness due to toxins (including mushroom toxins, ciguatera toxins, scombrototoxin, tetrodotoxin, paralytic shellfish toxin and amnesic shellfish toxin, staphylococcus enterotoxin and others)
- Hansen's disease (leprosy)
- Hemolytic uremic syndrome
- Hepatitis A (IgM+ only)
- Hepatitis B in pregnant women
- Hepatitis syndrome, acute possibly infectious
- Influenza, pediatric deaths (<18 years old)
- Infection due to novel influenza A viruses
- Jamestown Canyon virus
- Lymphocytic choriomeningitis
- Malaria
- Measles
- Meningitis, bacterial, community acquired
- Meningitis, viral (aseptic), and other infectious (non-bacterial)
- Meningococcal disease, invasive (*Neisseria meningitidis*)
- Mumps
- Pertussis
- Plague
- Polio
- Powassan
- Pox virus infections in humans, including variola (smallpox), monkeypox, vaccinia, and other orthopox or parapox viruses
- Rabies in humans
- Respiratory infection thought to be due to any novel coronavirus including SARS and MERS
- Reye syndrome
- Rickettsialpox
- Rocky Mountain spotted fever
- Rubella
- Tetanus
- Toxic shock syndrome
- Trichinosis
- Tuberculosis
- Evidence of tuberculosis infection
- Tularemia
- Typhoid fever
- Typhus
- Varicella (chickenpox)
- Viral hemorrhagic fevers

Animal bites should be reported **immediately** to the designated local authority.

Important Note: MDPH, its authorized agents, and local boards of health have the authority to collect pertinent information on all reportable diseases, including those not listed on this page, as part of epidemiological investigations (M.G.L. c. 111, s. 7).



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Reportable Diseases Primarily Detected Through Laboratory Testing

Please work with the laboratories you utilize to assure complete reporting.

- Anaplasmosis
- Amebiasis
- Babesiosis
- Campylobacteriosis
- Cholera
- Cryptosporidiosis
- Cyclosporiasis
- Dengue
- Eastern equine encephalitis
- Ehrlichiosis
- *Escherichia coli* O157:H7
- Enteroviruses (from CSF)
- Giardiasis
- Glanders
- Group A streptococcus, invasive
- Group B streptococcus, invasive in patients <1 year old
- Haemophilus influenzae*, invasive
- Hantavirus
- Hepatitis B
- Hepatitis C
- Hepatitis D
- Hepatitis E
- Influenza (if antiviral resistant)
- Legionellosis
- Listeriosis
- Lyme disease
- Melioidosis
- Norovirus
- Pneumococcal disease, invasive (*Streptococcus pneumoniae*) in patients <18 years old
- Pneumococcal disease, invasive, penicillin-resistant
- Salmonellosis
- Shiga toxin-producing organisms
- Shigellosis
- *Staphylococcus aureus*, methicillin-resistant (MRSA), invasive
- Staphylococcus aureus*, vancomycin-intermediate (VISA) and vancomycin-resistant (VISA)
- Psittacosis
- Q fever
- Toxoplasmosis
- Typhus
- Vibriosis
- West Nile
- Yellow fever
- Yersiniosis
- Zika

Report Directly to the Massachusetts Department of Public Health, Bureau of Infectious Disease and Laboratory Sciences
305 South Street, Boston, MA 02130
Tel: (617) 983-6801 Confidential Fax: (617)983-6813

Sexually Transmitted Infections

- Chancroid
- Chlamydial infections (genital)
- Gonorrhea
- Gonorrhea resistant to Ceftriaxone
- Herpes, neonatal (onset within 60 days after birth)
- HIV infection and AIDS
- Acute HIV infection
- Lymphogranuloma venereum
- Ophthalmia neonatorum
- Pelvic inflammatory disease
- Syphilis


Isolates should be submitted to the State Public Health Laboratory

ADDITIONAL CONSIDERATIONS:

CEMETERY OWNERSHIP

- Can a family create their own cemetery association if there are at least 5 individuals represented?
- What type of charitable organization can own a cemetery?
- Are there tax implications?
- What documents will the Registry of Deeds require?

Office Use Only: Fiscal Year



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
 NON-PROFIT ORGANIZATIONS/PUBLIC CHARITIES DIVISION
 ONE ASHBURTON PLACE
 BOSTON, MASSACHUSETTS 02108

(617) 727-2200, ext. 2101
www.mass.gov/ago/charities

Form PC

Report for the Fiscal Period: _____ to _____

Attorney General's Account #: _____

Federal ID #: _____

Electronic Payment Confirmation #: _____

When did the organization first engage in charitable work in Massachusetts? _____

Has the organization applied for or been granted IRS tax exempt status? Yes No

If yes, date of application **OR** date of determination letter: _____

IRS Exemption under 501(c): _____

If exempt under 501(c), are contributions to the organization tax deductible as charitable contributions? Yes No

Organization Data

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____

Email: _____ Website: _____

In the table below, please enter the appropriate codes from the corresponding tables found in the instructions. Enter **up to 2** codes from Table 3 for your organization's main purpose(s)

Category	Code	Category	Code
County (Table 1)	<input style="width: 100%;" type="text"/>	Organization Purpose Code 1	<input style="width: 100%;" type="text"/>
Type of Organization (Table 2)	<input style="width: 100%;" type="text"/>	Organization Purpose Code 2	<input style="width: 100%;" type="text"/>

Please check box if final return prior to dissolution:

Check all items attached (if applicable)

Filing Fee or Printout of

Electronic Payment Confirmation

Copy of IRS Return

Audited Financial Statements/Review

Amended Articles/By-Laws

Schedule A-1

Schedule A-2

Schedule RO

Schedule VCO

Probate Account

Form PC Rev. 11/2016

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Office Use Only: Payment Received

ADDITIONAL
CONSIDERATIONS:
TRANSPORTING
THE BODY

- How would a family obtain a burial permit if they're not using a traditional funeral home/cemetery?
- Would an individual be able to use MAVRIC for this type of scenario?



ADDITIONAL CONSIDERATIONS: WHO DOES ALL THE FILING?

- Who will be the point person for submitting all the necessary documents?
- Should the health agent monitor the progress of each step?
- Once approved, where else should the cemetery status be filed?



QUESTIONS?

KMESSIER@TOWN.ORLEANS.MA.US

