



Franklin Regional Council of Governments

Franklin County Cooperative Public Health Service

TO: CPHS BOH Members

FROM: Glen Ayers, Regional Health Agent

RE: Optional Board of Health Checklist for responding to requests from residents for establishing a Family Burial Plot

Overview: This document is intended to provide guidance to members of local Boards of Health in how to respond to requests from residents to approve future burials at home. Because the establishment of such a plot requires approval from DEP, residents need to carefully prepare a portfolio for DEP to review. This document is designed to recommend a process that will be successfully approved at DEP, but following the recommended steps it is entirely optional. This memo is not intended for residents. If you are a resident interested in a home burial plot, please call you Board of Health to begin the discussion.

Legal context:

Board of Health members should know what the current laws are that impact home burial. Below is a summary of the State DEP requirements for the siting of Family Burial Plots:

1. The Massachusetts Rivers Protection Act (Chapter 258 of the Acts of 1996) restricts the siting and use of Burial Plots within 200 feet of rivers.
2. Burial plots are prohibited within the Zone I of all Public Water Supplies (PWS).
3. Pursuant to the requirements of 310 CMR 22.20B (5), burials shall be excluded within 100 feet of the high water mark of a surface water source of a Public Water Supply or tributary thereto, unless permitted in writing by the affected PWS.
4. 310 CMR 22.21 (2)(b)(6) prohibits the removal of overburden soils within 4 feet of the historical high groundwater table elevation, unless the soils are re-deposited within 45-days of its removal to achieve a grading greater than the 4 feet above the historical high water mark.
5. The plot should not be within a FEMA Velocity Zone or 100 or 500 year flood zone.

(310 CMR 22.00 are the DEP Drinking Water Protection Regulations)

In addition, the Board of Health, pursuant to MGL Chapter 114 sec 37, is authorized to regulate the establishment of family burial plots, which are located on private property and reserved for the exclusive use of the property owner(s) and their family members.

A. Initial Steps to Establish a Family Burial Plot:

Our recommended set of steps for a local approval process are as follows:

- To ensure that the burial area is on the owner's property, the Board should request a survey of the property made by a licensed surveyor if the proposed burial plot is within 75 feet of the property line. The exact location and sizing of the burial plot, in relation to nearby property boundaries, should be provided by the applicant on a site plan, scale 1" = 20'. In lieu of the burial plot survey, the Board could also accept properly geo-referenced boundaries provided by a GPS unit, as long as the actual field locations are delineated by permanent monuments that are geo-referenced and located. Tie-in distances from property line markers should be provided to at least one of the permanent boundary monuments. A description of the permanent corner markers, any fencing, and other burial plot features should be provided. Proving the legal location of the plot will protect the Board from any liability should there be a question later.
- The Board should request that the number of proposed individual burials be identified on the plan.
- In order to comply with 310 CMR 22.21 (2)(b)(6), the Board should ensure that an *abbreviated soil evaluation* conducted by a Massachusetts DEP Certified Soil Evaluator is completed within the proposed plot boundaries to determine:
 - the estimated seasonal high groundwater elevation (ESHWT)
 - soil profile description to a depth of 4 feet
 - soil variability
 - depth to shallow bedrock, ledge, or other site limitations

This evaluation can be done using a form provided by the BOH (see attached). The abbreviated soil evaluation should be witnessed by a BOH member or their Health Agent (who must also be an approved Soil Evaluator). A member of the BOH may also perform the soil evaluation, provided they are an approved Soil Evaluator.

- The Board of Health should check that the finished slope of the proposed area does not exceed 3:1 unless a satisfactory slope stabilization method is implemented. This is to ensure that erosion does not expose the grave site.
- In order to comply with the Massachusetts Rivers Protection Act, residents should show setback distances to all wetlands, ponds, rivers, streams, runoff, and private and public wells within 200 feet on the site plan submitted to the Board of Health and DEP. Setback distances to Family burial plots must be located more than one-hundred-fifty (150) feet from such features. Manmade features including roads, buildings, and other structures and improvements should be shown on the plan if within 200 feet of the burial plot boundary.
- In accordance with the Drinking Water Protection laws, the Board of Health should advise residents that any body buried in a family burial plot must be covered with at least two (2) feet of soil. The bottom of the excavation must maintain at least two (2) feet of separation distance of naturally occurring soil above the Estimated Seasonal High Water Table (ESHWT) as determined in #2 above.

B. Green Burial Options for Establishing a Family Burial Plot

In order to prevent contamination of groundwater resources, the Board of Health may wish to encourage Green Burial practices. Green Burial practices minimize the use of metal, concrete, non-naturally occurring chemicals, and shall emphasize the use of biodegradable materials that

are used and interred during the burial process. Many local and internet resources exist to provide guidance to residents about their options for Green Burials.

C. Review Process and Approval or Denial in Writing

Once the Board has received the above information, the recommended permitting process is as follows:

- First, The Board of Health should review the submission of the information detailed in Section A, above, and make an initial determination in writing. If the Board of Health feels that all of its requirements have been met, the resident should get an *initial* approval in writing. If denied, the BOH should provide the reasons for denial.
- Next, the owner should have the location reviewed and approved by the local Conservation Commission to ensure that the Family Burial Plot complies with the Wetlands Protection Act.
- The Board of Health should then provide final written permission to establish the family burial plot.
- If approved by the Local Board of Health, the owner can submit the site plan and BOH written approval to the Regional Office of the Department of Environmental Protection (DEP) for review. Contact Information for DEP is as follows:

James Gibbs
Department of Environmental Protection, Western Regional Office
436 Dwight Street
Springfield, MA 01103
Main telephone: 413-784-1100
Email: james.gibbs@state.ma.us

- If approved by DEP, the owner will need to file a copy of the approved site plan as an addendum to the deed for the property and have it recorded at the Franklin County Registry of Deeds in Greenfield.

Please note: The approval of a home burial plot does not change the state requirements for a burial permit for the body and death certificate. Residents should coordinate with the Town Clerk on these matters.