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## Private Graves

**ORS 97.040 Private Family Burial Grounds** With the exception of ORS 97.040 pertaining to "private family burial grounds" Oregon law is silent on the matter of private property burials.

ORS "97.040 Private family burial grounds. Except for ORS 97.730, 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920 and 97.990 do not apply to private family burial grounds where lots are not offered for sale."  
(<http://www.leg.state.or.us/ors/097.html>)

**OM&CB's Position on Private Property Burial<sup>1</sup>**  
[http://www.oregon.gov/MortCem/popularity\\_boxes/Burial\\_20091221.pdf](http://www.oregon.gov/MortCem/popularity_boxes/Burial_20091221.pdf)

**Question : I own property in the State of Oregon. Is it legal for me to bury a family member on the property?<sup>1</sup>**

**Answer. Yes,** as long as certain conditions are met. Oregon Revised Statute 97 allows for the use of private property for family burial grounds as long as the following is true:

- You are the owner of the property or you have consent of all the owners of the property;
- You have contacted the local planning commission in your area and you have met their requirements for land use, if any; and have their written consent;
- You agree to maintain accurate, permanent records of the burial, and;
- You agree to disclose the burial upon sale of the property. You must also meet all State requirements for the completion of the death certificate and acquire all transport permits or other documentation required by the Office of Vital Statistics.

Typically most city jurisdictions do NOT allow burial on private land, period. Grants Pass does not, Josephine County does. Most likely, Cave Junction does allow it.

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## ORSs, OARs, Registration, Surveys

**ORS 307.150-307.157** All property used exclusively as a cemetery is not taxable. Any property exclusively occupied and used as a family burial ground is exempt from ad valorem taxation.

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**Question: What other considerations should I keep in mind for private burial?** Answer: Remember that the descendants of the person or persons being buried on your property may wish to continue to visit the grave or memorial many years in the future. This is the value of using cemetery property that has been permanently dedicated to this purpose. If you complete a home burial, please keep in mind and plan to negotiate the long term access rights to the grave site through an easement or other agreement. Otherwise, the new owner of the property is under no obligation to allow access.

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?Burial on Private Property is being modified to reflect law changes effective July 1 2009?

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<http://www.oregon.gov/MortCem/Meetings/sb796.pdf?ga=t>

**Cremation**

**Registration**

**County Surveys**

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1. Oregon Mortuary & Cemetery Board. Death Care in Oregon Fact Sheet: Burial of Human Remains on Private Property  
Information provided by the Oregon Mortuary & Cemetery Board |  
*Regulating Death Care Services and Practitioners in the State of Oregon.* |  
12/21/09 OMCB | 800 NE Oregon Street, Suite 430, Portland, OR 97232 |  
971.673.1500 | FAX 971.673.1501 | [www.oregon.gov/mortcem](http://www.oregon.gov/mortcem)

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## Hugo Graves Team

**Historic Cemeteries Program** is within the Oregon Parks and Recreation Department (OPRD).  
<http://www.oregon.gov/OPRD/HCD/OCHC/>. In order to be considered a historic cemetery under state law, the cemetery must have at least one burial of a person who died before February 14, 1909 and be listed with Oregon Commission on Historic Cemeteries.

**Research**

- The markers are still protected under Abuse of a memorial to the dead, even if not historic. ORS 166
- Human remains are protected ORS 97 and 166.
- Also, if they are over 75 years old, they are protected under archaeological laws.

**Hugo Graves Team Very Draft** "If the cemetery plot is surveyed, and then marked on county maps, the site could be perpetually protected. Just as the historic cemeteries are protected by listing them with the Historic Cemeteries Commission and the State."

**Be Respectful** Do not trespass. Always be respectful of your neighbor's property rights.

**Want more information?** Contact an officer of the *Hugo Neighborhood* on how you can become involved in your community history and land use. For more information on burials in Josephine County, contact Jean Boling.

Jean Boling, Historic Sites Chair  
Josephine County Historical Society

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## Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

### Land Use & History

The *Hugo Neighborhood's* land use mission is to promote Oregon Statewide Goal 1 — Citizen Involvement, and to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. It will act, if requested, as a technical resource assisting neighbors to represent themselves.

Its history mission is to educate, collect, preserve, interpret, and research its local history and to encourage public interest in the history of the Hugo area.

Volunteer membership dues are \$10.00 annually per family and normally used for paper, ink, envelopes, publications and mailings. Send us your e-mail address if you want to know what we are doing.

**Email:** [hugo@jeffnet.org](mailto:hugo@jeffnet.org)

**Web Page:** <http://www.hugoneighborhood.org/>

Edited by Jean Boling, Liz Butowitsch, Karen Rose, Wayne McKy, & Mike Walker

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Brochure 1B in Hugo's Home Grave Brochure Series - HNA & HS 2011 - 1B  
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# RULES FOR PRIVATE GRAVES

VERY DRAFT



*Wayne & Janet McKy, Jean Boling, and  
Deloss & Jeanette At Mackenzie's Hugo  
Grave Site*

**July 1, 2011**

**Hugo Neighborhood Association &  
Historical Society**

**Josephine County Historical Society**