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COUNTY OF MAUI

DEPARTMENT OF PLANNING

Family Burial Information Sheet

Effective Date: May 21, 2012

The Planning Department does not view home family burials as a land use issue that is regulated or enforced through the County's zoning ordinance (Title 19, Maui County Code). Family burials are considered a component of residential use and so are allowed where residential use is allowed. The definition of "use" in Title 19 is "the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained." Family burials are not considered the "purpose" for which land would be used.

However, there are laws and requirements that apply to family burials. State law distinguishes family burial plots from cemeteries and exempts such burials plots from cemetery requirements. Section 441-5.5, Hawaii Revised Statutes (HRS), reads:

Family burial plots. Owners of residential or agricultural property who use or intend to use their property for the interment of family members, shall be exempt from the provisions of this chapter; provided:

- (1) Burial plots on the owner's property shall be offered to family members only;
- (2) Burial plots shall not be sold or transferred to anyone, except as part of a sale or transfer of all or a substantial portion of the property;
and
- (3) Any subsequent disinterment of any person interred on the property shall be conducted as though the property were cemetery property under section 6E-41.

The State Department of Health (DOH) is responsible for administering this law. **DOH should be contacted to determine any eligibility requirements.** DOH may require verification from the County that the burial is allowed; if so, the Planning Department's Zoning Administration and Enforcement Division can issue a "Zoning and Flood Confirmation" form for the subject property that confirms residential or agricultural use and, therefore, could allow family burials pursuant to Section 441-5.5, HRS.

The following other requirements also apply, and families are strongly encouraged to verify compliance:

- The burial must meet the criteria of the exemption in Section 441-5.5 (confirm with DOH; confirm property ownership with the County's Real Property Tax Division). *If not, then the burial would be considered a cemetery and, therefore, would be regulated by Title 19.*

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793

MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634

CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

- The burial must not impact drinking water sources (confirm with the County's Department of Water Supply, Water Resources and Planning Division). *If it does, then a new location must be selected.*
- The burial site must not be located within any easements (confirm with property deed, title report, title company or private survey; utility type easements can also be confirmed with the County's Department of Environmental Management; Department of Public Works, Engineering Division; and Department of Water Supply, Engineering Division, as well as Maui Electric Company). *If it is, then it could violate easement agreements and a new location should be selected.*
- The burial site should be identified and recorded with the Bureau of Conveyances, whether with a site map, easement or metes and bounds description. *If not, then family members may not have future access to the site or may forget the location, and/or future property owners might not be aware of the site.*
- Families should also be aware that family burials on lots that are subject to wildfire events may be severely damaged if fire breaks need to be cut. Such work is often performed in the dark and/or under heavily smoky conditions with restricted visibility.

Contact Information:

Agency	Phone	Purpose
State Department of Health	984-8200	Confirm applicability of Sec. 441-5.5; determine other requirements
Planning Dept., Zoning Administration and Enforcement Division	270-7253	Confirm residential or agricultural use so that the family burial complies with state law
Real Property Tax Division www.mauipropertytax.com	270-7297	Confirm family ownership of the property
Dept. of Water Supply, Water Resources and Planning Division	463-3110	Confirm that there will be no impacts to public drinking water sources
Dept. of Water Supply, Engineering Division	270-7835	Confirm that the burial site is not within any waterline easements
Dept. of Environmental Management, Wastewater Reclamation Division	270-7417	Confirm that the burial site is not within any sewer line easements
Dept. of Public Works, Engineering Division	270-7745	Confirm that the burial site is not within any drainage, roadway or utility easements
Maui Electric Company	871-8461	Confirm that the burial site is not within any electrical line easements
Bureau of Conveyances	587-0151 (Honolulu)	Record a site map, easement or description