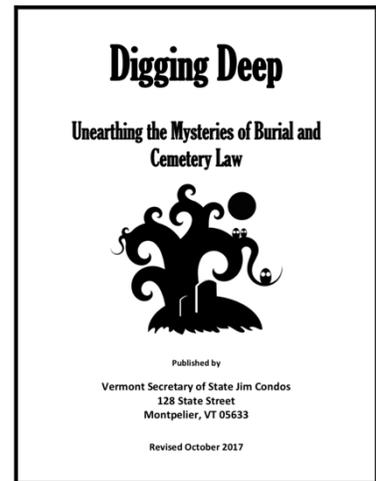


Excerpt from Digging Deep

Burial

Burial of a human body must be at least three and one-half feet deep, measured from the natural surface of the ground to the bottom of the outside coffin. This minimum requirement applies to burial of adults and children alike. 18 V.S.A. § 5319(b).

Vermont statute explicitly permits home burials. Specifically, a property owner may set aside a portion of his or her land to use as a burial space for immediate family members, so long as this use does not violate state and local health laws. 18 V.S.A. § 5319(a). See section II, F-1 on home burials for more information.



For burial in a natural burial ground, a body must be buried without a coffin or, alternately, in a nontoxic, nonhazardous, plant-derived burial container or shroud. 18 V.S.A. § 5302(11). For more information on natural burial grounds, see section II, A-12.

Who may operate a cemetery

There are three kinds of cemeteries in Vermont: those operated by a municipality; those operated by a cemetery association (an "incorporated cemetery"), and those operated by a religious institution or ecclesiastical society. The law was written to ensure that old cemeteries organized prior to 1933 continue to be lawful, even if these old cemeteries do not technically comply with current statutory requirements. 18 V.S.A. § 5303. However, the law is clear that "[e]very cemetery established after June 1, 1933, which is not owned and operated by a town or by a religious or ecclesiastical society must be established, owned and operated by a corporation as hereinafter prescribed." 18 V.S.A. § 5431.

Note that the law also recognizes private burial grounds, which are generally a portion of private land that has been used for family burials. 18 V.S.A. § 5319(a). See section II, F-1 for more information on private burial grounds and home burials.

Water standards for new and expanded cemeteries

Cemeteries that are created on or after July 1, 2015, as well as existing cemeteries that opt to expand their boundaries on or after that date, must comply with new standards for setbacks from water sources. The burial boundaries of a new or expanded cemetery must be specified distances from wells and other groundwater sources that are part of certain water supplies or public water systems. The boundaries must also be outside river corridors and flood hazard areas. 18 V.S.A. § 5319.

Private burial grounds and home burials

According to state statute and a 1973 Attorney General's opinion, families in Vermont may care for their own dead. This includes transport of the deceased, burial on private property, and disposal of cremated remains. Vermont law does not require embalming.

Creating, expanding, and using a private burial ground

Vermont law provides that a landowner may set aside a portion of his or her land to use as a burial space for immediate family members, so long as this use does not violate state and town health laws and regulations. 18 V.S.A. § 5319. For example, if a death occurs from a communicable disease, the Department of Health may require certain precautions to be taken. In addition, some towns may have local ordinances regarding home burials. We are not aware of any towns that prohibit home burials altogether by ordinance; it is unclear whether, absent an articulated public health or safety concern, a town could do so.

A landowner who wishes to create or expand a private burial ground should be aware of statutory requirements regarding locating burial grounds in relation to water, water supplies, and power lines. See 18 V.S.A. § 5319(b)(2).

A landowner should have a map of any burial site located on his or her property drawn and record it in the land records of the town clerk's office. It is also a good idea to add an easement to the deed permitting access to the burial ground.

Before a body may be buried in a family burial ground, a death certificate must be registered and a burial-transit permit obtained. 18 V.S.A. § 5201; see section I, A.

For the complete version of the 2017 publication *Digging Deep*, go to:

<https://www.sec.state.vt.us/media/886632/digging-deep-2017.pdf>