



In Loving Memory

Home Burials

September 15, 2025

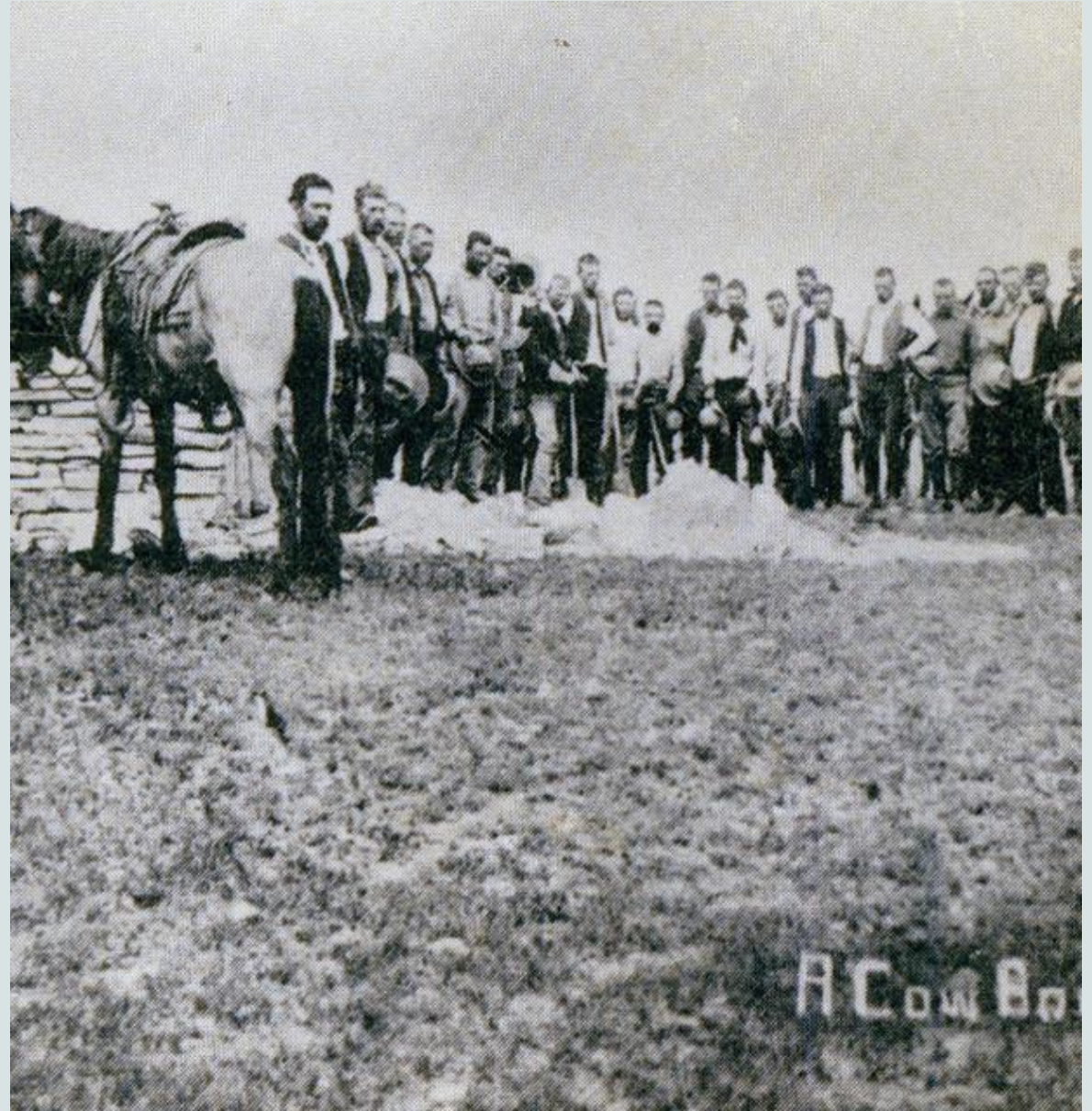
Mike Ernest, Lemhi County Coroner

Sue Warner, Adams County Coroner

Peter Donovan, Adams County Prosecutor

Why Home Burial ?

- Once the norm throughout North America and Europe.
- Burial practices have changed as population has increased.
- Interest in traditional home burial practices is growing, particularly in rural areas. Low cost and perceived logistical ease are major attractors.
- While burial in general is governed by several Idaho statutes, the manner in which a home burial can occur is largely unregulated. We're still in the Wild West!



Modern Requirements

- Local Laws: Before burying a body on private property, it is important to check with the county or municipality regarding any local ordinances (zoning or otherwise).
- Reporting and Permitting: The person possessing the body must file a written report with the registrar, which serves as a permit for burial according to Idaho law.
- Counties that regulate home burial grounds tend to require that a deed be filed indicating the burial ground, as well as some type of physical indicator on the land.

Steps for Establishing a Home Burial Ground

- The person interested should:
 1. Contact local authorities (Coroner, P&Z, etc).
 2. Review I.C. § 39-268 for reporting and specific permits.
 3. Ensure that the desired location meets any spatial restrictions.
 4. Ensure that the desired location is physically suitable.
 5. Comply with any applicable construction and recording obligations

Establishing a Home Burial Ground, cont.

5. Plan for ongoing maintenance, including upkeep of markers, landscaping, and access to future generations.
6. If property owners want to disestablish the cemetery, they will need to arrange for removal and reburial of remains.
7. They may also need to remove or convert physical features of the burial ground.

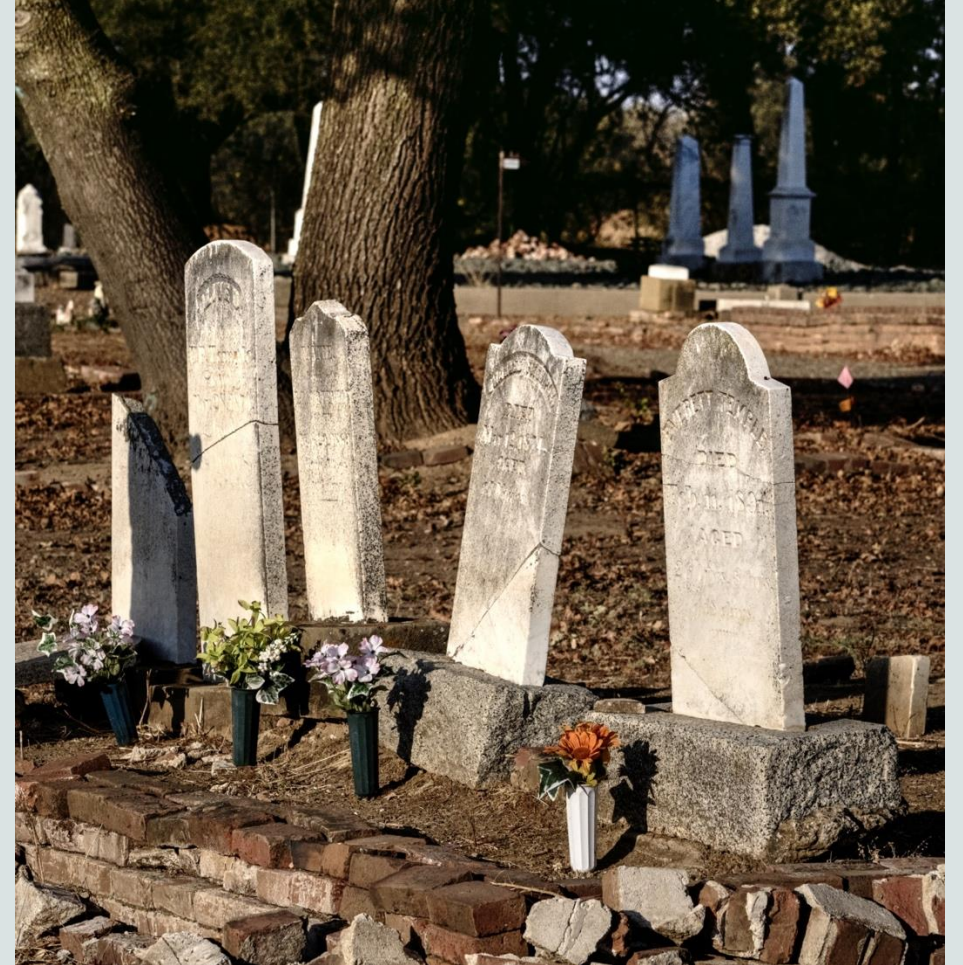
It is strongly advisable for citizens to seek independent professional advice to ensure proper documentation and compliance. Practices vary by county!

Examples of Typical Restrictions

- Distance/Depth, e.g.:
 - Non-cremated remains must be buried at least __ feet below the surface of the ground
 - No home burial ground shall be established within __ feet of a property line, road, dwelling, well, canal, etc.
- Physical Indicators: "A permanent marker or monument must be placed at the burial site as soon as practicable after interment of the remains, but placement may be delayed for a reasonable length of time for reasons arising from religious practice or other protected right."
- Disinterment: Disestablishment must involve the direction of a licensed mortician in compliance with I.C. § 39-269, removal of remains/markers, filing of new deed, etc.

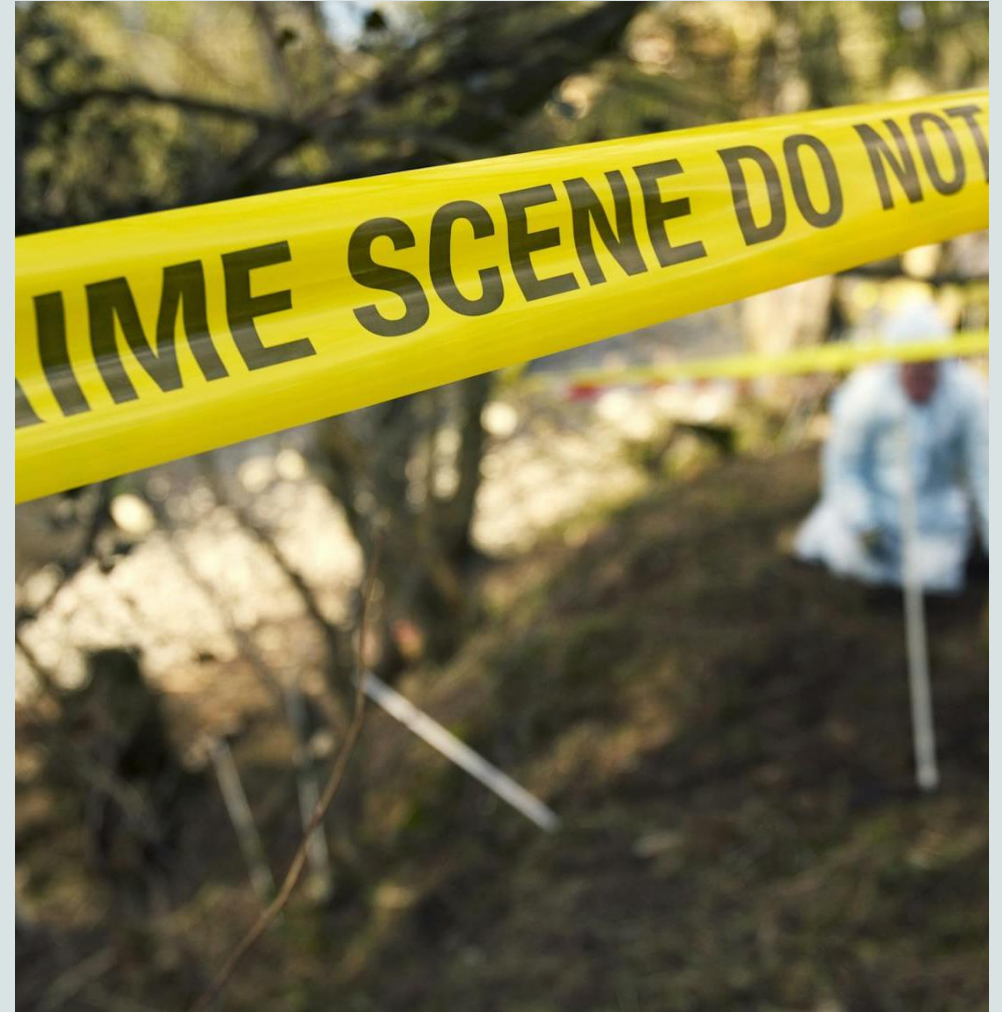
Best Practices for Composing Burial Ordinances

- Define essential terms and stick to them. Try to use different terms from other legal sources to avoid confusion, unless you are referring to the exact same thing.
- Avoid or incorporate Title 27, Idaho Code (“Cemeteries and Crematoriums”)
- Avoid or incorporate Title 25, Chapter 32, U.S. Code (“Native American Graves Protection and Repatriation”)
- Avoid provisions that could be interpreted as a restriction on religious practice.



Best Practices for Composing Burial Ordinances, cont.

- Consider the risk of unintentionally penalizing people, degrading property values, or generating litigation over things that happened long ago.
- Avoid complicating or restricting other government functions (e.g., criminal investigations).
- Include a construction and severability clause to reduce the odds and potential impacts of litigation.



Pitfalls for County Officials to Avoid

- Unauthorized practice of law. See I.C. § 3-420; Idaho Bar Commission Rule 801.
- Infringement upon right to free exercise of religion. See AMENDMENT 1, U.S. CONST.
- When in doubt... ask legal counsel (likely your county prosecuting attorney)



Home Burial Take Away

- Most bodies are buried in established cemeteries
- Burial on private property is possible and increasingly popular in Idaho
- Care must be taken to identify the proper local requirements
- General laws still apply (e.g., death certificate, report to registrar)
- If your county doesn't regulate this... you might want to!



Questions?

