

ESTABLISHING FAMILY CEMETERIES ON PRIVATE PROPERTY

Section 7054 of the Health and Safety Code states:

- (a) Except as authorized pursuant to the sections referred to in subdivision (b), every person who deposits or disposes of any human remains in any place, except in a cemetery, is guilty of a misdemeanor.
- (b) Cremated remains may be disposed of pursuant to Sections 7116, 7117, and 103060, or Sections 7054.6 and 103060.
- (c) Subdivision (a) of this section shall not apply to the reburial of Native American remains under an agreement developed pursuant to subdivision (1) of Section 5097.94 of the Public Resources Code, or implementation of a recommendation or agreement made pursuant to Section 5097.98 of the Public Resources Code.

For purposes of handling and disposing of human remains, Health and Safety Code Section 7003 defines a cemetery as follows:

- (a) Any of the following that is used or intended to be used and dedicated for cemetery purposes:
 - (1) A burial park, for earth interments.
 - (2) A mausoleum, for crypt or vault interments.
 - (3) A crematory or columbarium, for cinerary interments.
- (b) A place where six or more human bodies are buried.

Essentially, you propose to establish a “burial park” for family members on private land. Health and Safety Code Section 7004 defines a “burial park” as “a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.” Consequently, it is necessary for your intended burial park to be dedicated for cemetery purposes. As such, the provisions of the Health and Safety Code and Business and Professions Code related to private cemeteries are applicable. (Refer to Sections 8250 – 8253 of the Health and Safety Code and Chapter 1, Article 19, of the Business and Professions Code.) Unless otherwise exempt, these provisions would require your client to obtain a Certificate of Authority (COA) AKA cemetery license, as a private cemetery in order to establish the intended “family cemetery.”

The circumstances that qualify under an exemption are identified in the Cemetery Act. Specifically, Section 9609 of the Business and Professions Code provides:

This act does not apply to any of the following:

- (a) *A religious corporation, church religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.*
- (b) *A Public cemetery.*
- (c) *Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, such cemeteries shall be subject to the cemetery brokerage provisions of this act, ...*

The referenced laws can be accessed on the Bureau’s website at www.cfb.ca.gov, or at www.leginfo.ca.gov.