

State of South Carolina Calhoun County

Process for the Establishment and Registration of Family Burial Grounds

1. Contact Mrs. Debbie Roland, Director of the Calhoun County Museum and Cultural Center. Set up a meeting with Mrs. Roland to go over the information in the packet.

Regardless of where this packet of information was received, the formal cemetery establishment and registration process must be started by contacting Mrs. Roland. She may be reached by phone at 803-874-3964, via email at calhouncountymuseum@gmail.com, or in person at the Calhoun County Museum and Cultural Center located at 313 Butler Street, St. Matthews, South Carolina 29135.

The purpose of contacting Mrs. Roland at the Calhoun County Museum and Cultural Center is to provide you with a primary point of contact who will assist you in answering any questions you may have regarding this process. You are encouraged to contact Mrs. Roland often throughout the process. Please understand that the establishment of a family cemetery is a multi-step process and will require hiring professionals, such as a land surveyor and possibly an attorney. It will also take coordination between different Calhoun County (County) departments.

2. Ensure that you have a complete packet of information regarding the “Process for the Establishment and Registration of Family Burial Grounds.” *Not having a complete packet or failure to properly complete a step and submit verified information has the potential to delay the establishment of the family burial ground and may add time and may require additional resources.*

- **Attachment A:** An Ordinance to Regulate Burials in Calhoun County and to Provide for Criminal Penalties and Civil Recourse for Violations
- **Attachment B:** Requirements, Restrictions, and Recommendations for the Establishment and Development of Family Burial Grounds
- **Attachment C:** Requirements and Restrictions for the Use and Management of Family Burial Grounds
- **Attachment D:** Family Burial Ground Information Form

3. Complete a working/draft plat of the area showing all the requirements as set forth by the ordinance prepared by a registered surveyor. Provide the working/draft plat to Calhoun County’s Department of Building and Planning and Mrs. Roland at the Calhoun County Museum for review and comment.

4. Update the working/draft plan of the area once comments from Calhoun County's Department of Building and Planning and Mrs. Roland have been addressed and a site visit has been completed. The registered surveyor shall prepare the plat for recordation.

5. File the deed and completed plat in the Office of the Clerk of Court for Calhoun County.

6. Provide a completed copy the "Family Burial Ground Information Form" (see Attachment D), deed, and recorded plat to the Calhoun County Museum for inclusion in their archives regarding cemeteries and family burial grounds in Calhoun County.

It should be noted that it is the responsibility of the Calhoun County Historical Commission to maintain a list of existing cemeteries and that list shall be available for public inspection at the Calhoun County Museum.

Attachment A:

State of South Carolina
Calhoun County Council

An Ordinance to Regulate Burials in Calhoun County and to Provide for Criminal Penalties and Civil Recourse for Violations

- Note: **Section 5** of the above referenced ordinance lays out the requirements for the establishment of new family burial grounds.
- Note: *“Kin by blood or marriage to the owner or to a person buried therein by the third degree” means parent, child, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, great-grandparent, great-grandchild, first cousin.*

STATE OF SOUTH CAROLINA
CALHOUN COUNTY COUNCIL

AN ORDINANCE TO REGULATE BURIALS IN CALHOUN COUNTY AND TO
PROVIDE FOR CRIMINAL PENALTIES AND CIVIL RECOURSE FOR VIOLATIONS

Be it hereby ordained by Calhoun County Council:

Section 1: Definitions

"Grave Space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of a deceased person.

"Human Remains" or "remains" means the body of a deceased person and includes the body in any stage of decomposition.

"Burial" means interment in the ground of remains of a deceased person

"Family Burial Ground" means designated area on privately owned property for the burial of family which includes relatives kin by blood or marriage to the owner or to a person buried therein by the third degree.

Section 2:

It shall be unlawful for any "Human Remains" to be buried in Calhoun County, South Carolina, except in a cemetery operated by a licensed legal entity or person pursuant to "South Carolina Cemetery Act of 1984" or in a "Family Burial Ground".

Section 3:

Cemeteries and burial grounds in existence as established by historical records, deeds, wills or plats shall be exempt from the

regulations herein.

Section 4:

A list of existing cemeteries and known "Family Burial Grounds" shall be kept on file with the curator of the Calhoun County Historical Commission and shall be available for public inspection at the Calhoun County Museum.

Section 5:

"Family Burial Grounds shall be registered with Calhoun County Historical Commission and the following restrictions shall apply:

(A) All Family Burial Grounds shall have at least 2 acres designated for interments.

(B) All Family Burial Grounds shall be named and a plat of the area prepared by a registered surveyor. Plat shall be filed in the Office of the Clerk of Court for Calhoun County and a copy provided to the Calhoun County Museum.

(C) No Grave Space shall be within one hundred (100) feet of the property of a person or legal entity different than the owner of the Burial Ground without the express written consent of the adjoining land owner as documented by consent on the survey or other recordable document.

(D) Human Remains in Family Burial Grounds shall be properly embalmed by a licensed embalmer or funeral home and interment shall be according to commonly accepted practices which do not create a nuisance or danger to public health.

(E) All Family Burial Grounds shall have access for ingress, egress, and regress from a public road to the Burial Ground having a width of not less than thirty-three (33) feet.

(F) The depth of the tops of all burial vaults shall be a minimum of ten (10") inches below the surface, and in the event vaults are not used, the minimum depth shall be twenty-four (24") inches below the surface.

(G) The location of all graves shall be recorded and registered with the Calhoun County Historical Commission and shall be marked with a permanent marker.

Section 6:

Revision of Section 5 of this Ordinance may be waived or

granted a variance upon hardship or special circumstance by resolution adopted by majority vote of Calhoun County Council. Variance may only be waived after a public hearing with three (3) days notice to persons requesting variance and all adjoining landowners. All decisions concerning waiver or variances shall be set forth in writing along with the basis for granting or denying the variance.

Any party or adjoining landowner shall have the right to appeal any decision to the Court of Common Pleas for the State of South Carolina.

Section 7:

Any person who violates the provisions of this Ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred (\$500.00) and imprisonment not to exceed thirty (30) days.

Section 8:

The care and maintenance of any cemetery or Family Burial Ground in the unincorporated areas of the County which is abandoned may be assumed by resolution of Calhoun County Council. Calhoun County shall have a lien on any property of the owner of an abandoned cemetery or Family Burial Ground for the costs of maintenance by filing notice of lien in the Office of the Clerk of Court for Calhoun County, and shall have the legal authority to sue for all costs of maintenance and attorney's fees for the enforcement of the liens in the same manner as the enforcement and foreclosure of mechanic liens as established by the general statutory law of the State of South Carolina.

Section 9 - Severability:

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid or unconstitutional by a decision of any court or regulatory body of competent jurisdiction, such decision shall not effect the validity of the remaining portions hereof. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The end validity of any portion of this ordinance shall not abate, reduce or otherwise affect any consideration or other obligation. All ordinances and parts of ordinances in conflict with the provisions herewith of this ordinance are hereby repealed.

Section 10 - Effective Date:

This ordinance shall take effect and be in full force and effect upon its adoption on the third reading by the Council.

CALHOUN COUNTY COUNCIL

By: 

David K. Summers, Chairman

ATTEST:


Donna R. Allread, Clerk

(SEAL)

Attachment B:

Requirements, Restrictions, and Recommendations for the Establishment and Development of Family Burial Grounds

- **Requirements/Restrictions:** (See Section 5 of “An Ordinance to Regulate Burials in Calhoun County and to Provide for Criminal Penalties and Civil Recourse for Violations”)
 - A minimum of two (2) acres shall be designated for internments.
 - The family burial ground shall be named. *For example: The John Mack Family Cemetery.*
 - A plat of the area shall be prepared by a registered surveyor. The plat shall be filed in the Office of the Clerk of Court for Calhoun County. A copy of the recorded plat shall be provided to the Calhoun County Museum for inclusion in their archives regarding cemeteries and family burial grounds in Calhoun County.
 - All access for ingress, egress, and regress from a public road to the burial ground shall have a width of not less than thirty-three (33) feet.
- **Recommendations:** *Based on past experience with the creation of family burial grounds, the County also suggests the following.*
 - Enclosing the family burial grounds with a fence so that the boundaries for burial are clearly identifiable to current and future generations.
 - A sign at the entrance that includes the name of the family burial ground, date of establishment, and any rules regarding visitation, etc.
 - Designating a “scattering area” for cremated remains with its own marker so that those who wish to be cremated and their remains scattered in the family cemetery will have an established area with a marker that records their inclusion in the family burial ground.
 - Ingress, egress, and regress from the public right-of-way should be as short as practical and as possible. Take into consideration the ease with which you will want to be able to access the family burial grounds for burials as well as maintenance. Also consider the need for ease of access to the property should there be a medical emergency.
 - Review of South Carolina Department of Archives and History’s (SCDAH) publication *South Carolina’s Historic Cemeteries: A Preservation Handbook*, which may be located on their website at [https://scdah.sc.gov/sites/default/files/Documents/Historic%20Preservation%20\(SHPO\)/Publications/cemeterypres.pdf](https://scdah.sc.gov/sites/default/files/Documents/Historic%20Preservation%20(SHPO)/Publications/cemeterypres.pdf). While your family burial ground will be new and this

publication addresses historic burial grounds, it may prove to be a useful and informative read that allows you to better prepare for the use and management of the family burial grounds by and for future generations. Other technical guidance and South Carolina laws for the preservation of historic family burial grounds may be located on SCDAH's website at <https://scdah.sc.gov/historic-preservation/technical-assistance/cemeteries>. Again this additional information may prove useful for future planning.

Attachment C:

Requirements and Restrictions for the Use and Management of Family Burial Grounds

- **Requirements/Restrictions:** (See Section 5 of “An Ordinance to Regulate Burials in Calhoun County and to Provide for Criminal Penalties and Civil Recourse for Violations”)
 - No grave shall be within one hundred (100) feet of the property of a person or legal entity different than the owner of the proposed family burial ground without the express written consent of the adjoining land owner as documented by consent on the survey or other recordable document.
 - Preparation of the human remains to be interred in the family burial ground must be properly embalmed by a licensed embalmer or funeral home and interment shall be according to commonly accepted practices which do not create a nuisance or danger to public health.
 - The depth of the tops of all burials vaults shall be a minimum of ten (10) inches below the surface, and in the event vaults are not used, the minimum depth shall be twenty-four (24) inches below the surface.
 - All grave locations shall be recorded and registered with the Calhoun County Historical Commission and shall be marked with a permanent marker.
- **Recommendations:** *Based on past experience with the creation of family burial grounds, the County also suggests the following.*
 - Management for the long-term use of the new family burial ground does not only include cutting the grass. When recording a deed for the new family burial ground include a reservation that the parcel will continue to be used as a family burial ground for those kin by blood or marriage to the owner or to a person buried therein by the third degree. Also consider appointing a trustee or trustees and having a trust fund to ensure the care and management of the family burial ground for and by future generations.

Attachment D:

Family Burial Ground Information Form

**Family Burial Ground Information Form
Calhoun County, South Carolina**

Family Burial Ground Name: _____

Parcel ID: _____

Closest Physical Address: _____

(City) _____ (State) _____ (Zip Code) _____

Point of Contact responsible for the establishment, use, and management of the above referenced family burial ground.

Name: _____

Address: _____

(City) _____ (State) _____ (Zip Code) _____

Phone: _____ Fax: _____

Email: _____

I, _____, am the rightful owner (or am one of the rightful owners) of the above referenced property.

I, _____, have notified the adjoining property owners in writing that I am establishing a family burial ground on the above referenced property.

I, _____, know of no water sources (public or private) on the above referenced property.

I, _____, know of no wetlands on the above referenced property.

I, _____, understand the rules and regulations of owning and maintaining a family burial ground in Calhoun County, South Carolina and have recorded a deed and plat for the above referenced family burial ground with the Clerk of Court for Calhoun County and have provided copies of the recorded documents to the Calhoun County Museum for inclusion in its archives.

I, _____, understand the rules and regulations of owning and maintaining a family burial ground in Calhoun County, South Carolina and will ensure that a copy of the obituary and death certificate for each internment shall be filed with the Calhoun County Museum for inclusion in its archives within ninety (90) calendar days of interment.

I, _____, understand the rules and regulations of owning and maintaining a family burial ground in Calhoun County, South Carolina and will ensure that a permanent marker shall be placed on each grave within a year of burial.

I, _____, understand that cemetery property may be exempt from property taxes by filing SCDOR PT-401 (<https://dor.sc.gov/forms-site/Forms/PT401L.pdf>).

(Name, Printed)

(Name, Signed)

(Date)

SWORN to before me this _____ day of _____, 20____.

Notary Public for South Carolina

My Commission Expires: _____