

FIRST ASSISTANT DISTRICT ATTORNEY
SEAN WATERS

ASSISTANT DISTRICT ATTORNEYS
DENNIS FRIES
RUSSELL ANDERSON
CLIFF JOHNS
KERI SPENCER

FINANCE COORDINATOR/H.R.
CAMMIE RAGSDALE

VICTIM WITNESS COORDINATORS
MICAHA GRANTHAM
KALI GLEISSNER
KAITLYNN BATES

INVESTIGATOR
BERT POOLE
JEFFREY SMITH



JANET HUTSON

DISTRICT ATTORNEY
15TH PROSECUTORIAL DISTRICT
MUSKOGEE COUNTY COURTHOUSE
220 STATE STREET
MUSKOGEE, OK 74401
PHONE: 918-682-3374
FAX: 918-687-3347

PARALEGALS
CRISSY REED
KERRI MCDARIS
CAITLAN TREAT

RECEPTIONIST
ASHTON MORRISSEY
ANGELA FORD

PROBATION ENFORCEMENT
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BOGUS CHECK/RESTITUTION
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Polly Irving
County Clerk
Muskogee County

Re: Burial of dead on private property

Polly:

I have researched the issue of whether it is legal to bury a deceased upon private property; and basically, it would appear the answer is it depends.

I have not found anything definitive regarding this question. In the research that I have done I believe that this cannot happen within the city limits because there are typically city ordinance and zoning laws that prohibit burial outside of a cemetery within the city limits. So, because of this I would advise the person making the inquiry contact the city attorney's office to confirm whether the City restricts such burials which I feel almost certain they do.

It would appear from what I have researched that a person may bury on personal property outside the city limits. (See Title 59 O.S. Section 396.19). There is no specific statute that I could find that would prohibit such a burial. However, there are other requirements that must be considered. Oklahoma does not require embalming however if there will be no embalming it is required that the body be buried within twenty-four (24) hours of death unless there are refrigeration facilities available. (See OAC 235:10-11-1).

Pursuant to Title 21 O.S. Section 1158 there are certain people that have the right to control the disposition of the remains of the deceased person. Those persons are: (1) the decedent if pre-arrangements have been made; a representative appointed by the decedent, the surviving spouse, the sole surviving adult child of the deceased or the majority of the surviving adult children; the guardian of the deceased; the person in the classes of the next degree of kinship in descending order.

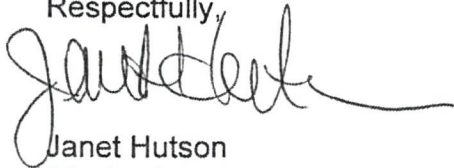
STATE OF OKLAHOMA
MUSKOGEE COUNTY
FILED OR RECORDED
2026 AUG 20 AM 10:08
POLLY IRVING
COUNTY CLERK

In summary I do believe a person can bury on their private property outside of the city limits. There are also specific requirements about obtaining death certificates this is outside the scope of the District Attorney's office.

My advice to this individual making inquiry given the lack of statutory authority on this issue would be to contact a private attorney and have them make sure there are no restrictions, zoning ordinances, or deed restrictions that would preclude the same.

THIS OPINION IS NOT DEFINITIVE BUT AN ADVISORY OPINION BASED UPON THE RESEARCH I HAVE DONE.

Respectfully,

A handwritten signature in black ink, appearing to read "Janet Hutson", with a long horizontal flourish extending to the right.

Janet Hutson
District Attorney