



Midway

**RESOLUTION
2026-10**

**A RESOLUTION ESTABLISHING REQUIREMENTS FOR PROOF OF LEGAL AUTHORITY
FOR INTERMENT, TRANSFER, OR USE OF BURIAL RIGHTS IN THE MIDWAY CITY
CEMETERY**

WHEREAS, Midway City owns and operates the Midway City Cemetery and retains ownership of all cemetery property; and

WHEREAS, Burial Rights Certificates grant limited rights of interment and use, but do not convey fee title ownership; and

WHEREAS, due to inconsistent historical recordkeeping and the passage of time, the City has encountered increasing difficulty in determining the lawful holder of burial rights; and

WHEREAS, disputes have and may continue to arise among heirs, descendants, or other parties claiming an interest in burial plots; and

WHEREAS, record keeping since the inception of the Cemetery in the late 1800's has not always been consistent or adequately maintained; and

WHEREAS, the City now has some plots where the current owners of the Burial Right are difficult or impossible to determine; and

WHEREAS, the City has a legitimate interest in ensuring that only individuals with proper legal authority may direct the use, transfer, or interment within a burial plot; and

WHEREAS, requiring clear legal documentation protects the City, preserves orderly administration of the cemetery, and prevents wrongful interments or transfers;

NOW, THEREFORE, be it hereby Resolved by the City Council of Midway City, Utah, as follows:

Section 1. Requirement of Proof of Legal Authority

No person shall be permitted to:

- authorize an interment,
- transfer, assign, or convey burial rights, or
- otherwise claim, control, or utilize a burial plot

within the Midway City Cemetery unless that person provides **sufficient written proof**, as determined by the City, that they are the **sole legal authority** entitled to act with respect to such burial rights.

Section 2. Acceptable Forms of Legal Authority

Proof of legal authority may include, but is not limited to, one or more of the following:

1. Court Appointment
 - Letters Testamentary or Letters of Administration appointing the person as personal representative of a decedent's estate.
2. Probate Documentation
 - Court orders, decrees of distribution, or other probate documents establishing ownership or control of the burial rights.
3. Affidavit of Heirship
 - A properly executed affidavit identifying all heirs, accompanied by documentation reasonably sufficient to establish its validity.
4. Unanimous Written Consents / Waivers
 - Signed and notarized waivers or consents from all known heirs, descendants, or persons with a potential legal interest in the burial rights.
5. Contractual or Recorded Instruments
 - Burial Rights Certificates, assignments, or other legally enforceable documents demonstrating a valid transfer of rights.
6. Court Order
 - Any court order specifically authorizing the applicant to control, transfer, or utilize the burial plot.

Section 3. Sole Authority Requirement

The applicant must demonstrate to the reasonable satisfaction of the City that:

- no other person has an equal or superior legal claim; or
- all other persons with a potential claim have **waived or relinquished** their interests in writing.

If multiple parties have competing claims and no clear authority is established, the City may:

- deny the request; and/or
- require resolution through a court of competent jurisdiction.

Section 4. City Discretion and Protection

1. Administrative Determination

The Midway City Sexton or designated official shall have authority to review submitted documentation and determine whether the applicant has met the requirements of this Resolution.

2. Right to Require Additional Documentation

The City may require additional evidence as reasonably necessary to verify legal authority.

3. Refusal to Act

The City may refuse any interment, transfer, or use of burial rights where:

- documentation is incomplete, insufficient, or disputed; or
- the City determines that legal authority has not been clearly established.

4. Reliance Protection

The City may rely in good faith on documents submitted and shall not be liable for actions taken based on such reliance.

Section 5. No Duty to Determine Heirship

Nothing in this Resolution shall require Midway City to independently determine heirship or resolve legal disputes. The burden shall remain on the applicant to establish legal authority.

Section 6. Indemnification and Hold Harmless

As a condition of approval of any request to:

- authorize an interment,
- transfer or assign burial rights, or
- otherwise claim or utilize a burial plot,

the applicant shall:

1. Agree to Indemnify

Defend, indemnify, and hold harmless Midway City, its officers, employees, and agents from and against any and all claims, demands, damages, losses, liabilities, costs, or expenses (including reasonable attorney's fees) arising out of or related to:

- any dispute regarding ownership or control of burial rights;
- any claim by heirs, descendants, or other persons asserting an interest in the burial plot;
- any alleged improper interment, transfer, or use of burial rights; or
- the City's reliance upon the documentation or representations provided by the applicant.

2. Warranty of Authority

The applicant represents and warrants that:

- they have full legal authority to act with respect to the burial rights; and
- all information and documentation provided to the City is true, complete, and accurate.

3. Duty to Defend

The applicant shall, upon request by the City, assume the defense of any claim or action arising from the matters described herein.

4. Condition of Approval

No interment, transfer, or use of burial rights shall occur until the applicant has executed any indemnification agreement or form required by the City.

Section 7. Applicability

This Resolution shall apply to:

- all interments,

- all transfers of Burial Rights Certificates, and
 - all claims of ownership or control
- occurring after the effective date of this Resolution.

Section 8. Effective Date

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Midway City Council on the ____ day of _____, 2026.

MIDWAY CITY COUNCIL

	AYE	NAY
Council Member Kevin Payne	_____	_____
Council Member Lisa Orne	_____	_____
Council Member JC Simonsen	_____	_____
Council Member Andy Garland	_____	_____
Council Member Andrew Osborne	_____	_____

APPROVED

Craig Simons, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM

Corbin B. Gordon, City Attorney



Midway

Midway City Cemetery

Burial Rights Certificate Transfer Request Form

CERTIFICATE INFORMATION

Certificate Number: _____

(YEAR-MONTH-DAY-PLOT NUMBER)

Burial Plot: SECTION ____ BLOCK ____ LOT ____ PLOT ____

Plot Type:

Single Stacked Cremation Plot Cremation Niche

ORIGINAL OWNER INFORMATION

Name: _____

Address: _____

Telephone: _____

Email: _____

Residency: Midway Wasatch County Non-Resident

Hereby transfers the Burial Rights Certificate described above to the following:

NEW OWNER INFORMATION

Name: _____

Address: _____

Telephone: _____

Email: _____

Residency: Midway Wasatch County Non-Resident

REQUIRED LEGAL AUTHORITY & DOCUMENTATION

IMPORTANT:

No transfer, assignment, or use of any Burial Rights Certificate shall be approved unless the applicant demonstrates that they are the **SOLE LEGAL AUTHORITY** entitled to act with respect to the burial plot and that all required legal processes have been completed.

The applicant must check all that apply and attach supporting documentation:

Proof of Legal Authority (check all applicable):

- Court Order establishing authority
- Letters Testamentary / Letters of Administration (Personal Representative)
- Affidavit of Heirship
- Probate Order / Decree of Distribution
- Fully executed waivers from all heirs or descendants with potential claims
- Documentation establishing successor in interest under Certificate
- Other (describe): _____

APPLICANT CERTIFICATION (REQUIRED)

By signing below, the undersigned certifies under penalty of perjury that:

1. I am the **sole lawful person** authorized to transfer, assign, or exercise rights in this Burial Rights Certificate;
2. I have completed all required legal processes necessary to establish such authority;
3. All individuals with any potential legal claim or interest have been properly addressed, notified, or have waived their rights;
4. All documents submitted are true, correct, and complete.

INDEMNIFICATION AGREEMENT (REQUIRED)

The undersigned agrees to **defend, indemnify, and hold harmless Midway City**, its officers, employees, and agents from and against any and all claims, disputes, demands, damages, or legal actions arising out of or related to:

- This transfer request
- Any competing claims of ownership or burial rights
- Any alleged failure to properly obtain legal authority

This indemnification includes attorney fees and costs incurred by Midway City.

SIGNATURE

Dated this ___ day of _____, 20__.

Applicant / Transferor Signature:

Original Certificate Owner

State of _____ }

:ss

County of _____ }

Subscribed and sworn to before me by _____, on this ___ day of _____, 20__.

NOTARY PUBLIC

ADMINISTRATIVE REVIEW (CITY USE ONLY)

Note: Transfer from Resident to Non-Resident will require payment of the fee difference.

Documentation Checklist

- Original Certificate of Burial Rights Attached (No transfers can be approved without surrender of the original Certificate).
- All required legal authority documentation received
- Legal authority verified by City
- No conflicting claims identified
- Transfer Fees Paid in Full
- Residency status confirmed
- Resident to Non-Resident Transfer? Yes No

FINAL APPROVAL

NOTICE: The Midway City Sexton shall not approve any transfer unless all legal authority documentation has been reviewed and deemed sufficient.

New Certificate No: _____

ACCEPTED BY:

Midway City Sexton