

Title 20. Public Health and Welfare

Chapter XXIII. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, State Insurance Department, Department of Commerce

Subchapter A. Generally

Part 830. Rule Pertaining to Perpetually Maintained Cemeteries

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Authority

This rule is promulgated pursuant to Ark. Code Ann. §§ 23-61-1103(a)(5)(C), 23-61-1109(a)(4), and 20-17-1304(2)."

"Effective Date

This rule is effective after review and approval by the Arkansas Legislative Council, ten (10) days after filing of the approved Rule with the Arkansas Secretary of State."

Subpart 1. Generally

20 CAR § 830-101. Purpose.

The purpose of this part is to provide requirements that are applicable to perpetual care cemeteries and the cemetery companies who own and operate perpetual care cemeteries.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-102. Definitions.

As used in this part:

(1) "Board" means the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

(2) "Care and maintenance" means the continual maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery;

(3)(A) "Cemetery" means any land or structure in this state dedicated to, and used or intended to be used for, interment of human remains.

(B) It may be either a:

(i) Burial park for earth interments;

(ii) Mausoleum for vault or crypt interments; or

(iii) Combination of one (1) or more burial parks for earth interments and mausoleums for vault or crypt interments;

(4) "Cemetery company" means an individual, partnership, corporation, limited liability company, or association, now or hereafter organized, owning or controlling cemetery lands or property, and conducting the business of a cemetery or making an application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or control the lands, or conduct the business;

(5)(A) "Cemetery deed" or "instrument of conveyance" means a deed or certificate that conveys the right of interment or entombment in the lot or grave space.

(B) The right of interment or entombment is subject to the rules of the perpetual care cemetery;

(6) "Columbarium" means a structure or room or space in a building or structure used or intended to be used for the interment of cremated human remains;

(7) "Crypt" means a chamber in a wall that is built of sufficient size to inter casketed human remains;

(8) "Infant interment garden" means a designated area in a perpetual care cemetery for the interments of infants and children no more than twenty-four (24) months of age;

(9) "Interment" means the lawful disposition of the remains of a deceased person as provided by law;

(10) "Lawn crypt" means an interment space sometimes referred to as a "belowground crypt", "Westminster", or "turf top crypt" in a preplaced chamber or burial vault either side-by-side or at multiple depths, covered by earth and sod;

(11) "Lot" or "grave space" means a space of ground in a cemetery used or intended to be used for interment therein;

(12) "Mausoleum" means a community-type structure or room or space in a building or structure used or intended to be used for the interment of human remains in crypts or niches;

(13) "Niche" means a space in a columbarium that is used or intended to be used for the interment of the cremated remains of one (1) or more deceased persons;

(14) "Permit holder" means a cemetery company that holds a permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or operate a perpetual care cemetery;

(15) "Perpetual care cemetery" means a cemetery for the benefit of which a permanent maintenance fund has been established; and

(16) "Properly maintained" means that care and maintenance services are provided, including without limitation:

(A) Mowing the grass;

(B) Weed trimming around lots or grave spaces and fences or property lines of the cemetery;

(C) Emptying trash receptacles; and

(D) Removing excess dirt, tree limbs, leaves, trash, and other debris from the grounds.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-103. Fee for examination of cemetery.

The fee for every examination conducted by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services or its representative shall be one hundred dollars (\$100) per day for each examiner who conducts the examination.

Authority. Arkansas Code §§ 20-17-1007, 23-61-1103.

20 CAR § 830-104. Permit — Application.

(a) **Proof of publication.** Before making application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for a permit to establish and operate a new cemetery or for the extension of the boundaries of an existing cemetery, the person or cemetery company proposing to make application shall publish weekly for three (3) weeks in a newspaper of general circulation in the county in which the proposed cemetery is located, a notice that an application will be filed with the board to establish or extend the boundaries of a cemetery in the county.

(b) **Form of application.**

(1) The application for a permit to establish and operate a cemetery is not required to be in any specific form, but it must be in writing and signed in the presence of a notary.

(2) The application shall include the following components:

(A) **Date of filing.** One (1) original signed copy, under oath, and one (1) copy of the application must be filed with the board not less than twenty (20) calendar days prior to the board meeting at which the application is to be considered;

(B) **Fee.**

(i) If the application is for a permit to establish a cemetery, then a fee of fifteen hundred dollars (\$1,500.00) shall accompany the application.

(ii) If the application is to extend the boundaries of an existing cemetery, then a fee of four hundred dollars (\$400) shall accompany the application; and

(C) **Survey and map.**

(i) The applicant shall file a survey and map with the board.

(ii) If the survey and map are filed with the Department of Health, as part of the investigation undertaken by the department, then the applicant may submit proof of the filing with the department.

(c) Protest to application for permit.

(1) Whenever any person desires to protest the issuance of a permit, the protestant shall file with the board a written protest setting forth any objections.

(2) Any such protest must be filed at least seven (7) calendar days before the board meeting at which the application is to be heard.

(3) The protestant shall send a copy of the protest to the cemetery company making application, and the protestant shall also submit to the board, proof that he or she sent a copy of the protest to the cemetery company.

(d) Additional information required. In addition to the required information provided in Arkansas Code § 20-17-1008, any application to establish a new cemetery shall contain the following information:

(1)(A) The applicant's form of business organization, e.g. corporation, partnership, sole proprietorship, limited liability company, etc.

(B) If the form of business is a corporation or limited liability company, the applicant must identify under which state law the entity is incorporated or organized;

(2) If the applicant is a foreign corporation or limited liability company, the following information must be submitted:

(A) The applicant's resident agent for service of process;

(B) The address of the applicant's home office; and

(C) A statement that the applicant has been registered with the Secretary of State as a foreign corporation or a limited liability company, doing business in the State of Arkansas;

(3) The names and addresses of applicant's managing officers and board of directors, or if a partnership, the names and addresses of all partners and their respective share of the business;

(4)(A) The amount of outstanding capital stock of the applicant and a list of the stockholders of record who hold, own, or control at least twenty percent (20%) or more of the voting or capital of the applicant.

(B) The list of stockholders must indicate if a stockholder of record holds the stock as trustee or agent for someone other than himself or herself;

(5)(A) A copy of the articles of incorporation, articles of organization, bylaws, or similar founding charter of the applicant.

(B) The copy must be duly authenticated and certified by the proper authority.

(C) If the applicant is a partnership, then it must submit a copy of the partnership agreement;

(6)(A) A statement as to whether the corporation or limited liability company is a subsidiary of another corporation or limited liability company.

(B) If the applicant is a subsidiary, then it shall submit:

(i) The name of the parent organization;

(ii) The percentage of voting securities owned by the parent organization; or

(iii) Any other basis of control by the parent organization;

(7)(A) A description of all property held by the applicant.

(B) If any such property is not held in fee or is subject to any encumbrance, then the applicant must so state and briefly describe how held;

(8) A statement as to whether the applicant is the owner or operator of any other cemetery in this or any other state and the name and address of the cemetery (or cemeteries), and the contact information of the cemetery or cemeteries;

(9)(A) A statement briefly describing the nature of any legal proceedings against the applicant, any of its owners, officers, agents, or employees, or the partners of a partnership, or the owner of a proprietorship, which have occurred within the last ten (10) years.

(B) The person responsible for the application shall also submit a statement about any final judgments or orders against an applicant, an owner, an officer, an agent, an employee, or a partner, or an owner of a proprietorship, and the person may submit copies of the final judgments or orders;

(10) A consolidated balance sheet and a profit and loss statement prepared by an independent certified public accountant showing the financial condition of the applicant as of thirty (30) calendar days before the filing of the application;

(11)(A) A statement showing an estimate of the volume of sales expected to be produced in the first five (5) years of operation.

(B) The estimate should be based upon criteria such as:

- (i) Projected population growth in the area;
- (ii) The number of cemeteries in the area;
- (iii) The condition of these cemeteries; and
- (iv) Any other relevant facts; and

(12) Any other evidence which would show a public need for the cemetery.

(e) If any of the information required by subsection (d) of this section is already on file with the board, the applicant may incorporate the previous filing or filings by reference in the application.

(f)(1) The applicant shall designate an individual to be responsible for the application.

(2) The individual shall undergo and pass a state criminal background check, the cost of which shall be borne by the applicant.

(g) The board may require an applicant to submit such other information it deems necessary.

Authority. Arkansas Code §§ 20-17-1008, 23-61-1103.

20 CAR § 830-105. Permit — Investigation by the Department of Health.

Upon submission of an application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for the issuance of a permit to establish a new cemetery or to extend the boundaries of an existing cemetery, the applicant shall request that the Department of Health investigate the proposed cemetery location or extension to determine if the proposed new location or the proposed extension of boundaries will be sanitary.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-106. Permit — Approval by board and issuance of permit.

(a) If the application for a new perpetual care cemetery or extension of boundaries of an existing perpetual care cemetery is approved, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall issue a permit to the cemetery company setting forth the legal description of the property to be used as a cemetery.

(b) The cemetery company shall file a copy of each newly issued permit with the county clerk of the county in which the cemetery is located, and shall send a copy of each newly issued permit to the Department of Health.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-107. Permit — Amendment.

(a)(1) An application to modify an existing permit shall be filed and shall include the information required in Arkansas Code § 20-17-1011.

(2) A specific form is not required, but the application must be in writing and signed in the presence of a notary.

(b) An application must be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services at least twenty (20) calendar days before the meeting at which the board will consider the application.

(c) A fee of four hundred dollars (\$400) shall accompany the application for amendment of the permit.

(d) If the proposed rules and regulations for the use, care, and management of the cemetery or the proposed method of establishing a permanent maintenance fund are already on file with the board, the applicant may incorporate such information by reference in lieu of submitting a copy of the rules and regulations of the cemetery.

(e)(1) The board may determine that an amendment to a permit may be necessary.

(2) If so, the cemetery company presently holding the permit shall be notified of the board's decision to review the existing permit, and it shall be given an opportunity at the meeting to participate in the discussion.

(f) Any application to amend a permit shall be discussed at a regular or a special meeting of the board.

(g)(1) If the board determines that an existing permit should be amended, the board shall issue a new permit.

(2) The new permit shall supersede the previous permit.

(3) The new amended permit shall be filed by the cemetery company with the county clerk in the county in which the cemetery is located and a copy sent to the Department of Health.

Authority. Arkansas Code §§ 20-17-1011, 23-61-1103.

20 CAR § 830-108. Permit —Transfer of ownership.

(a)(1) A specific form is not required.

(2) However, one (1) original copy signed in the presence of a notary, and one (1) copy of the application to transfer ownership of a cemetery shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(3) The application shall include the information required in Arkansas Code § 20-17-1012.

(b) An application to transfer ownership must be filed with the board at least twenty (20) calendar days prior to the board meeting at which it is to be considered.

(c)(1) The application to transfer ownership shall be accompanied by a fee of fifteen hundred dollars (\$1,500).

(2) However, the fee is not required if the person or entity who is to gain the controlling interest of the cemetery is an heir to the estate of the individual who previously held the controlling interest in the permit.

(d) The following provisions apply to all applications to transfer ownership of a cemetery:

(1) The cemetery company proposing to acquire the ownership or a controlling interest in a cemetery company currently holding a permit shall file the information set forth in 20 CAR § 830-105(d)(1) – (10), unless upon proper showing the board waives one (1) or more of the requirements;

(2) If any of the information required by 20 CAR § 830-105(d)(1) – (10) or Arkansas Code § 20-17-1012 is already on file with the board, then the applicant may incorporate the previous filings by reference; and

(3) The board may require the cemetery company proposing to acquire or the cemetery company proposing to dispose of the ownership of a cemetery to submit such other information as it deems necessary.

(e) Any application to transfer ownership of a permit shall be discussed at a regular or a special meeting of the board.

(f)(1) Prior to the sale or transfer of ownership, the seller or transferor shall notify the board of the proposed sale or transfer.

(2) Such notification need not be in any specific form but it must be in writing and signed in the presence of a notary.

(g) The seller shall submit the following information:

(1) A report disclosing:

(A) The balances as reported on last previous annual report;

(B) The amounts of sales for which payment has been made in full since the annual report;

(C) The corresponding deed or instrument numbers which have been issued;

(D) The amounts and dates of each deposit made to the permanent maintenance fund; and

(E) Such other information necessary to show that all amounts due to be paid into the permanent maintenance fund have been satisfied.

(2) Listings which detail each account receivable and each discounted note showing the:

(A) Name of the lot purchaser;

(B) Gross amount of the lot sale price; and

(C) Outstanding balance;

(3) Report of the trustee disclosing the date and amount of all deposits to the trust fund since the annual report, the dates and amounts of income earned and disbursed since the annual report, and a listing of all assets of the permanent maintenance fund delineating between principal assets and income assets; and

(4)(A) All reports and listings required by subsection (g) of this section shall be as of the same date, which date shall not be more than forty-five (45) calendar days prior to the date of the board meeting at which the application shall be heard.

(B) The reports and listings shall be filed at least seven (7) calendar days prior to such meeting date.

(h) If such application for transfer of ownership is approved by the board, the seller or transferor shall, within seven (7) calendar days after the sale or transfer date, submit a statement, under oath, of the assets of the permanent maintenance fund as of the sale or transfer date.

(i)(1) If the board finds that the seller or transferor and the purchaser or transferee have submitted all required information, the board shall order the issuance of a new permit to the purchaser or transferee.

(2) The new permit shall supersede the previous permit.

(3) The date of the new permit shall coincide with the date of sale or transfer.

(4) The permit holder shall file a copy of the newly issued permit with the county clerk of the county in which the cemetery is located and shall send a copy of the new permit to the Department of Health.

Authority. Arkansas Code §§ 20-17-1012, 23-61-1103.

20 CAR § 830-109. Permanent maintenance fund generally.

(a)(1) Each permanent maintenance fund shall have a written trust agreement governing the operation of the fund.

(2) A copy of the trust agreement shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(b) The board shall be notified prior to any change in the trustee arrangement or in the trustee or trustees by either the cemetery company or the trustee or trustees.

(c) If the board finds that a cemetery company must pay a penalty for failure to make required deposits to the trust fund, the cemetery company must submit proof to the board from the trustee or trustees that the penalty has been deposited into the cemetery company's permanent maintenance fund.

(d)(1) A cemetery company that elects to establish a permanent maintenance fund overseen by an individual trustee shall have each bank or financial institution that will receive deposits for the permanent maintenance fund, furnish the board with a letter setting forth that:

(A) All funds deposited shall be federally insured;

(B) All funds except the interest earned thereon, will be restricted so that it may not be pledged, withdrawn, or otherwise encumbered without written authorization of the board; and

(C) The name of the trustee who may withdraw the interest.

(2) Permanent maintenance funds deposited in any one (1) bank or other financial institution in excess of the maximum Federal Deposit Insurance Corporation insurance shall be deemed to be federally insured if the bank or other financial institution pledges specific security which are direct obligations of the United States government, or agencies whose securities are guaranteed by the United States government, as collateral for the funds in excess of the Federal Deposit Insurance Corporation insurance coverage.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-110. Permanent maintenance fund — Trustees.

(a)(1) If a permanent maintenance fund is overseen by three (3) trustees, then the minutes of the trustee meetings must be maintained by the cemetery company.

(2) The minutes must be signed by all three (3) trustees, reflect the authorization of all purchases and sales of investments, and reflect the authorization of all disbursements of income.

(3) If the trust agreement provides that only one (1) trustee shall have sole disbursement authority, then minutes must be prepared by that one (1) trustee and submitted to the remaining trustees for ratification at least twice a year.

(b)(1) A fidelity bond is required of any trustee who makes disbursements from the trust fund.

(2) The bond shall be deposited with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services and shall indemnify the permanent maintenance fund against loss of money or property, which the fund shall sustain through fraudulent or dishonest acts committed by trustees having disbursement authority.

(3) The fidelity bond shall remain in full force and effect from the effective date of the bond, until it is terminated or modified by the corporate surety thereon, and such fidelity bond shall provide that thirty (30) calendar days' notice must be given to the board by the corporate surety prior to the effective date of termination.

(4) Any modification to the fidelity bond must likewise be filed with the board.

(c) If a fidelity bond includes a deductible, an appropriate deposit of cash or securities, in a form approved by the board, shall be accepted to meet the deductible.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-111. Permanent maintenance fund — Required deposits.

(a)(1) A cemetery company may elect to discount installment sales contracts at a bank or other financial institution and receive a discounted value immediately in cash.

(2) When this election is made, the required percentage of the gross sales price shall be placed in a separate restricted escrow account at the time that the contract is discounted.

(3) The escrow agreement shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(4) The agreement shall include the terms under which the escrow account is restricted.

(5) Further:

(A) The amount placed in escrow shall not be withdrawn until the lot purchaser defaults on or fully satisfies his or her contract obligations;

(B) The escrow account may be used by the bank or other financial institution as part of its required reserve and may be used as recourse if the lot purchaser defaults on the contract;

(C) Upon default, the required percentage of the gross sales price which was placed in the escrow account may be withdrawn and used by the cemetery company; and

(D) Once final payment has been made, the required percentage of the gross sales price which was placed in the escrow account shall be withdrawn and placed into the permanent maintenance fund within five (5) business days.

(b)(1) A cemetery company may also elect to receive installment payments directly.

(2) When this election is made, the company shall maintain records as to the full:

(A) Amount of the sale;

(B) Receipts received; and

(C) Balance due.

(3) The company shall deposit the required percentage of gross proceeds of sale into the permanent maintenance fund no later than the forty-fifth day after the final payment is made, or the company may deposit the required percentage of each amount received not later than the forty-fifth day after each installment payment by the purchaser.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-112. Conveyance of lots.

(a) Deeds or other instruments of conveyance shall be issued only by the cemetery company that holds the perpetual care cemetery permit.

(b) Requirements:

(1) The original deed or other instrument of conveyance, and one (1) copy of the deed or other instrument of conveyance issued to the purchaser, shall be maintained by the cemetery company; and

(2) If a transfer instrument of conveyance is issued, the following records shall be maintained by the cemetery company:

(A) The original transfer deed or other instrument of conveyance and one (1) copy;

(B) The date and amount previously paid to the trust;

(C) The name of the previous owner or owners;

(D) A copy of the quitclaim deed or sufficient documentation showing the grantor's request for termination of ownership; and

(E) Documentation, to include a dated signature, of the new owner or owners whereby the new owner or owners acknowledges receipt of a copy of the cemetery's rules.

(c)(1) A replacement deed or other instrument of conveyance should be accompanied by transfer documentation issued by the cemetery pursuant to its rules.

(2) A copy of all transfer documentation and the replacement deed or instrument of conveyance shall be kept by the cemetery.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-113. Records required.

(a)(1) All cemetery companies must keep a book, journal, or comparable record of cash receipts and disbursements showing the date, amount, person from who received or to whom disbursed, and the purpose of each receipt or disbursement.

(2) This record shall reflect amounts disbursed and deposited to the permanent maintenance fund and any other disbursement of funds by the cemetery company.

(3) Records should be kept in compliance with general accounting practices.

(b) All sales contracts must be numbered consecutively after a sales contract is executed by the cemetery company, and must contain at least the following:

(1) Date of contract;

(2) Total purchase price;

(3) Terms of sale;

(4) Description of plot or plots purchased;

(5) Signature of buyer or buyers;

(6) Address of buyer or buyers;

(7) Date when paid in full;

(8) Deed number or certificate (of interment rights) number (the deed or certificate or other instrument of conveyance shall be issued within sixty (60) days of payment in full); and

(9) Acknowledgment that the purchaser or purchasers has or have received a copy of the rules of the cemetery.

(c)(1) The cemetery company must maintain a copy of each contract in a numerical file or must maintain a numerical listing of each contract with sufficient details, referenced in subsection (b) of this section.

(2) All voided or cancelled contracts must be so marked and retained in the files indefinitely.

(d) Each original signed contract must be retained by the cemetery company.

(e)(1) Cemetery companies that enter into sales contracts in which one (1) basic contract is drawn for the sale of cemetery lots and other items, such as memorial and burial vaults, must specifically set out in such contract the purchase price of each item being purchased and the total sales contract price.

(2) If such contract is paid for with an installment plan, the payments must be prorated among the respective items so that full payment of any or all items can be readily identified.

(3) Only the portion of the sales contract which is for the purchase of the cemetery lot shall be subject to the trust fund deposit requirements.

(f) Sales contracts which include a calendar or fiscal year and are numbered consecutively within said prefix, shall be considered to be numbered consecutively.

(g) Requirements for installment sales:

(1)(A) The cemetery company must retain accounts receivable records on all contracts not yet paid in full.

(B) The records must be maintained on contracts where the cemetery company receives installment directly as discounted contracts.

(C) All accounts must be posted currently (at least once a month), either by the cemetery company or the bank, financial institution, or other person discounting the note.

(2)(A) Prior to discounting sales contracts with a bank or other financial institution, a cemetery company must verify that the institution will provide the cemetery company with monthly statements showing the status of each discounted note.

(B) Such monthly status reports must be maintained in the cemetery file.

(3) If the sales contracts provide for installment payments which include interest, credit life insurance, or similar items, the cemetery must comply with all applicable federal and state rules and regulations.

(h) **Instruments of conveyance required.**

(1) Each cemetery company shall issue deeds, certificates, or some other instrument of conveyance, and maintain a record, such as a deed book, of all instruments issued.

(2) All instruments of conveyance must be prenumbered and either the stubs of the instruments or a record book shall be kept which reflects:

(A) A corresponding contract number;

(B) The name of the purchaser;
(C) The date and amount of deposit to the trust fund; and
(D) That the deed or other instrument of conveyance was executed and made available to the owner within forty-five (45) days after final payment is received, or payment is made in full.

(i) The cemetery company must continuously maintain a cemetery map, plot plan, or comparable record, either in paper or electronic format, reflecting all:

- (1) Interments;
- (2) Lots paid-in-full; and
- (3) Lots under contract but not yet fully paid.

(j) The cemetery company must have its current rules providing for the general care and maintenance of the cemetery on file at the cemetery for the use of the public.

(k)(1) Each cemetery company shall file with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a copy of the rules, and any changes thereto, providing the general care and maintenance of the cemetery.

(2) The rules shall be filed within forty-five (45) calendar days after adoption by the cemetery company.

(l)(1) Records required for deeds or other instruments of conveyance, contracts, and plot maps must be kept indefinitely.

(2) All other books and records must be kept for at least five (5) years.

Authority. Arkansas Code § 23-61-1103.

20 CAR § 830-114. Annual report of cemetery company — Fees.

(a) The fee for filing an annual report is three hundred twenty-five dollars (\$325).

(b) The burial sale contract fee is seven dollars (\$7.00) for each burial sale contract entered into.

Authority. Arkansas Code §§ 20-17-1023, 23-61-1103.

20 CAR § 830-115. Insolvent cemetery grant funds.

(a) An organization is eligible to receive insolvent cemetery grant funds if the organization operates a perpetual care cemetery that is insolvent or is in financial distress as determined by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(b) An eligible organization includes a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

(c) Application for grant funds.

(1)(A) An application for insolvent cemetery grant funds, or an application to make a change in an approved grant application, need not be in any specific form, but must be made in writing and signed in the presence of a notary.

(B) The original application shall be accompanied by one (1) copy.

(2) The application shall contain the following information:

(A) Name of applicant;

(B) Documentation demonstrating that the applicant meets the eligibility requirements;

(C) Documentation demonstrating that the applicant is in good standing with all applicable federal, state, and local agencies that govern the applicant;

(D)(i) The name of the individual or individuals principally responsible for the care, maintenance, and operation of the insolvent cemetery.

(ii) The individual or individuals must be primarily responsible for the company that controls the cemetery, and has the authority to bind the company.

(iii) The individual or individuals will be held responsible to complete the required reports to the board, if the grant application is approved;

(E) Amount requested by applicant;

(F) A project synopsis for the use of the grant fund monies, which shall include:

(i) The specific use of the funds;

(ii) An itemized list of specific needs to be addressed;

(iii) Projected costs for each item; and

- (iv) A detailed plan for implementing and completing the project;
- (G) The goals and objectives of the project;
- (H) The duration of the project;
- (I) Implementation timeline for use of the funds;
- (J) A budget summary containing a detailed summary of the proposed budget and information of other financial resources utilized; and
- (K) The policy and procedures of the applicant detailing the administration and oversight of the funds.

(3) The board may request additional information as needed for evaluation of the request for funds.

(4) Applications must be filed with the board at least twenty (20) calendar days prior to the meeting at which the grant application is to be considered.

(d) Criteria for grant applications and awards.

(1) The applicant must demonstrate to the board that it has the resources available to ensure that the funds are used as proposed.

(2) The board may determine funding priorities and amounts based on the overall needs of an insolvent cemetery.

(e) Oversight for all grant expenditures.

(1) The applicant shall appoint an institutional custodian of the grant fund monies.

(2) The applicant shall provide documentation that it has obtained all applicable federal, state, and local permits required to disburse any granted funds.

(3) A copy of the original application, and all project expenditures with invoices attached shall remain on file at the cemetery.

(f) Reporting and recordkeeping requirements.

(1) Recipients shall submit timely quarterly reports of the progress of the project, end of the year financial reports, and a final report when the project is completed.

(2) The grant fund recipient shall submit in writing, any request for changes of the approved project.

(3) The books and records shall comply with generally accepted accounting principles.

(g) Board monitoring of use of grant funds and records.

(1) The board will monitor projects through site visits, review of project reports, and review of the company's financial records related to the project or projects.

(2) The board shall annually examine the books and records of the grant fund recipient to determine compliance.

(3) The examination shall include, but not be limited to:

(A) Review of the books and records of the grant fund money;

(B) Review of the expense reports, invoices, receipts, and bank statements; and

(C) Review of the projects detailed in the application to ensure compliance with the project summary as described in the application.

(4) A report of the examination shall be submitted to the board.

(h)(1) Grant fund recipients shall submit quarterly reports.

(2) The reports are due forty-five (45) calendar days from the end of each calendar quarter.

(i) The reports shall include:

(1) Financial statements in accordance with generally accepted accounting principles;

(2) Expense reports; and

(3) Project status reports.

(j) Failure to submit timely quarterly or end of year reports shall provide grounds for the board to withhold disbursement of grant funds for subsequent grant requests.

(k) End of the year reports.

(1) The reports shall be due forty-five (45) calendar days from the end of the calendar year.

(2) The report shall contain:

(A) Financial statements;

(B) Project summary statements; and

(C) Proof of expenditures from the grant award, including but not limited

to:

- (i) Expense itemization for each grant;
- (ii) Date of purchase of items or services;
- (iii) Items or services purchased;
- (iv) Vendor;
- (v) Purchase price;
- (vi) Invoice or purchase order number; and
- (vii) Estimated completion dates of the on-going project or projects.

(l) Final report.

(1) Upon completion of a project the recipient shall file a final report with the board.

(2) The final report shall contain:

- (A) Financial statements;
- (B) Expense reports; and
- (C) Proof of completion of the project.

(m) Grant fund recipients shall provide the board with copy of the recipient's federal and state tax returns within thirty (30) calendar days after submission of the federal and state tax returns.

(n) Funds are to be used to make infrastructure repairs and capital improvements as defined in Withdrawal from Permanent Maintenance Fund, 20 CAR pt. 831.

Authority. Arkansas Code § 23-61-1103.

Codification Notes. 105(c)(3) of the Internal Revenue Code is codified at 26 U.S.C. § 501.