

**PERPETUAL CARE CEMETERY APPLICATION
REQUIRED EXHIBITS CHECKLIST**

- ☐ Check or money order in the amount of \$500.00 made payable to: **TEXAS DEPARTMENT OF BANKING**. Please follow directions on the enclosed invoice.
- ☐ Completed questionnaire on pages 1 - 3 of the application. Page 3 of the application is to be signed by an officer of the applicant. The signature must be notarized.
- ☐ **Exhibit "A"** – Biographical data for each principal owner, partner, or officer with at least a 25% controlling interest of the business. If this is not applicable, please provide an explanation of the ownership structure, an organizational chart, a list of investors, and biographical data for each officer. Additionally, refer to Supervisory Memorandum 1042 regarding the effects of criminal convictions on licensing.
- ☐ **Exhibit "B"** - Copy of the Articles of Incorporation filed with the Secretary of State. See Incorporation Required; Minimum Capital under Section 712.003 of the Texas Health and Safety Code (Health and Safety Code). **Please Note:** The Articles of Incorporation should reflect that the purpose of the corporation is to operate a perpetual care cemetery pursuant to the Texas Health and Safety Code of Chapter 711.021 and in accordance with Chapter 712 of the Health and Safety Code. Please contact the Secretary of State for their requirements prior to filing your Articles.
- ☐ **Exhibit "C"** – If applicable, an assumed name certificate that has been filed with the Secretary of State and/or County Clerk. Please refer to the Assumed Name Certificate instructions enclosed for more information.
- ☐ **Exhibit "D"** - Executed Perpetual Care Trust Agreement.
- ☐ **Exhibit "E"** - Evidence of ownership or title to real property by cemetery organization, including the warranty deed.
- ☐ **Exhibit "F"** - Evidence that \$50,000.00 has been deposited in the perpetual care trust account along with a copy of the trust statement.
- ☐ **Exhibit "G"** - Copy of the cemetery rules and regulations. Please ensure that the pages are numbered, and the cemetery name is on the rules and regulations.
- ☐ **Exhibit "H"** – Proof of Good Standing with Comptroller.
- ☐ **Exhibit "I"** - Most recent financial statements (prefer audited) to assure that the \$75,000.00 capital requirement has been met. (Most current annual balance sheet along with most recent quarterly income statement.)
- ☐ **Exhibit "J"** - Copy of the cemetery contracts to be used, including the retail installment contract and the cash contract.
 - ☐ Name, address, and telephone number of the cemetery must be listed on the contract
 - ☐ Disclosures:
 - ☐ “This cemetery is operated as a perpetual care cemetery, which means that a perpetual care fund for its maintenance has been established in conformity with the laws of the State of Texas. Perpetual care means to maintain, repair, and care for the cemetery, including the roads on cemetery property.”
 - ☐ “Complaints concerning perpetual care cemeteries should be directed to: Texas Department of Banking, 2601 North Lamar Blvd., Austin, TX 78705: 1-877-276-5554 (toll free); www.dob.texas.gov.
 - ☐ “Charges are only for those items that you selected or that are required. If we are required by law to use any items, we will explain the reasons in writing below.”

☐ **Exhibit "K"** - Copy of the certificate of ownership to be used. See certificate requirements under Section 712.007(c) of the Texas Health and Safety Code.

☐ Must be executed by two officers

☐ Must reflect complete and accurate description of interment space conveyed

☐ Required Disclosure: "This cemetery is operated as a perpetual care cemetery, which means that a perpetual care fund for its maintenance has been established in conformity with the laws of the State of Texas. Perpetual care means to maintain, repair, and care for the cemetery, including the roads on cemetery property."

☐ **Exhibit "L"** - Copy of the cemetery price list containing the following information:

☐ Name, address, and telephone number of the cemetery must be listed on the contract

☐ If the document contains more than one page, it must contain page numbers

☐ The effective date for the stated prices must be listed

☐ Disclosure: "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the goods and services you selected."

☐ **Exhibit "M"** – Copy of plat map and dedication, filed with County Clerk's office along with evidence of the distance requirements as per Section 711.008 of the Texas Health & Safety Code.

☐ **Exhibit "N"** – ACH form, required per Section 26.1 of the Texas Administrative Code.

☐ **Exhibit "O"** – New cemeteries must submit a letter from the city authority granting permission to establish a cemetery.

☐ Evidence that the marker/monument disclosure is included on one of the following four required documents as required by Section 26.4(g) of the Texas Administrative Code: the cemetery's price list, purchase agreement, marker/monument order form, or the cemetery's Rules and Regulations.

Disclosed on:

- ☐ Price List
- ☐ Purchase Agreement
- ☐ Marker/Monument Order Form
- ☐ Rules and Regulations

Recommended disclosures:

ABC Cemetery must order your burial marker or monument not later than 21 days after you have paid 100% of the cost of the marker or monument; you have paid in full all charges for the interment spaces and corresponding required perpetual care, you have paid in full any marker or monument setting fees; you have approved the lettering and design for the marker or monument; and you have signed the necessary documentation directing or authorizing ABC Cemetery to order the marker or monument.

ABC Cemetery must set your marker not later than 15 days after you have inspected and accepted the marker, and you have paid in full all charges for the marker and interment spaces, including required perpetual care and any setting fees. ABC Cemetery must set your monument not later than 25 days after you have inspected and accepted the monument, and you have paid in full all charges for the monument and interment spaces, including required perpetual care and any setting fees.

If ABC Cemetery is unable to set your burial marker or monument by the aforementioned deadlines, ABC Cemetery will notify you in writing not later than the 5th day after the date by which your marker or monument is required to be set and inform you of the reason for the delay, and the date by which ABC Cemetery expects to be able to set your marker or monument.