PHOENIX OFFICE:

100 North 15th Avenue

Suite 201

Phoenix, Arizona 85007

[www.azre.gov](http://www.azre.gov)

STATE OF ARIZONA

DEPARTMENT OF REAL ESTATE

“An Equal Employment Opportunity Agency”

## APPLICATION FOR

**CERTIFICATE OF AUTHORITY**

**TO OPERATE A CEMETERY**

This application must be filed and Certificate of Authority issued pursuant to A.R.S. 32-2194.01 et seq. prior to the sale of cemetery plots and the operation of a cemetery as defined in A.R.S. 32-2101(10), unless you are exempt pursuant to A.R.S. 32-2194. The Development Services Manager or any Real Estate Representative located in the Phoenix Office may be contacted for assistance.

Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice. If you require special accommodations, please contact either office listed above.

**SECTION I**

**INSTRUCTIONS AND GENERAL INFORMATION**

1. Read and understand this section thoroughly, prior to compiling the required documents in Section II and answering the questions in Section III of this application.
2. Secure all the required documents listed in Section II of this application.
3. Answer all questions in Section III of this application.
4. File this complete application, together with the required documents, at either office of the Department of Real Estate. An initial fee of $500.00 must accompany this application pursuant to A.R.S. 32-2194.02.

**This application will not be accepted for initial processing unless Section III has been completed and payment of the $500.00 fee received.**

1. Payment of all fees related to this application must be by check made payable to the Arizona Department of Real Estate.
2. One or more site inspections of the cemetery may be performed by the Department to verify, among other things, timely completion of improvements. Inspection costs, including travel and subsistence expenses, shall be paid by the applicant pursuant to A.R.S. 32-2194.02.

7. Upon review of this application, additional information and/or documentation may be required. Failure to completely answer all questions and submit all documents pertaining to the cemetery will delay processing the application.

1. Pursuant to A.R.S. 32-2194.10, a change to the cemetery or the plan under which plots are offered for sale may invalidate the Certificate of Authority and require amendment of the application. Continuing sales or offers for sale after any change without notifying the Department and amending the application may result in administrative action. This may include, but is not limited to, suspended sales, voidable contract(s) and/or administrative penalties.
2. Twenty-one days before use, the cemetery owner or agent shall file with the commissioner a copy of promotional and advertising material of any kind used directly or indirectly in connection with the sale of cemetery plots or any material changes in the material. It is not necessary to make repetitive filings of material, which is the same as or varies only in minor details from material, which has previously been filed with the commissioner for the cemetery.
3. The Department is required by law to process this application in accordance with established time frames. The following is a description of the time frames and procedures which the Department and applicant must comply with:
4. **OVERALL time frame.** The Department shall issue or deny a Certificate of Authority within the overall time frame after receipt of the complete application. The overall time frame is the total of the number of days provided in the administrative completeness review and substantive review.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   | **Administrative****Completeness** | **Deficiency Completion**  | **Substantive****Completeness**  | **Additional****Information** | **Overall****Time-** |
|  | **Review** | **Period** | **Review** | **Period** | **frame** |
|  |  |  |  |  |  |
| Original |  |  |  |  |  |
| Application | 40 | 40 | 60 | 40 | 100 |
|  |  |  |  |  |  |
| Amendment | 30 | 30 | 30 | 30 | 60 |

B. **Administrative completeness review**

1. The administrative completeness review time frame begins the date the Department receives the application. The Department shall notify the applicant in writing of deficiencies within the administrative completeness review time frame. The notice shall specify what information is missing. If the Department does not provide notice to the applicant, the application shall be deemed administratively complete.
2. An applicant with an incomplete application shall supply the missing information within the completion period shown in the above table. The administrative completeness review time frame is suspended from the date of the Department’s deficiency notice until the Department receives the information.
3. An applicant shall not supply missing information “piece-meal”. The receipt of any missing information will be interpreted as the applicant’s response to the Department’s deficiency notice and the Department will resume processing the application.
4. If the applicant fails to submit all of the missing information before the completion deadline, the Department will close the file. An applicant whose file has been closed and who later wishes to obtain a Certificate of Authority shall submit a new application.
5. **Substantive review.** The substantive review time frames shown in the above table begin the day after the application is deemed administratively complete.

1. The Department may schedule an inspection.
2. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional time period shown in the above table. The substantive review time frame is suspended from the date of the Department’s request until the Department receives the information. If the applicant fails to provide the information identified in the request, the Department shall deem the application withdrawn and close the file.
3. An applicant shall not supply the requested additional information “piece-meal:” The receipt of any requested information will be interpreted as the applicant’s response to the Department’s request for additional information and the Department will resume processing the application.
4. Unless the file has been closed because the application was incomplete, the Department shall issue a written notice granting or denying the Certificate of Authority within the substantive review time frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial, the applicant’s right to seek a fair hearing and the time period and manner in which the applicant may appeal the denial.
5. **Application filing.** All development applications filed with the Department shall be considered filed on the date received by the Department.
6. **Computation of time.** In computing any period of time, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday or a legal holiday in which event the period runs until the end of the next day which is neither Saturday, Sunday nor a legal holiday.

**SECTION II**

**REQUIRED DOCUMENTS**

THE FOLLOWING DOCUMENTS MUST ACCOMPANY THIS APPLICATION AND SHALL CONSTITUTE A PART THEREOF.

1. A legible copy no larger than 11” x 17” of each survey, map, and plat of cemetery property including the recorded cemetery map demonstrating the dedication of the property to exclusively cemetery purposes.
2. Policy of Title Insurance or Title Report issued after recordation of map, dated no more than 30 days prior to receipt by the Department. The policy or report must contain the statement “there are no further matters of record affecting the land” and must include the name and telephone number of the title examiner.
3. A legible copy of all recorded documents shown in title policy/report.

 **NOTE:** A.R.S. 32-2194.11 provides that “Cemetery plots shall not be sold which are subject to liens.”

1. A copy of the provisions, if any, limiting the use of the plots in the cemetery, and copies of any restrictive covenants affecting all or part of the cemetery including, but not limited to, copies of recorded Conditions, Reservations and Restrictions which run with the land and Cemetery Rules and Regulations.
2. A copy of the Preliminary and Final Contract of Sale, describing conditions of sale, terms to be used on deferred contracts, and containing all required contract disclosures as set forth in A.R.S. 32-2194.04. Type of Deed to be used to convey property to purchaser.
3. A copy of the Articles of Incorporation and a Certificate of Good Standing issued by the Arizona Corporation Commission for each corporation (foreign or domestic) participating in this application. The date on a Certificate of Good Standing shall not be more than 1 year from the date of the application.
4. If applicant is a limited liability company, a copy of the articles of organization stamped “received and filed” by the Arizona Corporation Commission and a copy of the operating agreement and any amendments. A Certificate of Good Standing may be required if more than 1 year has passed since the filing of the articles.

8. Copy of a corporate resolution authorizing any individual(s) to sign on behalf of the corporation.

1. A letter from a professional engineer detailing the flood and drainage conditions and stating that the cemetery is not subject to any known flooding or drainage hazards. The engineer’s professional seal must be affixed and legible on the letter.
2. Financial Arrangements acceptable to the Commissioner for the completion and maintenance of all Cemetery Improvements, i.e. Performance Bond or Letter of Credit and engineer’s cost estimates.
3. Financial Statement of applicant prepared in accordance with generally accepted accounting principles and audited by an independent certified accountant.
4. A trust agreement establishing the Irrevocable Trust Fund, including documentation demonstrating that all required payments have been made into the fund.
5. A photograph or reduced facsimile of a sign or signs to be used stating that the cemetery is an endowed or non-endowed cemetery.
6. Documents demonstrating legal and permanent access.

15. If applicant(s) is a person, complete information requested on Exhibit “A” and submit with this application.

1. If you answer “yes” to the question in the application which asks if you have been convicted of any misdemeanor, felony, or other crime, you must supply the following, pursuant to A.A.C. R4-28-301(A):
2. A written statement from you (**subscribed and sworn before a Notary Public**) providing an account of the part you played when each incident occurred.
3. Three current letters of character references from individuals, 18 years or older, not related by blood or marriage and who have known you for at least one year.
4. A 10-year work history, including any periods of unemployment.
5. A new set of fingerprint exemplars and our fingerprint-processing fee of $29.00, pursuant to A.R.S. 32-2108.01. Please make your check payable to the Arizona Department of Real Estate. FINGERPRINT CARDS ARE AVAILABLE FROM THE DEPARTMENT’S CUSTOMER SERVICE DIVISION and most county Sheriff Offices and City Police Departments.

 In addition to the above and as applicable, you must supply a certified copy of the following:

1. Police Report
2. Complaint and Indictment
3. Information
4. Pre-sentence Report
5. Judgment
6. Sentencing documents
7. Plea Agreement
8. Probation papers
9. Restoration of civil rights/expungement/dismissal documents.

If you attempt to obtain the required documents from a law-enforcement agency or court and are told that records have been destroyed or are otherwise unavailable, obtain a written statement to that effect from the agency or court. **Do not detach or unstaple certified documents. Documents must remain in the original order received.**

IF THE ABOVE REQUIRED INFORMATION HAS PREVIOUSLY BEEN PROVIDED THE DEPARTMENT, PLEASE INDICATE THE DATE AND REASON IT WAS PROVIDED. YOU ARE NOT REQUIRED TO PROVIDE THIS INFORMATION AGAIN, IF IT IS ON FILE AT THE DEPARTMENT.

**SECTION III**

# APPLICATION

# FOR

# CEMETERY

1. **CEMETERY OWNER**

A. Name of Applicant

B. Business Address

1. Place and Date of Incorporation or Organization  .
2. Date qualified to do business in Arizona  .
3. Name and address of: (Use separate page if necessary)

 i. Each Director, Officer or Member:

ii.Each Person with a 10% or greater financial interest in Applicant:

Percentage of Interest:

  Percentage of Interest:

  Percentage of Interest:

  Percentage of Interest:

  Percentage of Interest:

**Each applicant for Public Report must answer the following questions**. If the applicant is not an individual but is an entity (e.g., a corporation, partnership, limited liability company or trust), answers must be provided by each of the partners, officers, members, beneficiaries, managers or managerial employees of the applicant, and every other individual or entity that exercises control (as defined in A.R.S. §32-2101(17) over the applicant or holds a 10% or greater interest in the applicant. If you answer “yes” to any question, provide a signed, detailed statement describing the facts and circumstances, including the date, time and location of the incident or event. You must also provide supporting documentation identified on Department form LI-400, Document Checklist, as provided in A.A.C. R4-28-301, in order for your application to be considered complete. You can obtain this form either at the Licensing front counter or on our website at www.azre.gov.

1) Have you ever been convicted of any **felony** in Arizona or any other state?

[ ] Yes [ ]  No

2) Are you currently in a deferred period or a diversion program, having been convicted of a Class 6 undesignated offense, which has not yet been designated as a felony or misdemeanor as of the date of this application?

[ ]  Yes [ ]  No

* + - * 1. Are you currently incarcerated, paroled, or on probation because of any conviction?

[ ]  Yes [ ]  No

4) In the past 10 years, have you:

1. been convicted of any **misdemeanor** in Arizona or any other state? ***Note: You do not need to report minor traffic citations, which do not constitute a misdemeanor or felony offense. D.U.I. is not a minor traffic offense and must be reported.***

[ ]  Yes [ ]  No

b) had a professional or occupational license or registration of any kind denied, suspended, restricted, or revoked?

[ ]  Yes [ ]  No

* + - 1. had an administrative order or any other disciplinary action taken against any license issued to you by any local, state or federal regulatory agency or voluntarily surrendered any license during the course of an investigation or disciplinary proceeding?

[ ]  Yes [ ]  No

* + - 1. had any Subdivision Public Report or Registration to Sell real estate, timeshares, cemetery lots or campground memberships denied, suspended or revoked?

[ ]  Yes [ ]  No

* + - 1. entered into any consent decree, or had an injunction (either temporary or permanent), a suspension, an order, or a judgment issued which prohibited or restricted you from engaging in any profession or occupation?

[ ]  Yes [ ]  No

f) had any judgment or order entered against you by any court involving fraud, dishonesty, misrepresentation, unfair trade practice or moral turpitude?

[ ]  Yes [ ]  No

1. had any judgment or order entered against you by any court arising out of the conduct of any business in real estate, cemetery property, timeshare intervals or membership campgrounds?

[ ]  Yes [ ]  No

1. Are you the subject of a current investigation or pending disciplinary action with the Arizona Department of Real Estate? [ ]  Yes [ ]  No

6) Has any real estate recovery fund, or similar fund EVER made a payment that was charged against you or against a business for which you were the qualifying party?

[ ]  Yes [ ]  No

7) Within the past ten years, has any person or entity in a controlling position over the applicant declared bankruptcy, or held any interest in any corporation, partnership or limited liability company that has declared bankruptcy?

[ ]  Yes [ ]  No

If information on any “yes” answer above was previously provided to the Department, indicate the date and reason it was provided. You are not required to provide this information again if it is on file at the Department.

**I certify, under penalty of perjury under the laws of the State of Arizona, that I am authorized to sign on behalf of the applicant and that the foregoing answers and statements given in this application and any statement that I have attached are true and correct and applicable for all persons and entities required to provide answers.**

DATED this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Printed name and signature of authorized party)

1. **LOCATION, SIZE, LAND USE AND SURROUNDING AREA**
2. Name of Cemetery:

 B. Legal description:

1. Total acreage of this cemetery property:

1. Total acreage of contiguous property contemplated for cemetery purposes by applicant:

1. Total Number of burial spaces:
2. Total Number of crypts or vaults:
3. Population within a 15-mile radius of this cemetery property and source of information:

H. Names and locations of other operating cemeteries within a 15-mile radius:

I. If other cemeteries are located in the area of the proposed cemetery, explain why the area is not already adequately served:

J. Has the city or county government approved the existing and proposed cemetery property?

 [ ]  Yes [ ]  No

If no, please explain:

1. A brief, but comprehensive statement describing the land on, and the locality in which the cemetery is located: (Level, Hilly, Rolling, etc.):

3. **CONDITION OF TITLE**

1. Are there any recorded or unrecorded liens against the cemetery property? [ ]  Yes [ ]  No

If yes, please explain:

1. Is there any special assessment, tax or indebtedness proposed or existing? [ ]  Yes [ ]  No

If yes, please explain:

 C. Do you understand that it is unlawful to sell cemetery plots, which are subject to liens?

 [ ]  Yes [ ]  No

4. **TRUST FUND**

A. Trustee Name:

 Address:

 Telephone No:

 Contact person:

1. Do you understand that the Articles of Incorporation or Organization must certify to the

 establishment of an irrevocable trust fund for maintenance and operation? [ ]  Yes [ ]  No

 C. Do you understand that the trustee must be a financial institution authorized to act as a trustee?

 [ ]  Yes [ ]  No

1. Do you understand that the trustee must be one in which no officer, director, member or owner in

 The cemetery has any financial or other interest? [ ]  Yes [ ]  No

**IF THIS IS AN EXISTING CEMETERY, PROVIDE AN ACCOUNTING OF THE ENDOWMENT CARE FUND DEMONSTRATING THAT ALL REQUIRED PAYMENTS HAVE BEEN MADE INTO THE FUND.**

5. **CEMETERY PLANS, IMPROVEMENTS, COSTS AND COMPLETION**

1. Crematory: Do you intend to operate a crematory on the cemetery property? [ ]  Yes [ ]  No

(If you answer “Yes,” attach a copy of your crematory license by the State Board of Funeral

Directors and Embalmers to this application.)

 B. Is there a Columbarium? [ ]  Yes [ ]  No

1. Is there a Mausoleum? [ ]  Yes [ ]  No
2. List all other existing or proposed improvements:
3. For any incomplete or proposed improvement, list projected completion dates:

**PROVIDE COPIES OF SURVEYS, MAPS, AND PLATS DEPICTING CEMETERY IMPROVEMENTS.**

6. **ELECTRICITY**

1. Is electricity available? [ ]  Yes [ ]  No

 B. If yes, state name and address of provider:

 C. Where are present facilities in relation to the cemetery?

 (Distance)

 D. If not complete, when will it be installed to the cemetery? (Date)

7. **NATURAL GAS**

1. Is it available? [ ]  Yes [ ]  No

 B. If yes, state name and address of provider:

 C. Where are present facilities in relation to the cemetery? (Distance)

 D. If not complete, when will it be installed to the cemetery? (Date)

8. **TELEPHONE**

1. Is it available? [ ]  Yes [ ]  No
2. If yes, state name and address of provider:

 C. Where are present facilities in relation to the cemetery? (Distance)

 D. If not complete, when will it be installed to the cemetery? (Date)

9. **WATER SUPPLY**

 A. State whether water provider will be public utility, co-op irrigation district, other.

B. Name and address of company:

 C. Who has paid or will pay cost of installation of water system to the cemetery?

 D. When was or will system be installed to the cemetery? (Date)

 10. **SANITATION**

1. Are sewers now installed? [ ]  Yes [ ]  No

B. If not, when will sewers be installed to the cemetery? (Date)

C. Who will pay costs of installation of sewer system?

D. Estimated costs to extend sewer service to the cemetery?

 E. Will interior sewers be public or private?

1. Who is responsible for maintenance of interior sewer system?
2. If a sewer system is not to be installed, are individual sewage disposal systems to be used?

 [ ]  Yes [ ]  No

H. What are the costs to install a septic tank system and leach field?

11. **STREETS AND DRIVES**

 A. Are streets bounding the cemetery public streets? [ ]  Yes [ ]  No

**If no, attach separate sheet explaining how purchasers will have permanent and legal access to the cemetery. Support letters from a title insurance company and professional engineer may be required.**

 B. Will drives within the cemetery be surfaced? [ ]  Yes [ ]  No

 C. What type of surface?

D. Who will pay for surfacing?

 Blading and grading?

1. When will drives be complete? (Date)
2. Will drives be maintained? [ ]  Yes [ ]  No

 G. Who will maintain the drives?

12. **ASSURANCES FOR COMPLETION OF IMPROVEMENTS**

What assurances exist for completion and maintenance of the improvements listed in Questions 5 through 11?

13. **SALES**

1. Do you understand that sales may be made only by the owner, or a licensed designated cemetery

 broker and his licensed cemetery salespersons? [ ]  Yes [ ]  No

1. Who will be conducting sales?

 Provide name and address of cemetery broker, if applicable.

C. If owner will conduct sales, is owner a licensed cemetery broker? [ ]  Yes [ ]  No

1. Do you understand that if the designated cemetery broker is changed, the cemetery shall advise the Department in writing? [ ]  Yes [ ]  No

14. **POSTING OF SIGNS**

1. Do you understand that each cemetery shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building, and readily accessible to the public, a legible sign in lettering of a size and style to be approved by the real estate commissioner indicating either the cemetery is an endowed or a nonendowed cemetery? [ ]  Yes [ ]  No

B. Describe where signs will be located:

 AFFIDAVIT OF APPLICANT

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Cemetery Name

I hereby certify under penalty that the statements contained in this application constitute notice of intention to sell cemetery property, and that the statements together with any documents submitted herewith are full, true, complete and correct.

I hereby represent that as the owner of the above-mentioned cemetery, I will not place or allow to be placed any mortgages or liens on the property.

I further certify that, if this application has not been submitted on the standard form prepared by the Arizona Department of Real Estate, applicant agrees that the Department may take any action deemed necessary to ensure compliance with the cemetery laws if, after issuing a certificate of authority, the Department discovers errors, omissions or deficiencies in the application. The applicant further agrees to completely indemnify the Department, the State of Arizona, its agents and employees from any and all liability caused, in whole or in part, by use of a nonstandard form.

I am duly authorized to prepare and am the person responsible for the content of this application.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date Printed Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name Title or Office

This instrument subscribed to and sworn before me \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_. 20\_\_\_\_ by Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in witness

whereof I set my hand and official seal. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Notary Public

APPLICATION MUST BE SIGNED AND SWORN TO BEFORE A NOTARY PUBLIC PRIOR TO ISSUANCE OF THE CERTIFICATE OF AUTHORITY.

|  |
| --- |
| **Notice to Applicant Pursuant to A.R.S. § 41-1030** |
| An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition. |
| This section may be enforced in a private civil action and relief may be awarded against the State. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section. |
| A State employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the Agency's adopted personnel policy. |
| This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02  |