

## **Summary of Proposed Amendments to the Rules of the Arkansas Cemetery Board**

**Rule 7.01 - Examination of a Cemetery - Fees** Provisions setting out exam fees are deleted from Rules because language is included in the Act.

**Rule 8.06 – Permit - Applications** The word “Rule” is added to clarify the reference to Rule 5.02.

**Rule 12.06 – Seller or Transferor Filings with Board** Corrected reference to Rule 12.06(a).

**Rule 14 – Permanent Maintenance Fund - Trustees** Corrected references to the Act § 20-17-1014(b)(2).

**Rule 22.08 – Records Required - Retention of Records** Clarifying language is added to provide for handling electronic records of cemeteries.

**Rule 23.02 – Annual Report of Cemetery Company - Display of Annual Operating Permit**  
Unnecessary requirements regarding display of permit are removed from the Rules.

Proposed

Amendments to the following Rules of the Arkansas Cemetery Board ("Rules"):

7 Examination of a Cemetery - Fees

8.06 Permit - Applications

12.06 Seller or Transferor Filings with Board

14 Permanent Maintenance Fund - Trustees

22.08 Records Required - Retention of Records

23.02 Annual Report of Cemetery Company - Display of Annual Operating Permit

Proposed amendments to the Rules, shown with strike-through and underline marks, are as follows:

**RULE 7. EXAMINATION OF A CEMETERY.**

7.01 FEES. The fee for every examination conducted by the Board or its representative shall be sixty dollars (\$60) per examiner, per day plus reimbursement for actual travel, meal, and lodging expenses incurred by the examiner.

**RULE 8. PERMIT – APPLICATION.**

8.06 PROTEST TO APPLICATION. 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. Any such protest must be filed at least seven (7) calendar days before the Board meeting at which the application is to be heard. A copy of the protest shall be sent to the cemetery company making the application by the protestant. Protestants shall be entitled to appear before the Board as set forth in Rule 5.02.

**RULE 12. TRANSFER OF OWNERSHIP**

**12.06 SELLER OR TRANSFEROR FILINGS WITH BOARD**

(b)(4) All reports and listings required by Rule 12.056(a) 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, and shall be filed at least seven (7) calendar days prior to such meeting date. 2

**RULE 14. PERMANENT MAINTENANCE FUND – TRUSTEES.**

14.01 MINUTES OF TRUSTEE MEETINGS. If a permanent maintenance fund is established in accordance with section 20-17-1014(b)(2) of the Act, minutes of trustees' meetings must be maintained. The minutes must be signed by all three trustees, reflect the authorization of all purchases and sales of investments, and reflect the authorization of all disbursements of income. If the trust agreement provides that only one trustee shall have sole disbursement authority, minutes must be prepared by that one trustee and submitted to the remaining trustees for ratification at least twice a year.

**14.02 FIDELITY BONDS.**

(a) If a fidelity bond is required pursuant to 20-17-1014(b)(2) of the Act, the bond shall indemnify the insured 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. 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 Securities Commissioner by the corporate surety prior to the effective date of termination. Any modification to the fidelity bond must likewise be filed with the Board.

(b) If a fidelity bond required pursuant to section 20-17-1014(b)(2) of the Act includes a deductible, an appropriate deposit of cash or securities, in a form approved by the Board, shall be accepted to meet the deductible.

**14.03 PROOF OF FEDERAL INSURANCE AND RESTRICTION ON ACCOUNTS.**

(a) A cemetery company that elects to establish a permanent maintenance fund in accordance with section 20-17-1014(b)(3) of the Act, shall have each bank or savings and loan association that will receive deposits for the permanent maintenance fund, furnish the Board with a letter setting forth that:

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**RULE 22. RECORDS REQUIRED.**

22.08 RETENTION OF RECORDS. Records required for deeds, contracts, and plot maps must be kept indefinitely. All other books and records be kept for at least five (5) years.

(a) Records may be kept in an electronic format that is convertible into legible, tangible documents, provided that the means to examine such records is acceptable to the Board, is available at the office of the cemetery, and the hardware and software needed to access the records is maintained during the retention period.

(1) The cemetery company shall file with the Board a copy of a plan for electronic recordkeeping within forty-five (45) calendar days after adoption by the cemetery company.

(2) Cemetery companies shall implement the following security processes:

A. Provide an appropriate level of security to ensure the integrity of the records. Security controls should include, at a minimum, physical and logical access controls, backup and recovery procedures, and training for custodians and users.

B. Document that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.

C. Substantiate that security procedures prevent unauthorized addition, modification, or deletion of a record and ensure systems are protected against such problems as power interruptions.

D. Identify the electronic media on which records are stored throughout their life cycle, the maximum time span that records remain on each storage media, and the official retention requirements.

(b) All records shall be available for inspection and copying at the expense of the cemetery company upon request by the Board or its delegates

(c) All records required to be maintained shall be secured against unauthorized access and damage.

## **RULE 23. ANNUAL REPORT OF CEMETERY COMPANY**

### **23.0 FEES**

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(b) The burial sale contract fee shall be as set forth in section 20-17-10241023(b) of the Act.

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**23.02 DISPLAY OF ANNUAL OPERATING PERMIT.** Upon receipt of an annual operating permit, the cemetery company shall prominently display the permit in a clear, weatherproof container at the main entrance to the cemetery. Cost of the container shall be borne by the cemetery company.