

§ 65-55. License; cemetery company.

(a) No legal entity shall engage in the business of operating a cemetery company except as authorized by this Article and without first obtaining a license from the Commission.

(b) Any legal entity wishing to establish a cemetery shall file a written application for authority with the Commission on forms provided by the Commission.

(c) Upon receipt of the application and filing fee to be set by the Commission in an amount not to exceed one thousand six hundred dollars (\$1,600), the Commission shall cause an investigation to be made to establish the following criteria for approval of the application:

- (1) The creation of a legal entity to conduct cemetery business, and its proposed financial structure.
- (2) A perpetual care trust fund agreement, with an initial deposit of not less than fifty thousand dollars (\$50,000) and with a bank cashier's check or certified check attached for the amount made payable to the trustee. The trust fund agreement must be executed by the applicant, accepted by the trustee, and conditional only upon approval of the application.
- (3) A plat of the land to be used for the cemetery, showing the location of the cemetery and the access roads to the cemetery.
- (4) Designation by the legal entity wishing to establish a cemetery of a general manager. The general manager must be a person of good moral character and have at least one year's experience in cemeteries.
- (5) Development plans sufficient to ensure the community that the cemetery will provide adequate cemetery services and that the property is suitable for use as a cemetery.

(d) The Commission, after receipt of the investigating report, shall grant or refuse to grant the authority to organize a cemetery based upon the criteria set forth in G.S. 65-55(c).

(e) If the Commission intends to deny an application, it shall give written notice to the applicant of its intention to deny. The notice shall state a time and a place for a hearing before the Commission and a summary statement of the reasons for the proposed denial. The notice of intent shall be mailed by certified mail to the applicant at the address stated in the application at least 15 days prior to the scheduled hearing date. The applicant shall pay the costs of this hearing as assessed by the Commission unless the applicant notifies the Commission by certified mail at least five days prior to the scheduled hearing date that a hearing is waived. Any appeals from the Commission's decision shall be to the court having jurisdiction of the applicant or the Commission.

(f) If the Commission intends to grant the authority, it shall give written notice that the authority to organize a cemetery has been granted and that a license to operate will be issued upon the completion of the following:

- (1) Establishment of the care and maintenance trust fund and receipt by the Commission of a certificate from the trust company, certifying receipt of the initial deposit required under this Article.
- (2) Full development, ready for burial, of not less than two acres including a completed paved road from a public roadway to said developed section, certified by inspection of the Commission or its representative.
- (3) A description, by metes and bounds, of the acreage tract of such proposed cemetery, together with evidence, by title insurance policy or by certificate of an attorney-at-law, certifying that the applicant is the owner in fee simple of such tract of land, which must contain not less than 30 acres, and that the title to not less than 30 acres is free and clear of all encumbrances. In

counties with a population of less than 35,000 population according to the latest federal decennial census the tract need be only 15 acres.

- (4) A plat of the cemetery showing the number and location of all lots surveyed and permanently staked for sale. (1943, c. 644, s. 9; 1957, c. 529, s. 3; 1967, c. 1009, s. 9; 1975, c. 768, s. 1; 1977, c. 686, s. 8; 1987, c. 488, s. 2; 1991, c. 653, s. 2; 2004-202, s. 2.)