

CHANGE OF OWNERSHIP APPLICATION FOR OREGON CERTIFICATE OF AUTHORITY TO OPERATE A CEMETERY INSTRUCTIONS

No person or city, county or other municipal corporation shall conduct the business of an operating cemetery without first receiving a certificate of authority to conduct the business of an operating cemetery under ORS 692.275; ORS 692.025(5)

Licenses issued under ORS 692.146 are not transferable; therefore, prior to change of ownership, sales, or purchase agreements pertaining to such shall be conditioned upon the prospective new purchaser's ability to apply for and obtain the necessary license or certificate of authority to operate. OAR 830-040-0040(3)

In no event shall a cemetery be operated without the appropriate license to operate. All licensed facilities are subject to the inspection and approval of the Board. OAR 830-040-0040

OAR 830-040-0040 provides that prior to a change of ownership, the prospective new owner shall apply to the Board for the issuance of a new license on forms provided by the Board in the new owner's name. It is the intent of this rule that all licensed facilities receive Board approval prior to the sale or change of ownership of a licensed facility and provide the Board with a full disclosure of ownership of that licensed facility including percentages of ownership.

OAR 830-040-0040 provides that all facility applications shall specify the real and true names of the person(s) who own or have an interest in the licensed facility, including percentages of ownership. Applications must also specify the names of all principals.* If the principal is a corporation, the application shall include the names of all principals of that corporation, pursuant to OAR 830-040-0000(4).

* **Principal** means those persons who have controlling authority over the licensed facility, including but not limited to:

- (a) Managers or other persons who have decision-making authority and whose primary duties include control over the operation of the licensed facility;
- (b) Officers or directors who have some degree of responsibility for the operation of the licensed facility;
- (c) Stock holders or corporations who own or control ten percent or more of the licensed facility by owning or controlling ten percent or more of the voting stock; and
- (d) Partners.

OAR 830-011-0050 (1) provides that all principals of licensed facilities must submit to a background investigation. A Background Information Questionnaire form will need to be completed by each principal identified on the facility application, and submitted with the facility application. If any of the proposed principals currently holds a personal license issued by the Board, the proposed principal does not need to submit a Background Information Questionnaire. The Board may deny, suspend or refuse to issue or renew a facility license based upon adverse conditions related to any manager or other principal of the facility.

As a matter of policy, the Board does not charge principal fees or conduct background investigations on the principals of publicly owned cemeteries, i.e., municipal, county or special tax district cemeteries. However, the Board must be notified upon any change of manager or other principal. If your local government does not conduct background checks, you may request that the Board conduct a background check on the manager or any other principal of this publicly owned cemetery (except elected officials).

Secretary of State, Corporation Division Registration

Each licensed facility must be registered with the Board by its true corporate, firm or individual name. In addition, one assumed business name (ABN), as registered with the Corporation Division, may be used by each licensed facility.

OAR 830-040-0030 You are not required to register an ABN with the Corporation Division. However:

- a. If you do not have an ABN, you must use only your true individual or firm name or your business entity name, exactly as registered with the Board and the Corporation Division.
- b. "Real and true name" means the surname of an individual coupled with a combination of the individual's given names and initials, or the corporate name of a domestic corporation stated in the articles of incorporation or amendment filed with the Office of the Secretary of State or the corporate name of a foreign corporation as stated under ORS 60.707(1)

ORS 648.007(1) provides that no person or business entity shall carry on, conduct or transact business under an assumed business name unless the person or the business entity has registered the assumed business name.

Entity includes a foreign or domestic corporation, foreign or domestic nonprofit corporation, foreign or domestic profit or nonprofit unincorporated association, foreign or domestic business trust, foreign or domestic estate, foreign or domestic limited partnership, foreign or domestic general partnership, foreign or domestic limited liability company, foreign or domestic business trust, two or more persons having a joint or common economic interest, any state, the United States or any foreign government.

- c. The facility name must contain words that identify the kind of business or activity in which the licensed facility is engaged, i.e.: funeral establishment, immediate disposition company, cemetery or crematory. OAR 830-040-0000(3). If the true name or business entity name does not contain such identifying words, you must register an ABN that does. This identifying name, exactly as registered with the Board and the Corporation Division, must be used as the advertised name. The Board allows the use of words other than funeral, immediate disposition, cemetery or crematory in facility names to convey the nature of the business activity - when alternative words are commonly understood to have the same meaning.

Clarification of Preneed Trust Sales:

Whether made before death or not, the sale of existing graves, crypts or niches does not constitute preneed sales and you need not be certified by the Department of Consumer and Business Services (DCBS) to make such sales. Preneed sales involves goods that are not delivered or kept and marked in storage, whereby the money should be placed in trust, and includes such items as opening / closing and undelivered vaults, liners and markers. If you sell any goods or services that are not considered "delivered" to the purchaser at the time of sale, you must be registered with DCBS as a certified provider. If you have questions as to whether or not you must be registered as a preneed salesperson, please contact the Board's office. Sales funded by an insurance policy or an annuity contract are also excluded from the definition of preneed sales.

In order to transfer responsibility as trustee to a successor trustee, prior to a transfer of ownership, the prospective new purchaser and seller shall notify the Oregon Department of Consumer & Business Services (Division of Finance & Corporate Securities), giving notice of sale to that office, and give the approximate or intended date of the change of ownership. OAR 830-040-0040(3)

Fees:

This facility application needs to be submitted (including Background Information Questionnaire forms) with the appropriate fee; please review the following in order to determine the total fee:

Cemetery that performs ten or fewer interments annually is considered an exempt operating cemetery, and is entitled to receive a certificate of authority to operate upon payment of an initial fee not to exceed \$100 and a fee not to exceed \$50 for registration of all principals regardless of the total number of principals. The cost of the background investigation is included in this principal fee.

OR

Cemetery that performs more than ten interments annually, the initial application fee is \$150, which includes the fee for first principal, plus \$50 for each additional principal. The cost of the background investigation is included in this principal fee.

Renewal Information:

All certificates of authority to operate a cemetery expire December 31st of every even year. The renewal fee for cemeteries will be based on the total number of interments, inurnments and entombments performed by an individual cemetery in the two years preceding the year in which the current license expires. (\$4 per interment, up to a maximum of 300 interments.) However, any operating cemetery that has twenty or fewer interments in the two years preceding is not required to pay the renewal fee or the fee for any change in principal other than the cemetery manager.

The completed facility application must be returned with the following or it will be returned as incomplete:

- Facility application fee with principal fees.
- Completed Background Information Questionnaire forms for each identified principal. If any of the proposed principals currently holds a personal license issued by the Board, the proposed principal does not need to submit the Background Information Questionnaire.
- If the facility is owned by more than one organizational level, a completed Applicant Facility Owner Information Sheet for every organizational level above Level One.

Forms are available upon request or on the website: www.oregon.gov/MortCem

Office use only:

0601 833 41701 \$100.00 Cemetery (includes first principal)

0601 833 41701 \$150.00 Cemetery (includes first principal)

0641 833 41701 \$ 50.00 Each Additional Principal

Certificate #: _____

Effective date: _____

Oregon Mortuary and Cemetery Board
800 NE Oregon Street, Suite 430
Portland OR 97232-2195
www.oregon.gov/MortCem
mortuary.board@state.or.us (email)
971-673-1507 phone
971-673-1501 fax

**CHANGE OF OWNERSHIP APPLICATION FOR
OREGON CERTIFICATE OF AUTHORITY TO OPERATE A CEMETERY**

CURRENT LICENSE INFORMATION:

Current Cemetery License: _____
Licensed name of cemetery.

PROPOSED CHANGE OF OWNERSHIP INFORMATION:

Proposed Cemetery Name: _____
assumed business name, if any, as registered with the Corporation Division

Cemetery's Physical Location: _____
street (if no address, provide specific directions from nearest marked cross roads)

city, state, zip

cemetery on site telephone cemetery on site fax

Cemetery's Mailing Address: _____
print contact name

city, state, zip

cemetery mailing telephone cemetery mailing fax

Name of Cemetery's Proposed Owner: _____
true corporate, firm or individual name (Organization Level One)

GRANDPARENT CORPORATIONS, if any, that own or control more than fifty percent of voting stock in the above named parent corporation or any succeeding parent within the organizational structure, including percent of subsidiary stock owned (attach Applicant Facility Owner Information Sheet for each Organization Level Three or higher):

_____ print true corporate name (**Organization Level Three**) _____ %

_____ print true corporate name (**Organization Level Four**) _____ %

_____ print true corporate name (**Organization Level Five**) _____ %

Is the cemetery for profit? (Yes / No) _____

Is this cemetery an endowment care cemetery as describe in ORS 97.810 - 865? (Yes / No) _____

If yes, are annual reports being filed? (Yes / No) _____

If not an actual endowment care cemetery [ORS 97.810 - 865], does the cemetery sell or offer any type of perpetual care? (Yes / No)

Is this cemetery registered with the Oregon Department of Consumer & Business Services (Division of Finance & Corporate Securities) for prearrangement trust sales and preconstruction trust sales, as defined in ORS 97.923? (Yes / No)

List all funeral service practitioners, embalmers, apprentices and preneed sales people working at this applicant facility, including any who are part-time employees or independent contractors (licensees of the Board only).

_____ licensee name _____ license(s) held

_____ licensee name _____ license(s) held

_____ licensee name _____ license(s) held

_____ licensee name _____ license(s) held

Proposed Cemetery Name

_____ assumed business name, if any, as registered with the Corporation Division

CERTIFICATION

I, _____, (print name and title of duly authorized person)

certify that I am a duly authorized officer or agent of the above-named prospective facility's owner and that all information on this form and any attachments is true and correct.

I understand that this application is not a license to operate and that the applicant owner must receive a certificate of authority to operate a cemetery from the Oregon Mortuary and Cemetery Board before operating under the prospective ownership.

I understand that making false or misleading statements in applying to the Board for licensure is cause for disciplinary action under OAR 830-050-0050(2) and ORS 692.180(1)(a).

YOUR SIGNATURE MUST BE NOTARIZED.

_____ (signature of duly authorized person)

Before me personally appeared _____ (print duly authorized person's name)

_____ who is known

to be the identical person who **signed** this application on this date _____, 200__.

NOTARY SEAL

_____ (signature of Notary Public)

_____ (county / state)