

21 NCAC 07A .0103 and .0104 are repealed as published in NCR Volume 28, Issue 7, page 621:

21 NCAC 07A .0103 AREAS OF RESPONSIBILITY

21 NCAC 07A .0104 FUNCTIONS

*History Note: Authority G.S. 65 -49; 65-50; 65-52; 65-53(1); 150B -10;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978.
Repealed Eff. June 1, 2014*

21 NCAC 07A .0106 is amended **with changes** as published in NCR Volume 28, Issue 7, page 622::

21 NCAC 07A .0106 FEES

In addition to the licensing and penalty fees provided by statute to this **commission, Commission**, the following fees are **provided after June 1, 2004; required:**

- (1) Two dollars (\$2.00) per grave space, mausoleum crypt, and niche when ~~deeded~~; interment, entombment or inurnment rights are conveyed;
- (2) Five dollars (\$5.00) per pre-need vault when contracted;
- (3) Five dollars (\$5.00) per each crypt in a bank of below ground crypts or lawn crypt garden when contracted. An additional two dollars (\$2.00) shall be paid for each crypt ~~when deeded~~ as provided in Item (1) of this Rule;
- (4) Five dollars (\$5.00) per pre-need ~~memorial~~; memorial when contracted;
- (5) Five dollars (\$5.00) per pre-constructed mausoleum crypt or niche when contracted. An additional two dollars (\$2.00) shall be paid for each crypt or niche ~~when deeded~~ as provided in Item 1 of this Rule;
- (6) All at need merchandise, property or services, cash or credit sales, do not require any assessments;
- (7) Five dollars (\$5.00) per ~~pre-need~~ pre-need opening and closing of a grave ~~space~~. space when contracted.

*History Note: Authority G.S. 65-49; 65-54; ~~150B-19~~;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. December 1, 1981;
Temporary Amendment Eff. October 5, 1987, for a period of 180 days to expire on April 2, 1988;
Amended Eff. June 1, 2014, June 1, 2004; May 3, 1993; March 1, 1988*

21 NCAC 07A .0201, .0202, .0203, .0204 and .0205 are repealed as published in NCR Volume 28, Issue 7, page 622:

21 NCAC 07A .0201 CEMETERY COMMISSION MEMBERS

21 NCAC 07A .0202 ADMINISTRATOR OF CEMETERY COMMISSION

21 NCAC 07A .0203 CEMETERY COMMISSION EXAMINERS

21 NCAC 07A .0204 CLERICAL STAFF

21 NCAC 07A .0205 MEETINGS

*History Note: Authority G.S. 65-49; 65-50; 65-52; 65-53(1);
Eff. February 1, 1976;
Readopted Eff. January 16, 1978.
Repealed Eff.: June 1, 2014*

21 NCAC 07C .0103 is amended with changes as published in NCR Volume 28, Issue 7, page 623:

21 NCAC 07C .0103 CHANGE OF CONTROL

(a) Any entity wishing to purchase or acquire control of an existing cemetery company shall first make written application to the Cemetery Commission on the ~~commission's~~ Commission's Application for Change of Control. This form provides space for the name and address of the present and proposed owner, along with the name of the corporation and the name of the cemetery. This form may be obtained by ~~writings~~ writing to the Commission at the address in Rule 21 NCAC 07A.0101.

~~North Carolina Cemetery Commission~~

~~1001 Navaho Drive, Suite 100~~

~~Raleigh, North Carolina 27609.~~

(b) This form must be accompanied by a five hundred dollar (\$500.00) filing fee. The ~~Ce~~ommission also requires the following:

- (1) an examination by the Commission's ~~examiners be made~~ inspectors to establish compliance ~~to~~ with trust fund requirements, with the actual cost of the examination to be paid by the applicant. ~~applicant. The actual cost of said exam is determined by the actual mileage used to conduct said examination, and this mileage is billed based on the Motor Fleet Mileage Rate set forth in the North Carolina Department of Commerce Travel Expense Policy number FM 1. Subsistence and lodging allowed by this policy as expenses necessary to conduct a Change of Control examination shall be billed according to the rates set forth in Policy number FM 1.~~
- (2) a signed certificate assuming liabilities of the existing cemetery company;
- (3) a financial statement of the existing cemetery company showing net worth;
- (4) certification by title insurance policy or by certificate of an attorney-at-law that the cemetery land, subject to appropriate acreage requirements of G.S. 65-55(f)(3), is owned in fee simple, free of all encumbrances;
- (5) a financial statement of the proposed owner, showing the proposed owner's net worth and a statement of the proposed owner's experience in the cemetery ~~business.~~ business;
- (6) ~~[where applicable],~~ when the applicant's intention is to bond, documentation satisfactory to the Commission establishing that the applicant is and will continue to be in compliance with all laws, rules and regulations relating to bonding and other insurance policies. Such documentation shall include all old bonding policies, all existing bonding policies and written proof of the terms of any future continuance of such bonding policies; and
- (7) a true and correct copy of the most recent survey and, if it exists, recorded plat of the property that is the subject of the applicant's application for change of control.

(c) No one shall take over the operation of a cemetery company in anticipation of a change of control until all necessary information concerning that change of control has been submitted to ~~the administrator of the Cemetery Commission.~~ Commission and until the Commission issues the certificate of approval. No one shall change control

1 of a cemetery company without first obtaining approval of the Cemetery Commission. Once a change of control has
2 been approved by the Cemetery Commission, the change of control must be completed within 90 days of the date of
3 the Cemetery Commission's approval. If the change of control is not completed within 90 days of the date of the
4 Cemetery Commission's approval, then the entity wishing to effect the change of control shall make a new
5 application to the Cemetery Commission in accordance with the provisions of this Rule. Upon completion of the
6 change of control, the entity requesting the change of control shall provide written notice to ~~notify in writing the~~
7 ~~administrator of~~ the Cemetery Commission of the completion. A representative of the buyer and the seller shall be
8 notified by the Commission of and be present at any meeting when the ~~commission~~ Commission is going to consider
9 the change of control application.

10
11 *History Note:* Authority G.S. 65-49; 65-53(2); 65-53(6); 65-55; 65-59;65-69
12 *Eff. February 1, 1976;*
13 *Readopted Eff. January 16, 1978;*
14 *Amended Eff. June 1, 2014;* July 1, 2005; May 3, 1993; March 1, 1990; October 1, 1989; March
15 *1, 1984.*

21 NCAC 07C .0104 is amended as published in NCR Volume 28, Issue 7, page 624:

21 NCAC 07C .0104 QUALITY SPECIFICATIONS

All cemeteries must file ~~by September 1, 1979~~ plans and specifications showing minimum quality standards of any vaults, crypts or markers sold.

*History Note: Authority G.S. 65-49; 65-53(7);
Eff. September 1, 1979.
Amended Eff. June 1, 2014*

21 NCAC 07D .0105 is amended **with changes** as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0105 DEPOSIT FOR MULTIPLE BURIALS

~~(a) Each grave space will require one care and maintenance trust fund deposit regardless of the number of interments to be made in the space.~~

~~(b) Each mausoleum crypt will require one care and maintenance trust fund deposit for each casket space.~~

~~(c) Each niche will require one care and maintenance trust fund deposit for each set of cremated remains to be inurned in the niche, except if two or more cremated remains are to be used there will be only one deposit if the niche was sold on one contract.~~

Each interment, entombment or inurnment right shall require a deposit to the care and maintenance trust fund.

*History Note: Authority G.S. 65-49;65-63
 Eff. September 1, 1983;
 Amended Eff. June 1, 2014.*

21 NCAC 07D .0202 is amended with changes as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0202 DELIVERY

(a) The Commission shall not consider Vaults vaults and crypts are not considered delivered unless installed or stored on the cemetery premises or stored off premises by a supplier. ~~If vaults are not to be installed, the contract between the cemetery and purchaser must so state in bold print that the purchaser has accepted above ground delivery. If a vault is to be installed, then the contract must be broken down into sales cost and installation cost. [All vault sales are considered to include installation unless installation cost is itemized in the contract.]~~

(b) The Commission shall not consider Markers, markers, bases and vases delivered unless installed or stored at the cemetery or or, if stored off premises by a supplier, there shall be no additional charge for delivery or freight, unless specified in bold print in the contract. If vaults, crypts or other merchandise are stored off premises, the cemetery company must submit to the Cemetery Commission not less than annually a report by a certified public accountant of each item which has been purchased through a licensed North Carolina cemetery company that, as of the date of the report, is in storage and thus, the property of the customer and not the supplier, and which at the date of the report was then in storage and designated the property of the cemetery company's customer and not the property of the supplier. If vaults, crypts or other merchandise are stored at the cemetery, the cemetery company must submit to the Cemetery Commission not less than annually a report by a certified public an accountant of each item that, as of the date of the report, is in storage and thus, the property of the customer and not the supplier, which has been purchased and which at the date of the report was then in storage and designated the property of the cemetery company's customer.

(c) ~~If opening and closing of crypts at the time of interment are not included in the cost of this merchandise, then that must be so stated in bold print on the contract between the cemetery and purchaser.~~

*History Note: Authority G.S. 65-49; 65-60.1(c); 65-66;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. June 1, 2014, December 1, 2008; May 3, 1993; July 1, 1988; April 1, 1987;
September 1, 1979.*

21 NCAC 07D .0203 is amended with changes as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0203 TRUST ACCOUNTS

(a) ~~Trust accounts must be established pursuant to an agreement with a financial institution that withdrawals may be made only with the signature of both the cemetery company's designee and the North Carolina Cemetery Commission's authorized designee. Trust accounts must be clearly designated as trust accounts. For the purposes of withdrawal, the Administrator of the North Carolina Cemetery Commission shall be the cemetery commission's authorized designee. Withdrawal requests made pursuant to G.S. 65-66(b)(4) shall be made no more than once per month.~~

(b) ~~These trust accounts are not joint accounts, however, they are restricted accounts that require the Commission's authorized designee to sign before any withdrawal is made. [Full disclosure of the amount in the trust account shall be made available within two (2) business days upon request by the Commission, corporate trustee or financial institution.] The corporate trustee or financial institution shall make full disclosure of the amount in the trust account available to the Commission within two business days upon request.~~

(c) ~~The cemetery company must file a statement with the North Carolina Cemetery Commission setting out the name and the position or title of anyone who is authorized to sign for withdrawals from the account for the cemetery company. [Interest earned on trust accounts may be used to fund future deposits or may be withdrawn with the prior written approval of the Commission.] Interest earned on trust accounts may be used to fund future deposits or, with written prior approval of the Commission, withdrawn.~~

(d) ~~These withdrawals can be made no more frequent than once a month. The cemetery company must give the North Carolina Cemetery Commission 20 days written notice of any proposed withdrawal, stating the amount to be withdrawn and the justification for withdrawal.~~

(e) ~~Full disclosure of the amount in the trust account must be made available to the North Carolina Cemetery Commission by the financial institution any time during the financial institution's normal business hours. A copy of each cemetery company's pre-need contract must be on file with the Commission before any withdrawals can be authorized.~~

(f) ~~Interest earned on trust accounts may be used to offset future deposits or may be withdrawn with the written approval of the Administrator.~~

*History Note: Authority G.S. 65-49; 65-66(b)(4);
Eff. September 1, 1979;
Amended Eff. June 1, 2014; May 3, 1993*

Email regarding the posture
of the Rules to be reviewed
at the May meeting.

From: [Reeder, Amanda J](#)
To: [Gantt Stephens](#)
Cc: ["Glenn Cutler"; Reeder, Amanda J](#)
Subject: Cemetery Commissions Rules Follow Up
Date: Monday, April 28, 2014 12:40:29 PM

Gantt and Glenn:

This email is to confirm the request of the Cemetery Commission regarding the procedure of review for the 22 rules filed for RRC review in February 2014. Following an objection to all rules by the RRC at its February meeting, the Cemetery Commission seeks to do the following with its rules.

The Cemetery Commission is withdrawing the following Rules in response to the RRC objection. Those rules are:

1. 21 NCAC 07A .0101, Name and Address.
2. 21 NCAC 07B .0103, Hearings
3. 21 NCAC 07B .0104, Temporary Rules.
4. 21 NCAC 07B .0105, Declaratory Rulings.
5. 21 NCAC 07C .0105, Meeting Requirement.
6. 21 NCAC 07D .0101, Report.
7. 21 NCAC 07D .0102, Location of Fund.
8. 21 NCAC 07D .0104, Fee for Late Deposits.
9. 21 NCAC 07D .0201, Report.

Therefore, there are 13 rules that are presented for RRC review at the May 15, 2014 meeting.

Of those 13, 7 are repeals:

1. 21 NCAC 07A .0103, Areas of Responsibility
2. 21 NCAC 07A .0104, Functions
3. 21 NCAC 07A .0201, Cemetery Commission Members
4. 21 NCAC 07A .0202, Administrator of Cemetery Commission
5. 21 NCAC 07A .0203, Cemetery Commission Examiners
6. 21 NCAC 07A .0204, Clerical
7. 21 NCAC 07A .0205, Meetings.

There are 6 rules that are proposed for amendment:

1. 21 NCAC 07A .0106, Fees
2. 21 NCAC 07C .0103, Change of Control
3. 21 NCAC 07C .0104, Quality Specifications
4. 21 NCAC 07D .0105, Deposit for Multiple Burials
5. 21 NCAC 07D .0202, Delivery
6. 21 NCAC 07D .0203, Trust Account

Please confirm that my understanding is correct by replying to this email.

Thank you,
Amanda

Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/ 431-3079

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: [glenncutler](#)
To: [Reeder, Amanda J](#)
Cc: [Gantt Stephens](#)
Subject: Re: Cemetery Commissions Rules Follow Up
Date: Monday, April 28, 2014 12:48:33 PM

That is correct and I am prepared to make any final edits you might suggest and then print an original and 2 copies for delivery this afternoon to you as soon as we receive any other feedback from you based on your final review of the electronic documents forwarded on Friday. Thanks for your assistance with this process.

From: "Reeder, Amanda J" <amanda.reeder@oah.nc.gov>
To: Gantt Stephens <ganttstephens@gmail.com>
Cc: 'Glenn Cutler' <glenncutler@bellsouth.net>; "Reeder, Amanda J" <amanda.reeder@oah.nc.gov>
Sent: Monday, April 28, 2014 12:40 PM
Subject: Cemetery Commissions Rules Follow Up

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This email is to confirm the request of the Cemetery Commission regarding the procedure of review for the 22 rules filed for RRC review in February 2014. Following an objection to all rules by the RRC at its February meeting, the Cemetery Commission seeks to do the following with its rules.

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5. 21 NCAC 07C .0105, Meeting Requirement.
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6. 21 NCAC 07A .0204, Clerical
7. 21 NCAC 07A .0205, Meetings.

There are 6 rules that are proposed for amendment:

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2. 21 NCAC 07C .0103, Change of Control
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4. 21 NCAC 07D .0105, Deposit for Multiple Burials
5. 21 NCAC 07D .0202, Delivery
6. 21 NCAC 07D .0203, Trust Account

Please confirm that my understanding is correct by replying to this email.

Thank you,
Amanda

Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/ 431-3079

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Email confirming
the Rules would not
be reviewed at the
RRC's April
meeting.

From: [Reeder, Amanda J](#)
To: [Gantt Stephens; "glenncutler"](#)
Cc: [Reeder, Amanda J](#)
Subject: RE: Cemetery Commission Rules
Date: Friday, April 11, 2014 9:44:33 AM

Gantt and Glenn:

I am sending this email to confirm that the Cemetery Commission will not be submitting rules for RRC review at the April 17, 2014 meeting.

I look forward to receiving the rewritten rules by Monday, April 28, 2014, as required by G.S. 150B-21.12(b).

Thank you. Please let me know if you have any questions or concerns, or if I can be of any assistance.

Amanda

*Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/ 431-3079*

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Reeder, Amanda J
Sent: Tuesday, March 25, 2014 12:49 PM
To: Gantt Stephens; 'glenncutler'
Cc: Reeder, Amanda J
Subject: RE: Cemetery Commission Rules

Gantt and Glenn:

Just so you know, the RRC had no action to take on your rules at its March meeting.

Your next meeting is April 16, so you do not have to submit rules to the RRC until April 28. (Technically, it's 10 days from your meeting, but that would be Saturday April 26.)

Do you all anticipate submitting the rewritten rules at the end of April for Commission review at its May 15 meeting, or do you want to submit them earlier to allow the RRC to review the rules at its April 17, 2014 meeting? If you want to submit them earlier, I will need them next week.

Thank you! Please let me know if you have any questions or concerns.

Amanda

From: Gantt Stephens [<mailto:ganttstephens@gmail.com>]

Sent: Tuesday, March 11, 2014 12:52 PM
To: Reeder, Amanda J; 'glenncutler'
Subject: RE: Cemetery Commission Rules

That is correct. Thanks.

Gantt

From: Reeder, Amanda J [<mailto:amanda.reeder@oah.nc.gov>]
Sent: Tuesday, March 11, 2014 12:01 PM
To: Gantt Stephens; 'glenncutler'
Cc: Reeder, Amanda J
Subject: Cemetery Commission Rules

Glenn and Gantt:

For official record purposes, I am sending this email to confirm that you all will not be submitting rewritten rules to the Rules Review Commission for its March 20, 2014 meeting.

Please confirm this is correct.

Thank you!

Amanda

*Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/ 431-3079*

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

February 21, 2014

Glenn Cutler
Cemetery Commission
Sent via email to glenncutler@bellsouth.net

Re: Rules 21 NCAC 07A .0101, .0103, .0104, .0106, .0201, .0202, .0203, .0204, .0205;
07B .0103, .0104, .0105;
07C .0103, .0104, .0105; and
07D .0101, .0102, .0104, .0105, .0201, .0202, and .0203.


Dear Glenn:

At its meeting the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to these rules based on ambiguity based on failure to complete the technical corrections as requested to clarify ambiguous language.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

21 NCAC 07A .0101 is amended as published in NCR Volume 28, Issue 7, page 621:

SUBCHAPTER 07A - ORGANIZATION

SECTION .0100 - GENERAL INFORMATION

21 NCAC 07A .0101 NAME AND ADDRESS

The North Carolina Cemetery Commission ~~of the Department of Commerce~~ is located in Raleigh, North Carolina. The mailing address for the Cemetery Commission is 1001 Navaho Drive, Suite 100, Raleigh, North Carolina 27609. The office is open to the public Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding scheduled state holidays.

*History Note: Authority G.S. 65-49; 65-51; 150B-10;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. March 1, 2014, September 1, 2007; May 3, 1993*

1 21 NCAC 07A .0103 is repealed as published in NCR Volume 28, Issue 7, page 621:

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3 **21 NCAC 07A .0103 AREAS OF RESPONSIBILITY**

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5 *History Note: Authority G.S. 65-49; 150B-10;*
6 *Eff. February 1, 1976;*
7 *Readopted Eff. January 16, 1978.*
8 *Repealed Eff. March 1, 2014*

21 NCAC 07A .0104 is repealed as published in NCR Volume 28, Issue 7, page 622:

21 NCAC 07A .0104 FUNCTIONS

~~The principal function of the Cemetery Commission is to conduct examinations of all licensed cemeteries. In addition to its examination function the Cemetery Commission authorizes the establishment of and licenses cemeteries, cemetery sales organizations, cemetery management organizations, cemetery brokers, and pre need salespeople.~~

*History Note: Authority G.S. 65-49; 150B-10;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978.
Repealed Eff.: March 1, 2014*

21 NCAC 07A .0106 is amended as published in NCR Volume 28, Issue 7, page 622::

21 NCAC 07A .0106 FEES

In addition to the licensing and penalty fees provided by statute to this commission, the following fees are provided after June 1, 2004:

- (1) Two dollars (\$2.00) per grave space, mausoleum crypt, and niche when ~~deeded~~; interment, entombment or inurnment rights are conveyed;
- (2) Five dollars (\$5.00) per pre-need vault when contracted;
- (3) Five dollars (\$5.00) per each crypt in a bank of below ground crypts or lawn crypt garden when contracted. An additional two dollars (\$2.00) shall be paid for each crypt ~~when deeded~~ as provided in Item (1) of this Rule;
- (4) Five dollars (\$5.00) per pre-need ~~memorial~~; memorial when contracted;
- (5) Five dollars (\$5.00) per pre-constructed mausoleum crypt or niche when contracted. An additional two dollars (\$2.00) shall be paid for each crypt or niche ~~when deeded~~ as provided in Item 1 of this Rule;
- (6) All at need merchandise, property or services, cash or credit sales, do not require any assessments;
- (7) Five dollars (\$5.00) per ~~pre-need~~ pre-need opening and closing of a grave ~~space~~. Space when contracted.

*History Note: Authority G.S. 65-49; 65-54; 150B-19;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. December 1, 1981;
Temporary Amendment Eff. October 5, 1987, for a period of 180 days to expire on April 2, 1988;
Amended Eff. March 1, 2014, June 1, 2004; May 3, 1993; March 1, 1988*

21 NCAC 07A .0201 is repealed as published in NCR Volume 28, Issue 7, page 622:

SECTION .0200 - STRUCTURE

21 NCAC 07A .0201 CEMETERY COMMISSION MEMBERS

*History Note: Authority G.S. 65-49; 65-50;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978.
Repealed Eff.: March 1, 2014*

1 21 NCAC 07A .0202 is repealed as published in NCR Volume 28, Issue 7, page 622:

2

3 **21 NCAC 07A .0202 ADMINISTRATOR OF CEMETERY COMMISSION**

4

5 *History Note: Authority G.S. 65-53(1); 150B-10;*

6 *Eff. February 1, 1976;*

7 *Readopted Eff. January 16, 1978.*

8 *Repealed Eff.: March 1, 2014*

21 NCAC 07A .0203 – .0204 are repealed as published in NCR Volume 28, Issue 7, page 622:

21 NCAC 07A .0203 CEMETERY COMMISSION EXAMINERS

21 NCAC 07A .0204 CLERICAL STAFF

*History Note: Authority G.S. 65-49; 150B-10;
 Eff. February 1, 1976;
 Readopted Eff. January 16, 1978.
 Repealed Eff.: March 1, 2014*

1 21 NCAC 07A .0205 is repealed as published in NCR Volume 28, Issue 7, page 622:

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3 **21 NCAC 07A .0205 MEETINGS**

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5 *History Note:* Authority G.S. 65-52; 150B-10;
6 Eff. February 1, 1976;
7 Readopted Eff. January 16, 1978.
8 Repealed Eff.: March 1, 2014
9

21 NCAC 07B .0103 is amended as published in NCR Volume 28, Issue 7, page 622:

21 NCAC 07B .0103 HEARINGS

(a) Unless otherwise stated in the particular notice of text, hearings before the North Carolina Cemetery Commission shall be held at the offices of the North Carolina Department of Commerce in Raleigh, North Carolina.

(b) Any person wishing to make an oral presentation may submit a written copy of the presentation to the ~~administrator~~ Commission office prior to or at the hearing.

(c) A request to make an oral presentation must contain a brief summary of the individual's views with respect thereto, and a statement of the length of time the individual wants to speak. Presentations may not exceed 15 minutes.

(d) Upon receipt of a request to make an oral presentation, the ~~Administrator of the~~ Cemetery Commission shall acknowledge receipt of the request, and inform the requesting person of the imposition of any limitations deemed necessary to the end that a full and effective public hearing on the proposed rule may be held.

(e) Written submissions, except when otherwise stated in the particular notice of text must be sent to:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

Submission must clearly state the rule(s) or proposed rule(s) to which the comments are addressed.

(f) Upon receipt of written comments, the ~~Administrator of the~~ Cemetery Commission shall make prompt acknowledgement including a statement that the comments therein will be considered fully by the Cemetery Commission.

(g) The ~~chairman-president~~ of the commission, or his designate, shall have complete control of the hearing proceedings, including extension of any time requirements, recognition of speakers, time allotments for presentation, direction of the flow of the discussion, and the time management of the hearing. The ~~chairman-president~~, or his designate, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

(h) Any interested person desiring a statement of the principal reason(s) for and against the adoption of a rule by the Cemetery Commission and the factors that led to the overruling of the consideration urged for or against its adoption may submit a request addressed to:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

*History Note: Authority G.S. 65-49; 150B-21.2;
 Eff. February 1, 1976;
 Readopted Eff. January 16, 1978;
 Amended Eff. March 1, 2014, September 1, 2007; May 3, 1993; August 1, 1988*

1 21 NCAC 07B .0104 is repealed as published in NCR Volume 28, Issue 7, page 623:

2

3 **21 NCAC 07B .0104 TEMPORARY RULES**

4

5 *History Note:* *Authority G.S. 65-49; 150B-13;*
6 *Eff. February 1, 1976;*
7 *Readopted Eff. January 16, 1978;*
8 *Amended Eff. August 1, 1988.*
9 *Repealed Eff. : March 1, 2014*

21 NCAC 07B .0105 is amended as published in NCR Volume 28, Issue 7, page 623:

21 NCAC 07B .0105 DECLARATORY RULINGS

~~(a) The Cemetery Commission shall have the sole power to make declaratory rulings. All requests for declaratory rulings shall be written and mailed to:~~ Any person wishing to submit a request for a declaratory ruling by the Cemetery Commission shall address a petition to:

North Carolina Cemetery Commission

1001 Navaho Drive, Suite 100

Raleigh, North Carolina 27609.

(b) All requests for a declaratory ruling must include the following information:

(1) name and address of petitioner;

(2) statute or rule to which petition relates;

(3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;

(4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing.

(c) Whenever the Cemetery Commission believes for good cause that the issuance of a declaratory ruling is undesirable, it may refuse to do so. When good cause for refusing to issue a declaratory ruling is deemed to exist, the Cemetery Commission shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

(d) For purposes of Paragraph (c) of this Rule, the Cemetery Commission shall not issue a declaratory ruling:

(1) where there has been a similar controlling factual determination in a contested case, or

(2) where the issue is pending in a current contested case, or

(3) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be appropriate in a particular case.

*History Note: Authority G.S. 65-49; 150B-4;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. March 1, 2014, October 1, 2007; May 3, 1993.*

21 NCAC 07C .0103 is amended as published in NCR Volume 28, Issue 7, page 623:

21 NCAC 07C .0103 CHANGE OF CONTROL

(a) Any entity wishing to purchase or acquire control of an existing cemetery company shall first make written application to the Cemetery Commission on the commission's Application for Change of Control. This form provides space for the name and address of the present and proposed owner, along with the name of the corporation and the name of the cemetery. This form may be obtained by writing:

North Carolina Cemetery Commission

1001 Navaho Drive, Suite 100

Raleigh, North Carolina 27609.

(b) This form must be accompanied by a five hundred dollar (\$500.00) filing fee. The commission also requires the following:

- (1) an examination by the Commission's examiners be made to establish compliance ~~to with~~ trust fund requirements, with the actual cost of the examination to be paid by the applicant. ~~The actual cost of said exam is determined by the actual mileage used to conduct said examination, and this mileage is billed based on the Motor Fleet Mileage Rate set forth in the North Carolina Department of Commerce Travel Expense Policy number FM 1. Subsistence and lodging allowed by this policy as expenses necessary to conduct a Change of Control examination shall be billed according to the rates set forth in Policy number FM 1.~~
- (2) a signed certificate assuming liabilities of the existing cemetery company;
- (3) a financial statement of the existing cemetery company showing net worth;
- (4) certification by title insurance policy or by certificate of an attorney-at-law that the cemetery land, subject to appropriate acreage requirements of G.S. 65-55(f)(3), is owned in fee simple, free of all encumbrances;
- (5) a financial statement of proposed owner, showing net worth and a statement of the proposed owner's experience in the cemetery ~~business.~~ business;
- (6) where applicable, documentation satisfactory to the Commission establishing that the applicant is and will continue to be in compliance with all laws, rules and regulations relating to bonding and other insurance policies. Such documentation shall include all old bonding policies, all existing bonding policies and written proof of the terms of any future continuance of such bonding policies;
- (7) a true and correct copy of the most recent survey and, if it exists, recorded plat of the property that is the subject of the applicant's application for change of control.

(c) No one shall take over the operation of a cemetery company in anticipation of a change of control until all necessary information concerning that change of control has been submitted to ~~the administrator of the Cemetery Commission.~~ No one shall change control of a cemetery company without first obtaining approval of the Cemetery Commission. Once a change of control has been approved by the Cemetery Commission, the change of control

1 must be completed within 90 days of the date of the Cemetery Commission's approval. If the change of control is
2 not completed within 90 days of the date of the Cemetery Commission's approval, then the entity wishing to effect
3 the change of control shall make a new application to the Cemetery Commission in accordance with provisions of
4 this Rule. Upon completion of the change of control, the entity requesting the change of control shall notify in
5 writing ~~the administrator of~~ the Cemetery Commission of the completion. A representative of the buyer and the
6 seller shall be present at any meeting when the commission is going to consider the change of control application.

7
8 *History Note:* Authority G.S. 65-49; 65-53(2); 65-55; 65-59;
9 Eff. February 1, 1976;
10 Readopted Eff. January 16, 1978;
11 Amended Eff. March 1, 2014, July 1, 2005; May 3, 1993; March 1, 1990; October 1, 1989; March
12 1, 1984.

21 NCAC 07C .0104 is amended as published in NCR Volume 28, Issue 7, page 624:

21 NCAC 07C .0104 QUALITY SPECIFICATIONS

All cemeteries must file ~~by September 1, 1979~~ plans and specifications showing minimum quality standards of any vaults, crypts or markers sold.

*History Note: Authority G.S. 65-49; 65-53(7);
Eff. September 1, 1979.
Amended Eff. March 1, 2014*

21 NCAC 07C .0105 is amended as published in NCR Volume 28, Issue 7, page 623:

21 NCAC 07C .0105 MEETING REQUIREMENT

Any application and all related information for a new cemetery license or a change of control of a cemetery must be received by ~~the administrator of~~ the Commission 30 regular working days before the meeting date the item is to be heard.

*History Note: Authority G.S. 65-49; 65-55;
Eff. March 1, 1984;
Amended Eff. March 1, 2014, July 1, 2005.*

21 NCAC 07D .0101 is amended as published in NCR Volume 28, Issue 7, page 624:

SUBCHAPTER 07D - TRUST FUNDS

SECTION .0100 - MAINTENANCE AND CARE FUNDS (PERPETUAL CARE FUNDS)

21 NCAC 07D .0101 REPORT

Each licensed cemetery shall make a report of deposits to the perpetual care fund to be completed and ~~mailed~~ submitted to the office in Raleigh by the last day of each month. The form to be used is the Report of Grave Spaces for the Month of _____. The form provides a space for ~~deed-number, interment, entombment or inurnment rights number, date of deed, conveyance,~~ date of contract, purchaser, lot number, section, ~~number~~ quantity of spaces ~~deeded-conveyed~~ and amount due trust fund. This form may be obtained and must be returned to:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

*History Note: Authority G.S. 65-49;
 Eff. February 1, 1976;
 Readopted Eff. January 16, 1978;
 Amended Eff. March 1, 2014, September 1, 2007; May 3, 1993; September 1, 1979.*

21 NCAC 07D .0102 is amended as published in NCR Volume 28, Issue 7, page 624:

21 NCAC 07D .0102 LOCATION OF FUND

No person will be allowed to withdraw or transfer all or any portion of the corpus of the care and maintenance trust funds of any cemetery to any depository outside the State of North Carolina. Also the Commission will not approve the creation of a new perpetual care trust fund as called for under Chapter 65-55 of the General Statutes unless same is deposited with a trustee in the State of North ~~Carolina~~ Carolina or a national institution with a presence in the State of North Carolina.

*History Note: Authority G.S. 65-49; 65-55; 65-61;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978.
Amended Eff. March 1, 2014*

21 NCAC 07D .0104 is amended as published in NCR Volume 28, Issue 7, page 624:

21 NCAC 07D .0104 ~~FINE-FEE~~ FOR LATE DEPOSITS

Any ~~fine-fee~~ levied under G.S. 65-64(a) shall be one dollar (\$1.00) a day for each ~~grave space, niche, and mausoleum crypt interment, entombment or inurnment space~~ a deposit is delinquent on subject to a maximum ~~fine~~ fee of one hundred per cent of the amount that was or is late to the care and maintenance trust fund.

(1) The first time a delinquency is found the cemetery will receive a 20 day notice in writing to cure the violation regardless of whether or not the delinquency was corrected before an examination by this Commission. The ~~fine-fee~~ will start on the 21st day after notice of the violation if the money has not been deposited.

(2) Once a cemetery has received one 20 day notice, the ~~fine-fee~~ for any later delinquency will begin running on the first day of delinquency. No notice of delinquency need be sent before a ~~fine-fee~~ is incurred, and the ~~fine-fee~~ may reach the maximum amount of one hundred percent of the amount that was or is owed or deposited late to the care and maintenance trust fund before the delinquency is discovered.

(3) A cemetery which has not been notified of or ~~fined~~ levied a fee for a delinquency within the last five years will receive a new 20 day notice in the event of any delinquency.

(4) In the event a delinquency is found in a cemetery's care and maintenance trust fund and the cemetery does not make up the deposit, if still owed, and/or the ~~fine-fee~~ within 20 days after notice from the Commission that a ~~fine-fee~~ is due, then the Commission will take immediate steps to revoke the cemetery's license.

~~(5) It is the intent and policy of this Commission to levy a fine only for substantial, flagrant, or repeated late or delinquent deposits.~~

*History Note: Authority G.S. 65-49; 65-54(a);
Eff. December 1, 1981.
Amended Eff. March 1, 2014*

21 NCAC 07D .0105 is amended as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0105 DEPOSIT FOR MULTIPLE BURIALS

~~(a) Each grave space will require one care and maintenance trust fund deposit regardless of the number of interments to be made in the space.~~

~~(b) Each mausoleum crypt will require one care and maintenance trust fund deposit for each casket space.~~

~~(c) Each niche will require one care and maintenance trust fund deposit for each set of cremated remains to be inurned in the niche, except if two or more cremated remains are to be used there will be only one deposit if the niche was sold on one contract.~~

Each interment, entombment or inurnment right shall require a deposit to the care and maintenance trust fund.

*History Note: Authority G.S. 65-49;
 Eff. September 1, 1983.
 Amended Eff. March 1, 2014*

21 NCAC 07D .0201 is amended as published in NCR Volume 28, Issue 7, page 625:

**SECTION .0200 - PRE-NEED CEMETERY MERCHANDISE: PRE-CONSTRUCTED MAUSOLEUMS
AND BELOW GROUND CRYPTS TRUST FUNDS**

21 NCAC 07D .0201 REPORT

Each licensed cemetery shall make a report of deposits to the pre-need cemetery merchandise and pre-constructed mausoleum and below ground crypt trust fund to be completed and ~~mailed-submitted~~ to the office in Raleigh by the last day of each month. The form to be used is the "Monthly Report and Deposit Record for Pre-need Cemetery Merchandise, Pre-Constructed Mausoleums and Services Not Delivered." This form provides space for trustee's name, fund account number and the name of the savings institution used. It also provides space for the name of the purchaser, date of the contract, number of the contract, the full sales price, the total amount required, the amount deposited, and the total amount deposited to date. Copies of this form may be obtained from and must be returned to:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

*History Note: Authority G.S. 65-49;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. March 1, 2014, September 1, 2007; May 3, 1993; September 1, 1979.*

21 NCAC 07D .0202 is amended as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0202 DELIVERY

(a) Vaults and crypts are not considered delivered unless installed or stored on the cemetery premises or stored off premises by a supplier. ~~If vaults are not to be installed, the contract between the cemetery and purchaser must so state in bold print that the purchaser has accepted above ground delivery. If a vault is to be installed, then the contract must be broken down into sales cost and installation cost. All vault sales are considered to include installation unless installation cost is itemized in the contract.~~

(b) Markers, bases and vases are not considered delivered unless installed or stored at the cemetery or if stored off premises by a supplier, there shall be no additional charge for delivery or freight, unless specified in bold print in the contract. If vaults, crypts or other merchandise are stored off premises, the cemetery company must submit to the Cemetery Commission not less than annually a report by a certified public accountant of each item which has been purchased through a North Carolina cemetery company and which at the date of the report was then in storage and designated the property of the cemetery company's customer and not the property of the supplier. If vaults, crypts or other merchandise are stored at the cemetery, the cemetery company must submit to the Cemetery Commission not less than annually a report by ~~an certified public~~ accountant of each item which has been purchased and which at the date of the report was then in storage and designated the property of the cemetery company's customer.

~~(c) If opening and closing of crypts at the time of interment are not included in the cost of this merchandise, then that must be so stated in bold print on the contract between the cemetery and purchaser.~~

*History Note: Authority G.S. 65-49; 65-66;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. March 1, 2014, December 1, 2008; May 3, 1993; July 1, 1988; April 1, 1987;
September 1, 1979.*

21 NCAC 07D .0203 is amended as published in NCR Volume 28, Issue 7, page 625:

21 NCAC 07D .0203 TRUST ACCOUNTS

(a) ~~Trust accounts must be established pursuant to an agreement with a financial institution that withdrawals may be made only with the signature of both the cemetery company's designee and the North Carolina Cemetery Commission's authorized designee. Trust accounts must be clearly designated as trust accounts. For the purposes of withdrawal, the Administrator of the North Carolina Cemetery Commission shall be the cemetery commission's authorized designee. Withdrawal requests in accordance with G.S. 65-66(b)(4) shall be made no more frequently than once per month.~~

(b) ~~These trust accounts are not joint accounts, however, they are restricted accounts that require the Commission's authorized designee to sign before any withdrawal is made. Full disclosure of the amount in the trust account shall be made available within two (2) business days upon request by the Commission, corporate trustee or financial institution.~~

(c) ~~The cemetery company must file a statement with the North Carolina Cemetery Commission setting out the name and the position or title of anyone who is authorized to sign for withdrawals from the account for the cemetery company. Interest earned on trust accounts may be used to fund future deposits or may be withdrawn with the prior written approval of the Commission.~~

(d) ~~These withdrawals can be made no more frequent than once a month. The cemetery company must give the North Carolina Cemetery Commission 20 days written notice of any proposed withdrawal, stating the amount to be withdrawn and the justification for withdrawal.~~

(e) ~~Full disclosure of the amount in the trust account must be made available to the North Carolina Cemetery Commission by the financial institution any time during the financial institution's normal business hours. A copy of each cemetery company's pre-need contract must be on file with the Commission before any withdrawals can be authorized.~~

(f) ~~Interest earned on trust accounts may be used to offset future deposits or may be withdrawn with the written approval of the Administrator.~~

*History Note: Authority G.S. 65-49; 65-66(b)(4);
Eff. September 1, 1979;
Amended Eff. March 1, 2014, May 3, 1993*