

SUBCHAPTER 07B - RULE-MAKING: DECLARATORY RULINGS AND CONTESTED CASES

SECTION .0100 - RULE-MAKING AND DECLARATORY RULINGS

21 NCAC 07B .0101 PETITIONS

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Cemetery Commission shall address a petition to:

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

(b) The petition shall contain the following information:

- (1) a draft of the proposed rule;
- (2) reason for proposal;
- (3) effect on existing rules or orders;
- (4) data supporting the proposal;
- (5) names of those most likely to be affected by the proposed rule, with addresses if reasonably known;
- (6) name(s) and address(es) of petitioner(s);
- (7) a description as to how the petitioner(s) is (are) directly affected by the proposed rule.

(c) The Cemetery Commission shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. It shall consider all the contents of the submitted petition, plus any additional information it deems relevant.

*History Note: Authority G.S. 65-49; 150B-20;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. September 1, 2007; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

21 NCAC 07B .0102 NOTICE

(a) Any person or agency desiring to be placed on the mailing list for Cemetery Commission rule-making notices may file a request, in writing, furnishing names and mailing addresses to:

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

(b) In addition to notices sent to persons requesting them, notice of the rule-making proceedings will be sent to the North Carolina Cemetery Association and to all state-licensed cemeteries.

*History Note: Authority G.S. 65-49; 150B-21.2;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. September 1, 2007; May 3, 1993; August 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

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 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 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, 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. September 1, 2007; May 3, 1993; August 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

21 NCAC 07B .0104 TEMPORARY RULES

The North Carolina Cemetery Commission may issue temporary rules in the circumstances described in G.S. 150B-13. A temporary rule shall continue in effect for the period specified in the rule, which in no event shall be in excess of 180 days.

*History Note: Authority G.S. 65-49; 150B-13;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. August 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

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:

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. October 1, 2007; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

SECTION .0200 - CONTESTED CASES

21 NCAC 07B .0201 CEMETERY COMMISSION HEARINGS **21 NCAC 07B .0202 REQUEST FOR HEARING** **21 NCAC 07B .0203 NOTICE**

History Note: Authority G.S. 65-49; 150B-23; 150B-37;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

21 NCAC 07B .0204 WRITTEN ANSWERS TO NOTICE **21 NCAC 07B .0205 WAIVER**

History Note: Authority G.S. 65-49; 150B-23; 150B-25(b);
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Repealed Eff. August 1, 1988.

21 NCAC 07B .0206 DEPOSITIONS

History Note: Authority G.S. 65-49; 150B-28;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

21 NCAC 07B .0207 DISCOVERY

History Note: Authority G.S. 65-49; 150B-28;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Repealed Eff. August 1, 1988.