

SUBCHAPTER 07C – LICENSING

SECTION .0100 – CEMETERIES

21 NCAC 07C .0101 APPLICATION AND FILING FEE

Any legal entity wishing to establish and operate a cemetery company, as defined in G.S. 65-48(5) must first obtain a license from this commission. The legal entity shall file written application with the commission on the Commission's Application for Certificate of Authority. This form provides a space for the name of the corporation and cemetery, the names of directors and officers of the corporation, the mailing address of the corporation and the address of the cemetery. A filing fee of one thousand dollars (\$1,000.00) must accompany the application. The application form is available by contacting:

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

History Note: Authority G.S. 65-48(5); 65-49; 65-55;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. July 1, 2005; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0102 CEMETERY COMPANY LICENSE

(a) Upon proper application for a cemetery company license and where it appears after investigation that the criteria set forth in G.S. 65-55(c) and G.S. 65-55(f) have been met, the Commission shall issue said license to the applicant, provided that the required license fee has been paid and that not more than one year has elapsed between the time the proposed cemetery company receives the authority to organize and the time it requests its license.

(b) Any cemetery company that does not renew its license by January 1, after its expiration on July 1, shall not be allowed renewal privileges. If the cemetery company wishes to obtain a license it must apply for a new license and fulfill all requirements as if they were applying for a new license.

(c) A designated general manager under G.S. 65-55(c)(4) shall have had at least one year's experience in a management position in a cemetery licensed under the North Carolina Cemetery Act or its equivalent as determined by the Commission on an individual basis.

History Note: Authority G.S. 65-49; 65-54; 65-55;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. March 1, 1984; December 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

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 to the Commission at the address in Rule 21 NCAC 07A .0101.

(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 inspectors to establish compliance with trust fund requirements, with the actual cost of the examination to be paid by the applicant;
- (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;
- (6) 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 Cemetery Commission and until the Commission issues the certificate of approval. 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 must be completed within 90 days of the date of the Cemetery Commission's approval. If the change of control is not completed within 90 days of the date of the Cemetery Commission's approval, then the entity wishing to effect the change of control shall make a new application to the Cemetery Commission in accordance with the provisions of this Rule. Upon completion of the change of control, the entity requesting the change of control shall provide written notice to the Cemetery Commission of the completion. A representative of the buyer and the seller shall be notified by the Commission of and be present at any meeting when the Commission is going to consider the change of control application.

History Note: Authority G.S. 65-49; 65-53(2); 65-53(6); 65-55; 65-59; 65-69;
 Eff. February 1, 1976;
 Readopted Eff. January 16, 1978;
 Amended Eff. June 1, 2014; July 1, 2005; May 3, 1993; March 1, 1990; October 1, 1989; March 1, 1984;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0104 QUALITY SPECIFICATIONS

All cemeteries must file 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;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

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. July 1, 2005;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

SECTION .0200 - CEMETERY SALES ORGANIZATIONS: MANAGEMENT ORGANIZATIONS AND BROKERS

21 NCAC 07C .0201 APPLICATION AND FILING FEE

(a) Any legal entity wishing to establish and operate a cemetery sales organization, cemetery management organization or a cemetery broker, as each are defined under G. S. 65-48, must first obtain a license from this

commission. The legal entity shall file written application with the commission on the Commission's Application for Cemetery Broker, Sales and/or Management Contractor License. This form provides space for applicant's name and address; space is also provided for employment, references and criminal record for an individual, corporate officer or partner, as the case may be. The application form is available by contacting:

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

(b) The following documents shall accompany this application:

(1) If individual, officer or partner has not been licensed as a cemetery salesman for a period of two years, the application shall be accompanied by two letters of recommendation, attesting to the applicant's good character and experience in the cemetery business.

(2) Corporate applications shall be accompanied by:

(a) certified copy of that portion of the minutes of the corporation wherein the officer named on the application was elected an officer,

(b) certified copy of that portion of the minutes of the corporation wherein the officer named on the application was authorized to file the application on behalf of the corporation.

(3) All brokerage, sales or management contracts.

(c) Application filing fees are six hundred dollars (\$600.00) for sales and management organizations, and four hundred dollars (\$400.00) for brokers.

*History Note: Authority G.S. 65-49; 65-57;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. August 1, 2005; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

21 NCAC 07C .0202 LICENSE FEES

The annual license fee for sales organizations, management organizations, and brokers is five hundred (\$500.00). These licenses have an expiration date of June 30 in each year.

*History Note: Authority G.S. 65-49; 65-57;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.*

SECTION .0300 - INDIVIDUAL PRE-NEED SALESPEOPLE

21 NCAC 07C .0301 APPLICATION AND FILING FEE

Any person who offers to sell pre-need grave spaces, mausoleum crypts, niches, memorials, vaults or any other pre-need cemetery merchandise or services that are authorized for any cemetery, cemetery sales groups or cemetery management groups must first obtain a license from the commission. Applications for a license must be filed with the Commission on the Application for Persons Selling Pre-need Cemetery Property together with a fee in the amount of one hundred dollars (\$100.00), fifty dollars (\$50.00) of which shall constitute an application fee and fifty dollars (\$50.00) of which shall constitute a two year license fee. The form provides space for applicant's name, cemetery name, past address, previous employment and criminal record. The application form is available by contacting:

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

This license has an expiration date of June 30 of its expiration year, and is not transferable from the cemetery to which it is issued.

History Note: Authority G.S. 65-49; 65-58;

Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. December 1, 2007; July 1, 2005; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0302 LICENSE

History Note: Authority G.S. 65-49; 65-58;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Expired Eff. September 1, 2018, pursuant to G.S. 150B-21.3A.

21 NCAC 07C .0303 DISPLAY

Each salesperson licensed by the Commission shall display his or her license in the office of each cemetery he or she represents. If extra copies are needed, a fee of one dollar and fifty cents (\$1.50) shall be charged for each duplicate license. Duplicate copies may be obtained by contacting:

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

History Note: Authority G.S. 65-49; 65-58; 150B-19;
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 07C .0304 CEMETERY OWNER

A cemetery owner who sells pre-need cemetery property and merchandise as classified in G. S. 65-58 of the laws of North Carolina must obtain a sales license as stated under G.S. 65-58.

History Note: Authority G.S. 65-49; 65-58;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0305 TRAINEE

At least one licensed salesperson must be present at the time that any pre-need property is sold and that any trainee, when accompanied by a licensed salesperson, is not required to be licensed.

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

21 NCAC 07C .0306 REFUND

If a licensed salesperson terminates his employment with a cemetery, no refund shall be allowed. If a sales license applicant terminates employment with a cemetery after offering to make or making a preneed sale but before receiving a license, no refund will be paid.

History Note: Authority G.S. 65-49; 65-58;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;

Amended Eff. December 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0307 RENEWAL

Before July 1 of the license expiration year, each licensed salesperson shall pay a license renewal fee of fifty dollars (\$50.00) per license for a two-year renewal. Any individual preneed salesperson that does not renew the license by January 1 after its expiration on July 1 shall be denied renewal privileges. If the person wishes a license the person must apply for a new license.

History Note: Authority G.S. 65-49; 65-58;
Eff. December 1, 1981;
Amended Eff. December 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.

21 NCAC 07C .0308 CONTRACT IDENTIFICATION

Each contract for the sale of interment rights, merchandise and services shall contain the name and license number of the salesperson witnessing the signature of the purchaser on the contract.

History Note: Authority G.S. 65-49; 65-58;
Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 18, 2018.