

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.