

SUBCHAPTER 34C - CREMATORIES

SECTION .0100 – GENERAL PROVISIONS

21 NCAC 34C .0101 ELECTION TO CREMATORY AUTHORITY

(a) Definitions. As used in this Rule:

- (1) "Crematory operator" shall have the same meaning as the term "crematory licensee" defined in G.S. 90-210.121(12).
- (2) "Return official envelope" shall mean the envelope in which the crematory operator places a completed ballot for election to the Crematory Authority to return to the Board.
- (3) "Seat subject to election" means the seat held by a member of the Crematory Authority whose term expires December 31 of the calendar year in which the election is held.

(b) The nomination and election of members of the Crematory Authority shall be conducted as follows:

- (1) Every crematory operator with a current North Carolina license shall be eligible to vote. The list of crematory operators with a current North Carolina license at the time ballots are prescribed shall constitute the registration list for elections. The Board shall keep an official list of all crematory operators in its office. The Board shall post a list of crematory operators indicating whether a return official envelope has been returned during each election.
- (2) Nomination of candidates for election shall be made to the Board by a written petition pursuant to 21 NCAC 34A .0103. Petitions for nomination must be filed with the Board between July 1 and August 1 of the calendar year preceding the expiration of the term of the seat subject to election. Any candidate who is nominated may withdraw his or her name after filing written notice with the Board prior to the closing of the polls in any election.
- (3) The following procedures shall apply to ballots for election to the Crematory Authority:
 - (A) The Board shall prescribe ballots and determine the time allowed for voting at its first meeting after nominations have closed. The ballots shall contain a listing of the nominees in alphabetical order; instructions for voting; a method of identification; and other information the Board deems necessary as required by law.
 - (B) At the same meeting where ballots are prescribed, the Board shall designate a day for ballots to be mailed; a deadline for the latest day and time for ballots to be returned; and the day and hour when ballots will be canvassed and counted. The Board shall set the deadline for ballots to be returned to be at least 10 days after the time ballots are mailed.
 - (C) The Board shall mail to each crematory operator a ballot; a return official envelope; a notice designating the latest day and hour for ballots to be received by the Board; a notice of when ballots will be canvassed and counted; and other information the Board deems necessary as required by law. The return official envelope shall be addressed to the Board; shall bear a serial number; and shall have printed on the left portion of its face the following:

"Serial No. of Envelope _____
Signature of Voter _____
Address of Voter _____

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope.)"

- (4) Ballots shall be canvassed publicly at the designated day and hour. Any eligible voter may be present. No ballot shall be canvassed unless it has been delivered in a sealed return official envelope to the Board by hand or by U.S. mail before the latest day and hour designated by the ballot for receipt.
- (5) Ballots shall be counted as follows:
 - (A) All return official envelopes shall be displayed to the persons present. Any person present may challenge the qualification of the voter whose signature appears on the return official envelope or the validity of the return official envelope. Any challenged return official envelope shall be set aside, and the Board may hear the challenge either immediately or after all unchallenged ballots have been counted.
 - (B) After all return official envelopes have been displayed, the Board shall open all unchallenged return official envelopes, extract the ballot without showing its marking as much as possible, and separate each ballot from its return official envelope.
 - (C) After all ballots have been separated, the Board shall display all ballots. No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election;

\provided that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choice or choices from the ballot. Any person present may challenge the validity of the ballot only on the grounds of defects appearing on the face of the ballot. The Board may hear the challenge either immediately or after all unchallenged ballots have been counted.

- (D) After all ballots have been displayed, all unchallenged ballots shall be counted, and all remaining challenges shall be resolved by the Board. The Board shall count the number of votes cast for each candidate and the total number of votes cast. If a candidate dies or withdraws his or her nomination before polls are closed in any election, he or she shall be eliminated from the contest, and any votes cast for him or her shall be disregarded and shall not count toward the total number of votes cast.
- (6) The following procedures shall apply to fill all seats subject to election:
 - (A) To determine a majority of votes cast when there is one seat subject to election, the total number of votes cast for all candidates shall be divided by two, and any candidate receiving a number of votes exceeding one half of the total number of votes cast shall be deemed to have received a majority of votes cast and shall be deemed elected. If no candidate receives a majority of votes cast, the candidate receiving the highest vote total shall be deemed elected.
 - (B) To determine the majority of votes cast when there are two seats subject to election, the total number of votes cast for all candidates shall be divided by four, and any candidate receiving a number of votes exceeding this sum shall be deemed to have received a majority of votes cast. Any candidate receiving a majority of votes cast shall be deemed elected, but if more than two candidates receive a majority of votes cast, the candidates receiving the two highest vote totals shall be deemed elected. If no candidate receives a majority of votes cast, the candidate receiving the highest vote total shall be deemed elected. If one candidate has been deemed elected but one seat remains vacant because no other candidate received a majority of votes cast, the candidate receiving the highest vote total among candidates who did not receive a majority of votes cast shall be deemed elected.
 - (C) In any election where a candidate was deemed elected but failed to receive a majority of votes cast, the candidate who received the next highest vote total but was not elected may file a written petition requesting a second election within ten days after the first election. The second election shall be between the petitioner and the candidate who was deemed elected but did not receive a majority of votes cast. The procedures in paragraphs (b)(1) through (6) of this Rule shall apply to the second election except where inconsistent with this subparagraph. The candidate receiving the majority of votes cast in the second election shall be deemed elected.
 - (D) If there is a tie vote between candidates in any election, the tie shall be resolved by a vote of the Board. If there is a tie after a vote of the Board, the President of the Board may break the tie.
 - (E) If, after nominations have closed, there is only one candidate for each seat subject to election, the Board shall declare the candidate or candidates elected without holding an election. If, after nominations have closed, there is no candidate for a seat subject to election or if a candidate receiving a majority of votes cast dies or withdraws after the election but before taking office, the Board shall fill the position by majority vote.
- (7) Each new member shall take office on the first day of his or her term unless the election to the Crematory Authority has not completed by the beginning of the term, in which case the new member shall take office immediately after the election has been completed.
- (8) If a member of the Board is nominated for election to the Crematory Authority and does not withdraw his or her name, he or she shall be disqualified from all matters pertaining to that election, and the remaining members of the Board shall proceed without his or her participation.
- (9) The Board shall keep the voting records required by 21 NCAC 34A .0104 for a period of six months following the election.

*History Note: Authority G.S. 90-210.122(c); 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. July 1, 2004;*

*Temporary Amendment Eff. June 30, 2005;
Amended Eff. April 1, 2006.*

21 NCAC 34C .0102 FORM OF DOCUMENTS

When any provision of Article 13F, Chapter 90, of the North Carolina General Statutes or any rule in this Subchapter requires a crematory licensee to obtain any death certificate, report, authorization, waiver, statement or other document prior to cremation, it shall be deemed that such requirements are complied with if the crematory licensee receives the applicable document or documents, in the time specified, in the form of the original, a photocopy or by facsimile transmission.

*History Note: Authority G.S. 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. July 1, 2004.*

21 NCAC 34C .0103 APPLICATION FORM FOR CREMATORY LICENSE

All applications for a crematory license shall be made on forms provided by the Board. The application shall state the name of the applicant; address; type of business entity; location of crematory; description of crematory, facilities and equipment; name and address of each crematory technician; name and address of the crematory manager; any criminal convictions of the applicant and manager; and other information the Board deems necessary as required by law. Three affidavits of the moral character of the owners, partners, or officers and of the manager in compliance with G.S. 90-210.26 shall accompany the application.

*History Note: Authority G.S. 90-210.123; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. August 1, 2004.*

21 NCAC 34C .0104 CREMATORY LICENSE CERTIFICATE

The Board shall issue each crematory licensee a certificate for a crematory upon demonstrating that all requirements for a crematory license have been satisfied. All crematory license certificates shall be issued on certificate forms provided by the Board.

*History Note: Authority G.S. 90-210.123; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. August 1, 2004.*

21 NCAC 34C .0105 CREMATORY INSPECTION FORM

The findings of all crematory inspections shall be recorded and filed on report forms provided by the Board. The crematory licensee shall furnish the name and address of the crematory, names of the owner and manager, acknowledgement of the findings of the inspector, the date for compliance, verification by the crematory licensee that any violations have been corrected, the date of the verification, and other information the Board deems necessary as required by law. Verifications by the crematory licensee that any violations have been corrected must be received by the Board no later than seven days after the date for compliance.

*History Note: Authority G.S. 90-210.123; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. August 1, 2004.*

SECTION .0200 - EQUIPMENT AND PROCESSING

21 NCAC 34C .0201 HOLDING FACILITY; CREMATION UNIT; PROCESSOR

Every crematory shall have the following:

- (1) A holding facility of suitable size to accommodate all human remains which are retained and awaiting cremation.
- (2) A commercially-manufactured cremation unit, within the crematory, made specifically for the cremation of human remains, meeting the following minimum standards:

- (a) An ash collection pan to minimize commingling of cremated remains of one human remains with another.
- (b) A hearth or floor without depressions so as to minimize commingling of cremated remains of one human remains with another.
- (c) A door safety switch to stop the burner operation when the front charging door is opened.
- (d) A pollution monitoring system to monitor and detect smoke when the density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes.
- (e) Approval by Underwriters Laboratory or a comparable testing agency.
- (3) A commercially-manufactured processor, within the crematory, made specifically for the pulverization of cremated remains, meeting the following minimum standards:
 - (a) Capable of consistently processing cremated remains to unidentifiable dimensions.
 - (b) A dust-resistant processing chamber.
 - (c) An exterior surface made of easily cleaned, non-corrosive material.

History Note: Authority G.S. 90-210.41(9),(12); 90-210.45(d),(e); 90-210.50(a);
 Eff. July 1, 1991;
 Recodified from Rule .0202 Eff. July 7, 1992.

21 NCAC 34C .0202 REFRIGERATION

Unembalmed human remains retained in the custody of a crematory licensee for more than 24 hours prior to cremation shall be kept in a refrigeration unit. Crematory licensees shall have a refrigeration unit, capable of storing at least three adult human bodies, in the holding facility. Each refrigeration unit required by this Rule shall meet the following minimum standards:

- (1) Capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed.
- (2) Sealed concrete, stainless steel, galvanized, aluminum or other easily cleaned flooring in walk-in units.
- (3) Stainless steel, aluminum or other non-corrosive and easily cleaned materials for the remainder of the interior of all units.

History Note: Authority G.S. 90-210.121(9),(12); 90-210.134(a);
 Eff. July 1, 1991;
 Recodified from Rule .0201 Eff. July 7, 1992;
 Amended Eff. July 1, 2004.

21 NCAC 34C .0203 PULVERIZATION
21 NCAC 34C .0204 CREMATION CONTAINERS

History Note: Authority G.S. 90-210.121(8),(9); 90-210.125(e); 90-210.134(a);
 Eff. July 1, 1991;
 Amended Eff. January 1, 1995;
 Repealed Eff. July 1, 2004.

21 NCAC 34C .0205 LABELS

In addition to the requirements of G.S. 90-210.29A, the crematory licensee shall attach a typed or printed label to the temporary container, urn or other permanent container at the time the cremated remains are placed therein. If an inside and outside container are used, then both shall be labelled. The label shall contain the name of the decedent, the date of cremation and the name of the crematory.

History Note: Authority G.S. 90-210.126; 90-210.134(a);
 Eff. July 1, 1991;
 Amended Eff. July 1, 2004.

21 NCAC 34C .0206 CLEANLINESS

All areas of the crematory and holding facility devoted to the reception, storage and cremation of human remains and to the pulverization and delivery of cremated remains, and all equipment located therein, shall be kept in good repair and in a sanitary condition and subject to inspection by the Board or its agents at all times.

History Note: Authority G.S. 90-210.41(9),(12); 90-210.50(a);
Eff. July 1, 1991.

SECTION .0300 - AUTHORIZATIONS, REPORTS, RECORDS

21 NCAC 34C .0301 AUTHORIZATION TO CREMATE

History Note: Authority G.S. 90-210.124; 90-210.126(a); 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. January 1, 1995;
Repealed Eff. July 1, 2004.

21 NCAC 34C .0302 WAIVER FORM

All waivers of the waiting period of cremation required by G.S. 90-210.129(e) shall be recorded on forms provided by the Board. The form shall require the official authorized to waive the waiting period for cremation to furnish the statutory basis for the waiver, the signature of the official authorized to waive the waiting period, and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.123; 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. August 1, 2004.

21 NCAC 34C .0303 RECORDS OF CREMATION AND DELIVERY

(a) All crematory licensees shall complete receipts for human remains on Board forms. The crematory licensee shall furnish the name of the crematory licensee, full name of the decedent, date and time of death, date and time the human remains was delivered to the crematory licensee, any affiliation by the person delivering remains with a funeral establishment or crematory, the name and signature of the employee or agent of the crematory who received the human remains, and any other information the Board deems necessary as required by law. Every crematory licensee shall furnish this receipt to the person who delivers the human remains to the crematory licensee.

(b) All records documenting the release of human remains from a crematory licensee to the person who receives the cremated remains shall be completed on Board forms. The crematory licensee shall furnish the name of the crematory licensee, the full name of the decedent, the date and time of release, the name of the person who received the cremated remains, the place where cremated remains were received, any affiliation by the person receiving remains with a funeral establishment or other entity, the signatures of the person delivering the remains and the recipient of remains, any mailing or handling instructions, and any other information the Board deems necessary as required by law. Crematory licensees must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains.

(c) All records documenting the release of human remains from a funeral establishment to the person who receives the cremated remains shall be completed on Board forms. The funeral establishment shall furnish the name of the funeral establishment, the full name of the decedent, the date and time of release, the person to whom the remains were released, the type of container in which the remains were released, the signatures of the parties delivering and receiving remains, any shipping or special handling instructions, and any other information the Board deems necessary as required by law. Funeral establishments must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains.

(d) In order to track the human remains through the cremation process from the time the remains are received at the crematory until the cremated remains are delivered, all crematory licensees shall keep records on Board forms. The crematory licensee shall furnish the name of the crematory licensee, full name of the decedent, description of the

cremation container used, time and date the decedent was placed into the crematory, person who placed the deceased in the crematory, time and date the cremated remains were removed from the crematory, type of container in which the cremated remains were placed, time and date the cremated remains were processed, the name and signature of the person who processed the cremated remains and placed them into a container, and any other information the Board deems necessary as required by law.

(e) In lieu of the separate forms required by Paragraphs (a), (b), and (d) of this Rule, a crematory licensee may use a form prescribed by the Board that combines all information required by Paragraphs (a), (b), and (d) of this Rule.

(f) The crematory licensee shall retain the completed forms required by this Rule and shall produce all crematory forms for inspection or copying by the Board or its agents upon request. The funeral establishment shall retain the completed form required by Paragraph (c) of this Rule and shall produce the form for inspection or copying to the Board or its agents upon request.

History Note: Authority G.S. 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. September 1, 2009; August 1, 2004.

21 NCAC 34C .0304 CREMATION AND DELIVERY FORM

History Note: Authority G.S. 90-210.134(a);
Eff. July 1, 1991;
Repealed Eff. July 1, 2004.

21 NCAC 34C .0305 MONTHLY REPORTS

No later than the tenth day of each month, every crematory licensee shall remit to the Board the per-cremation fees under 21 NCAC 34A .0201(b) for the cremations which the licensee performed during the immediately preceding calendar month. The fees shall be accompanied by a statement signed by an authorized representative of the crematory indicating the name of the crematory, each decedent's name, date of each cremation, the person or other entity for whom each cremation was performed, the number of cremations contained in the report and the total amount of fees remitted with the report.

History Note: Authority G.S. 90-210.132; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. February 1, 2009; July 1, 2004.

21 NCAC 34C .0306 RETENTION OF RECORDS

A copy of all death certificates, authorizations, waivers, statements, reports and other documents required by G.S. 90-210.120 through G.S. 90-210.134 and by the rules in this Subchapter shall be retained by the crematory licensee for a period of three years and shall, during that period, be subject to inspection by the Board or its agents.

History Note: Authority G.S. 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. January 1, 2009; July 1, 2004.