ARTICLE 25-05
CREMATORIUMS

Chapter
25-05-01 Licensure of Crematoriums

CHAPTER 25-05-01
LICENSURE OF CREMATORIUMS

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25-05-01-01. Licensure of crematoriums.

An application to license a crematorium must be made on a form provided by the board and include the application fee of one hundred dollars. The license expires after December thirty-first of every year, and may be renewed by submitting a renewal application and the renewal fee of one hundred dollars. Each crematory operator must obtain and display a certificate of operation training provided by the retort manufacturer, cremation association of North America, or the national funeral directors association. The certificate must be renewed at a minimum of every five years or as required by the training entity.

History: Effective May 1, 1993; amended effective May 1, 1998; April 1, 2005; January 1, 2015.
General Authority: NDCC 43-10-05
Law Implemented: NDCC 43-10-05, 43-10-25

25-05-01-01.1. Crematory requirements.

A crematory must consist of:

1. A building or structure that complies with applicable local and state building codes, zoning laws and ordinances, and environmental standards, containing one or more cremation chambers or retorts for the cremation of dead human bodies;

2. A motorized mechanical device for grinding, crushing, or pulverizing the cremated remains to a granulated appearance appropriate for final disposition; and

3. An appropriate holding facility for dead human bodies awaiting cremations.

History: Effective May 1, 1998.
General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05, 43-10-25

25-05-01-02. Crematorium establishment.

Any crematorium in the state of North Dakota shall comply with all criteria of federal and state law regarding environmental impact on the area in which it is located, including interior design and placement of the crematoria retort which must be installed in accordance with the manufacturer's instructions. The crematorium shall also conform to all applicable federal, state, and local building codes.

History: Effective May 1, 1993; amended effective January 1, 2015.
General Authority: NDCC 43-10-05, 43-10-25
Law Implemented: NDCC 43-10-05

25-05-01-03. Insurance requirements.

Repealed effective May 1, 1998.

25-05-01-04. Inspection of crematoriums.

Any crematorium in the state of North Dakota for the disposition of human remains through the process of cremation must be open for inspection by any authorized representative of the North Dakota state department of health, or any representative of the board.

History: Effective May 1, 1993; amended effective May 1, 1998.
General Authority: NDCC 43-10-10, 43-10-22, 43-10-25
Law Implemented: NDCC 43-10-05

25-05-01-05. Bond required.

Repealed effective May 1, 1998.

25-05-01-06. Crematoriums must apprise funeral directors of requirements.

All crematoriums in the state of North Dakota must fully apprise funeral directors of the type of container the crematorium can cremate, and that a minimum cremation unit as adjudged practical by the cremation association of North America be used. Should caskets be used in cremation, the crematorium must apprise the funeral director in writing what materials in caskets will be completely consumed and what caskets cannot be consumed. The crematorium must apprise the funeral director if caskets or casket hardware are nonconsumable. It is the responsibility of the cremation authority involved to destroy on a regular basis and through proper sanitation and disposition channels available to it those caskets or their dependent parts that may remain after the cremation process. No stockpile of used caskets or parts may remain in or around the crematorium facility.

History: Effective May 1, 1993; amended effective January 1, 2015.
General Authority: NDCC 43-10-05
Law Implemented: NDCC 43-10-05

25-05-01-07. Cremation requirements.

1. All crematoriums shall clean their retorts at the conclusion of each cremation, and bone fragments that remain must be duly reduced by equipment sanctioned by the cremation association of North America, placed in a rigid sealed container of fiberglass, metal, wood, or plastic, and duly marked with the name of the person cremated, the name of the funeral director involved in the cremation, the age and date of birth and death of the person cremated, and the name and complete address of the crematorium.

2. If cremated remains are to be shipped by a common carrier, they must be shipped only by a method which uses an internal tracking system. Cremated remains shall be shipped to the address as stated on the cremation authorization form signed by the authorizing agent.

3. Cremated remains to be shipped must be packed in a method which complies with United States postal service requirements for packaging and shipping cremated remains, including USPS publication 139. Further,

   a. Cremated remains must be placed in a heavy duty plastic bag with a metal identification tag attached to the bag.

   b. The bag must be placed inside a temporary shipping container or urn, and sealed with durable tape.

   c. The temporary shipping container or urn must be placed in a corrugated cardboard box with identification of the deceased, the recipient's and the sender's addresses both within the box and written or secured to the outside of the box, adequate padding must be supplied, and the box must be sealed with durable tape.

   d. The cardboard box containing the temporary shipping container or urn must be placed in a durable outer container, such as the United States postal service's priority two-day express mail shipping box, appropriately padded and sealed with durable tape. The recipient's address, the return address, and tracking number must be legibly written on or attached to the box, and the contents must be insured in the amount requested by the authorizing agent. The box containing the temporary shipping container or urn may not be shipped in a bag or envelope, such as the United States postal service's express envelopes.

   e. The crematorium or funeral practitioner must monitor the shipment using the tracking number, and must supply the tracking number to the intended recipient by phone or email on the day of shipment.

   f. The crematorium or funeral practitioner must contact the intended recipient to confirm receipt of the package.

History: Effective May 1, 1993; amended effective May 1, 1998; January 1, 2015; October 1, 2018.
General Authority: NDCC 43-10-05
Law Implemented: NDCC 43-10-05

25-05-01-08. Cremation authorization.

Cremation authorization permits must be signed by the legal representative or representatives of the deceased, and all information with full name of decedent, date and place of birth, and date and place of death, and cause of death, and final disposition of cremains instructions, together with funeral director signature and signature of acceptance of the cremation authority shall appear on this form, together with the full legal name and legal address of the cremation authority, and the completion date and time of cremation. Copies of these forms must be kept by the cremation authority, and sent to the funeral home that has contracted the cremation authority.

History: Effective May 1, 1993; amended effective May 1, 1998.
General Authority: NDCC 43-10-05, 43-10-25
Law Implemented: NDCC 43-10-05

25-05-01-09. Penalty.

Repealed effective May 1, 1998.

25-05-01-09.1. Identification of body.

All licensed crematories must develop, implement, and maintain an identification procedure whereby dead human bodies can be identified from the time the crematorium accepts delivery of the remains until the cremated remains are released to an authorized party. Before cremation, an identifying disk, tab, or other permanent label must be placed within the cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label must have a number that must be recorded on all paperwork regarding the decedent. This procedure must be designed to reasonably ensure that the proper body is cremated and that the cremated remains are returned to the appropriate party.

History: Effective May 1, 1998.
General Authority: NDCC 43-10-05, 43-10-25
Law Implemented: NDCC 43-10-05

25-05-01-10. Prohibitions.

1. Crematoriums are forbidden to cremate fetuses, limbs, and body parts from private or public health agencies or medical schools or medical doctors unless appropriate releases are given to the crematoriums by those agencies. Copies of releases must remain with the cremation authority and the parties contracting for cremations mentioned in this section.

2. Cremation of animals and pets of any type is strictly forbidden in a crematorium designed for cremation of human remains.

3. Except for the items listed in subsection 1, crematoriums are forbidden to perform any multiple cremations of any type of human remains.

History: Effective May 1, 1993; amended effective May 1, 1998.
General Authority: NDCC 43-10-05, 43-10-25
Law Implemented: NDCC 43-10-05

25-05-01-11. Written release.

Funeral directors holding cremated remains must have written release from legal next of kin before the funeral director disposes of remains in any manner other than that suggested on the cremation form. The release must clearly remove liability of the funeral director, the cremation facility or authority, or the state regulatory agency from responsibility. Copies of these forms must be provided to the next of kin, retained by the funeral director, and the cremation authority, and made available to the state board of funeral service upon request. Failure to comply may result in disciplinary action. Any cremated remains existing prior to May 1, 1993, may be disposed of ninety days after a written attempt to contact next of kin for written approval.

History: Effective May 1, 1993; amended effective May 1, 1998.
General Authority: NDCC 43-10-05
Law Implemented: NDCC 43-10-05

25-05-01-12. Unclaimed cremated remains.

After twelve months, unclaimed cremated remains may be disposed of by earth burial in an established cemetery in an appropriate container. The container may hold one or more cremated remains, as long as the individual remains are kept separate. At least thirty days prior to such disposition, the funeral home shall send a written notice to the last-known address of the responsible person who directed and provided for the method of final disposition of the human remains to the effect that such remains will be disposed of unless claimed by the person within thirty days from the date of mailing such notice. The notice must be sent by registered mail, return receipt requested.

History: Effective May 1, 1998.
General Authority: NDCC 43-10-05, 43-10-06.1
Law Implemented: NDCC 43-10-06.1, 43-10-26

25-05-01-13. Sale of funeral goods.

A crematorium that sells funeral goods shall comply with 16 CFR part 453. A failure to do so is grounds for disciplinary action.

History: Effective May 1, 1998.
General Authority: NDCC 43-10-05
Law Implemented: NDCC 43-10-05