



- 1 making arrangements for the final disposition of the deceased, a  
2 representative of the institution, if legally authorized, may serve as the  
3 authorizing agent.
- 4 (2) 'Board' means the North Carolina State Board of Mortuary Science.
- 5 (3) 'Casket' means a rigid container which is designed for the encasement  
6 of human remains and which is usually constructed of wood, metal or  
7 other rigid material and ornamented and lined with fabric.
- 8 (4) 'Closed container' means any container in which cremated remains can  
9 be placed and closed in a manner so as to prevent leakage or spillage  
10 of cremated remains or the entrance of foreign material.
- 11 (5) 'Cremated remains' means all human remains recovered after the  
12 completion of the cremation process, including pulverization which  
13 leaves only bone fragments reduced to unidentifiable dimensions.
- 14 (6) 'Cremation' means the technical process, using heat, that reduces  
15 human remains to bone fragments.
- 16 (7) 'Cremation chamber' means the enclosed space within which the  
17 cremation process takes place. Cremation chambers covered by this  
18 Article shall be used exclusively for the cremation of human remains.
- 19 (8) 'Cremation container' means the container in which the human  
20 remains are placed in the cremation chamber for a cremation. A  
21 cremation container must meet all of the standards established by the  
22 rules adopted by the Board.
- 23 (9) 'Crematory' means the building or portion of a building that houses the  
24 cremation chamber and that may house the holding facility, business  
25 office or other part of the crematory business. A crematory must  
26 comply with any applicable public health laws and rules and must  
27 contain the equipment and meet all of the standards established by the  
28 rules adopted by the Board.
- 29 (10) 'Crematory authority' means the North Carolina Crematory Authority.
- 30 (11) 'Crematory operator' means the legal entity which is licensed by the  
31 Board to operate a crematory and perform cremations.
- 32 (12) 'Holding facility' means an area within or adjacent to the crematory,  
33 designated for the retention of human remains prior to cremation. A  
34 holding facility must comply with any applicable public health laws  
35 and rules and must meet all of the standards established by the rules  
36 adopted by the Board.
- 37 (13) 'Human remains' means the body of a deceased person, or part of a  
38 body or limb that has been removed from a living or deceased person.
- 39 (14) 'Niche' means a compartment or cubicle for the memorialization or  
40 permanent placement of an urn containing cremated remains.
- 41 (15) 'Scattering area' means a designated area for the scattering of cremated  
42 remains.
- 43 (16) 'Temporary container' means a temporary receptacle for cremated  
44 remains, usually made of cardboard, plastic film or similar material

1                   designed to hold the cremated remains until an urn or other permanent  
2                   container is acquired.

3           (17) 'Urn' means a receptacle designed to permanently encase the cremated  
4                   remains.

5 **"§ 90-210.42. Crematory Authority established.**

6           (a) The North Carolina Crematory Authority is established as a Committee  
7 within the Board. The Crematory Authority shall suggest rules to the Board for the  
8 carrying out and enforcement of the provisions of this Article.

9           (b) The Crematory Authority shall initially consist of five members appointed by  
10 the Governor and two members of the Board appointed by the Board. The Governor  
11 may consider a list of recommendations from the Cremation Association of North  
12 Carolina.

13           (c) The initial terms of the members of the Crematory Authority shall be  
14 staggered by the appointing authorities so that the terms of three members (two of  
15 which shall be appointees of the Governor) expire December 31, 1991, the terms of two  
16 members (both of which shall be appointees of the Governor) expire December 31,  
17 1992, and the terms of the remaining two members (one of which shall be an appointee  
18 of the Governor) expire December 31, 1993.

19           As the terms of the members appointed by the Governor expire, their successors  
20 shall be elected from among a list of nominees in an election conducted by the Board in  
21 which all licensed crematory operators are eligible to vote. The Board may conduct the  
22 election for members of the Crematory Authority simultaneously with the election for  
23 members of the Board or at any other time. The Board shall prescribe the procedures  
24 and establish the time and date for nominations and elections to the Crematory  
25 Authority. A nominee who receives a majority of the votes cast shall be declared  
26 elected. The Board shall appoint the successors to the two positions for which it makes  
27 initial appointments pursuant to this section.

28           The terms of the elected members of the Crematory Authority shall be three years.  
29 The terms of the members appointed by the Board, including the members initially  
30 appointed pursuant to this subsection, shall be coterminous with their terms on the  
31 Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term  
32 by majority vote of the remaining members of the Crematory Authority. Any vacancy  
33 occurring in a seat appointed by the Governor shall be filled by the Governor. Any  
34 vacancy occurring in a seat appointed by the Board shall be filled by the Board.

35           (d) The members of the Crematory Authority shall receive per diem and  
36 necessary travel and subsistence expenses in accordance with the provisions of G.S.  
37 93B-5 for all time actually spent upon the business of the Crematory Authority. All  
38 expenses, salaries and per diem provided for in this Article shall be paid from funds  
39 received under the provisions of this Article and Article 13A and shall in no manner be  
40 an expense to the State.

41           (e) The Crematory Authority shall select from its members a chairman, a vice  
42 chairman and a secretary who shall serve for one year or until their successors are  
43 elected and qualified. No two offices may be held by the same person. The Crematory

1 Authority, with the concurrence of the Board, shall have the authority to engage  
2 adequate staff as deemed necessary to perform its duties.

3 (f) The Crematory Authority shall hold at least one meeting in each year. In  
4 addition, the Crematory Authority may meet as often as the proper and efficient  
5 discharge of its duties shall require. Five members shall constitute a quorum.

6 **"§ 90-210.43. Licensing and inspection.**

7 (a) Any person doing business in this State, or any cemetery, funeral  
8 establishment, corporation, partnership, joint venture, voluntary organization or any  
9 other entity may erect, maintain and conduct a crematory in this State and may provide  
10 the necessary appliances and facilities for the cremation of human remains, provided  
11 that such person has secured a license as a crematory operator in accordance with the  
12 provisions of this Article.

13 (b) A crematory may be constructed on or adjacent to any cemetery, on or  
14 adjacent to any funeral establishment that is zoned commercial or industrial, or at any  
15 other location consistent with local zoning regulations.

16 (c) Application for a license as a crematory operator shall be made on forms  
17 furnished and prescribed by the Board. The Board shall examine the premises and  
18 structure to be used as a crematory and shall issue a license to the crematory operator if  
19 the applicant meets all the requirements and standards of the Board and the  
20 requirements of this Article. In the event of a change of ownership of a crematory, at  
21 least 30 days prior to the change the new owners shall provide the Board with the name  
22 and address of the new owners.

23 (d) Every application for licensure shall identify the individual who is  
24 responsible for overseeing the management and operation of the crematory. The  
25 crematory operator shall keep the Board informed at all times of the name and address  
26 of the manager.

27 (e) No person, cemetery, funeral establishment, corporation, partnership, joint  
28 venture, voluntary organization or any other entity shall cremate any human remains,  
29 except in a crematory licensed for this express purpose and under the limitations  
30 provided in this Article.

31 (f) Whenever the Board finds that an owner, partner or officer of a crematory  
32 operator or an applicant to become a crematory operator, or that any agent or employee  
33 of a crematory operator or an applicant to become a crematory operator, with the direct  
34 or implied permission of such owner, partner or officer, has violated any provision of  
35 this Article, or is guilty of any of the following acts, and when the Board also finds that  
36 the crematory operator or applicant has thereby become unfit to practice, the Board may  
37 suspend, revoke, or refuse to issue or renew the license, in accordance with the  
38 procedures of Chapter 150B:

39 (1) Conviction of a felony or a crime involving fraud or moral turpitude;

40 (2) Fraud or misrepresentation in obtaining or renewing a license or in the  
41 practice of cremation;

42 (3) False or misleading advertising;

43 (4) Gross immorality, including being under the influence of alcohol or  
44 drugs while performing cremation services;

- 1           (5) Using profane, indecent or obscene language in the presence of a dead  
2 human body, and within the immediate hearing of the family or  
3 relatives of a deceased, whose body has not yet been cremated or  
4 otherwise disposed of;
- 5           (6) Violating or cooperating with others to violate any of the provisions of  
6 this Article or of the rules of the Board;
- 7           (7) Violation of any State law or municipal or county ordinance or  
8 regulation affecting the handling, custody, care or transportation of  
9 dead human bodies;
- 10          (8) Refusing to surrender promptly the custody of a dead human body or  
11 cremated remains upon the express order of the person lawfully  
12 entitled to the custody thereof, except as provided in G.S. 90-  
13 210.47(e);
- 14          (9) Indecent exposure or exhibition of a dead human body while in the  
15 custody or control of a licensee.

16          (g) The Board and Crematory Authority may hold hearings in accordance with  
17 the provisions of this Article and Chapter 150B. Any such hearing shall be conducted  
18 jointly by the Board and the Crematory Authority. The Board and the Crematory  
19 Authority shall jointly constitute an 'agency' under Article 3A of Chapter 150B of the  
20 General Statutes with respect to proceedings initiated pursuant to this Article. The  
21 Board is empowered to regulate and inspect crematories and crematory operators and to  
22 enforce as provided by law the provisions of this Article and the rules adopted  
23 hereunder.

24          In addition to the powers enumerated in Chapter 150B of the General Statutes, the  
25 Board shall have the power to administer oaths and issue subpoenas requiring the  
26 attendance of persons and the production of papers and records before the Board in any  
27 hearing, investigation or proceeding conducted by it or conducted jointly with the  
28 Crematory Authority. Members of the Board's staff or the sheriff or other appropriate  
29 official of any county of this State shall serve all notices, subpoenas and other papers  
30 given to them by the President of the Board for service in the same manner as process  
31 issued by any court of record. Any person who neglects or refuses to obey a subpoena  
32 issued by the Board shall be guilty of a misdemeanor and, upon conviction thereof, shall  
33 be fined or imprisoned in the discretion of the court.

34 **"§ 90-210.44. Authorization and record keeping.**

35          The Board shall establish requirements for record keeping and authorizations, and it  
36 shall be a violation of this Article for any crematory operator to fail to comply with the  
37 requirements.

38 **"§ 90-210.45. Cremation procedures.**

39          (a) No human body shall be cremated before the crematory operator receives a  
40 death certificate signed by the attending physician or an authorization for cremation  
41 signed by a medical examiner.

42          (b) Human remains shall not be cremated within 24 hours after the time of death,  
43 unless such death was a result of an infectious, contagious or communicable and  
44 dangerous disease as listed by the Commission of Health Services pursuant to G.S.

1 130A-134, and unless such time requirement is waived in writing by the medical  
2 examiner, county health director, or attending physician where the death occurred. In  
3 the event such death comes under the jurisdiction of the medical examiner, the human  
4 remains shall not be received by the crematory operator until authorization to cremate  
5 has been received in writing from the medical examiner of the county in which the  
6 death occurred. In the event the crematory operator is authorized to perform funerals as  
7 well as cremation, this restriction on the receipt of human remains shall not be  
8 applicable.

9 (c) No unauthorized person shall be permitted in the crematory area while any  
10 human remains are in the crematory area awaiting cremation, being cremated, or being  
11 removed from the cremation chamber. Relatives of the deceased, the authorizing agent,  
12 medical examiners and law enforcement officers in the execution of their duties shall be  
13 authorized to have access to the holding facility and crematory facility.

14 (d) The simultaneous cremation of the human remains of more than one person  
15 within the same cremation chamber is forbidden.

16 (e) Crematory operators shall comply with standards established by the Board for the  
17 reduction and pulverization of human remains by the cremation process.

18 **"§ 90-210.46. Disposition of cremated remains.**

19 (a) The authorizing agent shall provide the person with whom cremation  
20 arrangements are made with a signed statement specifying the ultimate disposition of  
21 the cremated remains, if known. A copy of this statement shall be retained by the  
22 crematory operator.

23 (b) The authorizing agent is responsible for the disposition of the cremated  
24 remains. If, after a period of 30 days from the date of cremation, the authorizing agent  
25 or his representative has not specified the ultimate disposition or claimed the cremated  
26 remains, the crematory operator or the person in possession of the cremated remains  
27 may dispose of the cremated remains only in a manner permitted in this section. The  
28 authorizing agent shall be responsible for reimbursing the crematory operator for all  
29 reasonable expenses incurred in disposing of the cremated remains pursuant to this  
30 section. A record of such disposition shall be made and kept by the person making such  
31 disposition. Upon disposing of cremated remains in accordance with this section, the  
32 crematory operator or person in possession of the cremated remains shall be discharged  
33 from any legal obligation or liability concerning such cremated remains.

34 (c) In addition to the disposal of cremated remains in a crypt, niche, grave, or  
35 scattering garden located in a dedicated cemetery, or by scattering over uninhabited  
36 public land, the sea or other public waterways pursuant to subsection (f) of this section,  
37 cremated remains may be disposed of in any manner on the private property of a  
38 consenting owner, upon direction of the authorizing agent. If cremated remains are to  
39 be disposed of by the crematory operator on private property, other than dedicated  
40 cemetery property, the authorizing agent shall provide the crematory operator with the  
41 written consent of the property owner.

42 (d) Except with the express written permission of the authorizing agent no person  
43 may:

1           (1) Dispose of or scatter cremated remains in such a manner or in such a  
2 location that the cremated remains are commingled with those of  
3 another person. This subdivision shall not apply to the scattering of  
4 cremated remains at sea or by air from individual closed containers or  
5 to the scattering of cremated remains in an area located in a dedicated  
6 cemetery and used exclusively for such purposes.

7           (2) Place cremated remains of more than one person in the same closed  
8 container. This subdivision shall not apply to placing the cremated  
9 remains of members of the same family in a common closed container  
10 designed for the cremated remains of more than one person.

11           (e) Cremated remains shall be delivered by the crematory operator to the  
12 individual specified by the authorizing agent on the cremation authorization form. The  
13 representative of the crematory operator and the individual receiving the cremated  
14 remains shall sign a receipt indicating the name of the deceased, and the date, time, and  
15 place of the receipt. After this delivery, the cremated remains may be transported in any  
16 manner in this State, without a permit, and disposed of in accordance with the  
17 provisions of this Article.

18           (f) Cremated remains may be scattered over uninhabited public land, a public  
19 waterway or sea, subject to health and environmental standards, or on the private  
20 property of a consenting owner pursuant to subsection (c) of this section. A person may  
21 utilize a boat or airplane to perform such scattering. Cremated remains shall be  
22 removed from their closed container before they are scattered.

23 **"§ 90-210.47. Liability.**

24           (a) Any person signing a cremation authorization form shall be deemed to  
25 warrant the truthfulness of any facts set forth in the cremation authorization form,  
26 including the identity of the deceased whose remains are sought to be cremated and that  
27 person's authority to order such cremation.

28           (b) A crematory operator shall have authority to cremate human remains upon  
29 the receipt of a cremation authorization form signed by an authorizing agent. There  
30 shall be no liability of a crematory operator that cremates human remains pursuant to  
31 such authorization, or that releases or disposes of the cremated remains pursuant to such  
32 authorization.

33           (c) A crematory operator shall not be responsible or liable for any valuables  
34 delivered to the crematory operator with human remains.

35           (d) A crematory operator shall not be liable for refusing to accept a body or to  
36 perform a cremation until it receives a court order or other suitable confirmation that a  
37 dispute has been settled if:

38               (1) It is aware of any dispute concerning the cremation of human remains;

39               (2) It has a reasonable basis for questioning any of the representations  
40 made by the authorizing agent; or

41               (3) For any other lawful reason.

42           (e) If a crematory operator is aware of any dispute concerning the release or  
43 disposition of the cremated remains, the crematory operator may refuse to release the  
44 cremated remains until the dispute has been resolved or the crematory operator has been

1 provided with a court order authorizing the release or disposition of the cremated  
2 remains. A crematory operator shall not be liable for refusing to release or dispose of  
3 cremated remains in accordance with this subsection.

4 **"§ 90-210.48. Fees.**

5 (a) The Board may set and collect fees not to exceed the following amounts from  
6 licensed crematory operators and applicants:

7 (1) Licensee application fee. \$400.00

8 (2) Annual renewal fee. 150.00

9 (3) Late renewal penalty. 75.00

10 (4) Re-inspection fee. 100.00

11 (5) Per cremation fee. 10.00.

12 (b) The funds collected pursuant to this Article shall become part of the general  
13 fund of the Board. The cost of the maintenance of the Crematory Authority shall be  
14 deemed a general expense of the Board. The Board shall keep an accurate accounting  
15 of all the receipts and expenditures made pursuant to this Article and shall provide a  
16 current report of such to the Crematory Authority biannually.

17 **"§ 90-210.49. Crematory operator authority.**

18 (a) A crematory operator may employ a licensed funeral director for the purpose  
19 of arranging cremations with the general public, transporting human remains to the  
20 crematory, and processing all necessary paper work. Nothing in this provision may be  
21 construed to require a licensed funeral director to perform any functions not otherwise  
22 required by law to be performed by a licensed funeral director.

23 (b) A crematory operator may adopt reasonable rules consistent with this Article  
24 for the management and operation of a crematory. Nothing in this subsection may be  
25 construed to prevent a crematory operator from adopting rules which are more stringent  
26 than the provisions of this Article.

27 (c) Nothing in this Article shall prohibit or require the performance of cremations  
28 by crematory operators for or directly with the public, or exclusively for or through  
29 licensed funeral directors.

30 (d) Nothing in this Article may be construed to prohibit a crematory operator  
31 from transporting human remains.

32 (e) Nothing in this Article may be construed to relieve the holder of a license  
33 issued hereunder from obtaining any other licenses or permits required by law.

34 **"§ 90-210.50. Rulemaking, applicability, violations, and prohibitions of Article.**

35 (a) The Board is authorized to adopt and promulgate such rules for the carrying  
36 out and enforcement of the provisions of this Article as may be necessary and as are  
37 consistent with the laws of this State and of the United States. The Board shall adopt  
38 rules only after consideration of the Crematory Authority's suggested rules pursuant to  
39 G.S. 90-210.42(a). The Board may perform such other acts and exercise such other  
40 powers and duties as may be provided in this Article, in Article 13A of this Chapter, and  
41 otherwise by law and as may be necessary to carry out the powers herein conferred.

42 (b) The provisions of this Article shall not apply to the cremation of human  
43 remains and medical waste performed by the North Carolina Anatomical Commission,  
44 licensed hospitals and medical schools, and the office of the Chief Medical Examiner



1 when the disposition of such human remains and medical waste is the legal  
2 responsibility of said institutions.

3 (c) A violation of any of the provisions of this Article is a misdemeanor  
4 punishable by imprisonment for up to six months and a fine up to one thousand dollars  
5 (\$1,000).

6 (d) No person, firm, or corporation may request or authorize cremation or  
7 cremate a dead human body when he has information indicating a crime or violence of  
8 any sort in connection with the cause of death unless such information has been  
9 conveyed to the State or county medical examiner and permission from the State or  
10 county medical examiner to cremate has thereafter been obtained."

11 Sec. 2. This act is effective upon ratification, except that (i) no license shall  
12 be required to operate a crematory prior to January 1, 1991 and (ii) G.S. 90-210.50(c)  
13 shall become effective October 1, 1990 and shall apply only to violations occurring on  
14 or after that date.