

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 69

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 69 CREMATORIES

001. SCOPE AND AUTHORITY. These regulations govern the licensing of crematories under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-1355 to 71-1385 of the Cremation of Human Remains Act.

002. DEFINITIONS. The definitions set in the Cremation of Human Remains Act and the following apply to this chapter.

002.01 ATTEST OR ATTESTATION. Attest or attestation is when an individual declares that all statements on the application are true and complete.

002.02 CHANGE OF OWNERSHIP. A transfer of more than 50% of the stock or assets of a crematory is a change of ownership.

002.03 COMPLETE APPLICATION. An application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and documentation.

002.04 PULVERIZATION. The reduction of identifiable bone fragments to granulated particles by manual or mechanical means.

003. CREMATORY LICENSE. To obtain a license, an applicant must submit a complete application as provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 71-1358, 71-1359, 4-108 through 4-111, and this chapter.

003.01 REQUIREMENTS AND DOCUMENTATION. Applicants must submit:

003.01(A) CITIZENSHIP, LAWFUL PRESENCE. The owner, if the owner is a sole proprietor, must submit documentation that he or she meets the requirements set out in Neb. Rev. Stat. §§ 4-108 through 4-111.

003.01(B) ZONING. Copies of zoning approval.

003.01(C) TRAINING. A certificate confirming the crematory operator has attended a training course provided by the Cremation Association of North American or by the manufacturer of the cremation chamber maintained and operated by the crematory.

003.01(D) SELF-EVALUATION. A completed self-evaluation inspection report showing compliance with 172 Nebraska Administrative Code (NAC) 69-005.

003.01(E) PRACTICE STATEMENT. A statement that the applicant has not operated the crematory or represented the crematory as holding a license in Nebraska before submitting the application; or if the applicant has, a statement of the number of days the crematory operated.

003.02 LICENSE DISPLAY. The license must be posted for public viewing in the crematory.

004. INSPECTIONS. The crematory must receive a 100% to pass the inspection by the Department.

004.01 INITIAL SELF-EVALUATION INSPECTION. Under 172 NAC 003, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the crematory.

004.02 INITIAL ON-SITE INSPECTION. The Department will conduct an on-site unannounced inspection within 180 days following issuance of an initial crematory license.

004.03 TIMING OF INSPECTIONS. The Department may conduct an on-site unannounced inspection at any time it deems necessary.

005. CREMATORY RESPONSIBILITIES, TRAINING, SANITATION, EQUIPMENT AND SUPPLIES, SAFETY, CODES, AND FORMS. The licensee of the crematory authority is required to ensure policies are developed and implemented, the appropriate training is provided, and sanitation requirements are followed as set out in this chapter and the statutes.

005.01 CREMATORY RESPONSIBILITIES. The licensee must determine, implement and monitor policies to assure that the crematory is administered and managed appropriately. The licensee's responsibilities include:

- (A) Monitoring policies to assure appropriate administration and management of the crematory;
- (B) Ensuring the crematory's compliance with all applicable state statutes and regulations; and
- (C) Ensuring the quality of all services.

005.02 TRAINING. The licensee must provide crematory staff with sufficient training to operate the cremation chamber or retort in compliance with the requirements of the statutes and this chapter.

005.03 INFECTION CONTROL. There must be a system for management of identified infections within the crematory which includes the use of standard precautions for prevention of transmission of infectious diseases among staff.

005.04 ENVIRONMENTAL SERVICES. The crematory must be safe and clean.

005.04(A) MAINTENANCE. The licensee must ensure that the following maintenance requirements are met:

- (i) All crematory buildings and grounds must be kept clean, safe and in good repair;
- (ii) All garbage and rubbish must be disposed of in a manner as to prevent the attraction of rodents, flies, and all other insects and vermin. Garbage and rubbish must be disposed in a manner as to minimize the transmission of infectious diseases and minimize odor;
- (iii) Adequate lighting and environmental temperatures are maintained; and
- (iv) The premises are maintained and equipped to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

005.04(B) EQUIPMENT, FIXTURES, FURNISHINGS, TOOLS AND SUPPLIES. All equipment, fixtures, furnishings, tools and supplies must be clean, safe and in good repair.

A crematory must meet the following:

- (i) Have heat resistant gloves and a filter mask for use by staff;
- (ii) The cremation chamber must be built by professional crematory manufacturer, and must be operational;
- (iii) Have a designated processing area for pulverization; and
- (iv) Establish and implement processes designed for routine and preventative maintenance of equipment and furnishings to ensure that the equipment and furnishings are safe and functional to meet their intended use.

005.05 SAFETY. The crematory must be maintained in a manner that minimizes accidents and meets the following:

- (A) The environment must be maintained to protect the health and safety of employees by keeping surfaces smooth and free of sharp edges and mold and dirt, keeping floors free of unsafe objects and slippery or uneven surfaces, and keeping the environment free of other conditions which may pose a potential risk to the health and safety of the employees;
- (B) All doors, stairways, passageways, aisles or other means of exit must be maintained in a manner that provides safe and adequate access;
- (C) Policies and procedures must be established and implemented to ensure hazardous or poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation, or consumption of the hazardous or poisonous materials;
- (D) Access to mechanical equipment which may pose a danger to the public must be restricted to staff of the crematory;
- (E) Have a system to identify and prevent the occurrence of hazards to employees; and
- (F) Have and implement policies addressing dangerous substances, sharp objects, unprotected electrical outlets, and the prevention of water temperatures above 120 degrees Fahrenheit, and smoking or vaping within the crematory.

005.06 CODES AND GUIDELINES. All crematories must comply with the following codes and guidelines to provide a safe and accessible environment:

- (A) The "Building Construction Act", Neb. Rev. Stat. §§ 71-6401 to 71-6407;
- (B) The State Electrical Act, Neb. Rev. Stat. §§ 81-2101 to 81-2143;
- (C) The "Nebraska State Fire Code Regulations" found at 153 NAC 1;
- (D) The Nebraska Department of Environmental Quality's Rules and Regulations regarding incineration construction and operating requirements;
- (E) The applicable zoning and environmental regulations; and
- (F) The building codes of the city and county where it is located.

005.07 RECORD KEEPING AND CREMATION AUTHORIZATION. The licensee must have records evidencing compliance with Neb. Rev. Stat. § 71-1377.

005.08 DELIVERY RECEIPT FORMS. The licensee must have a delivery receipt form for each time the crematory accepts delivery of human remains for cremation. This form must be provided by a funeral establishment to a crematory to document the receipt of human remains for cremation. The delivery receipt form must include:

- (A) Name and address of the funeral home;
- (B) Name and address of the crematory;
- (C) Name of the deceased;
- (D) A list of any personal effects which accompanies the cremated human remains;
- (E) Date and time of delivery of the human remains;
- (F) Signature of the funeral director or his or her representative; and
- (G) Signature of the person receiving the human remains for cremation.

005.09 CREMATED REMAINS RECEIPT FORM. The crematory must provide a cremated remains receipt to an authorizing agent or his or her or its representative that identifies cremated remains and the person authorized to receive such human remains. The cremated human remains receipt form must include:

- (A) The name of the deceased;
- (B) The name of the authorizing agent or his or her representative;
- (C) The date, time, and place of receipt of the cremated remains;
- (D) Date of release;
- (E) Metallic ID disk number;
- (F) Name and address of the crematory; and
- (G) The signatures of the owner of the crematory or his or her or its representative.

005.10 CREMATION LOGBOOK. A cremation logbook must be kept for each cremation performed and include:

- (A) Name of the deceased;
- (B) Date the deceased was brought to the crematory;
- (C) Date of the start of the cremation;
- (D) Metallic ID disk number;
- (E) Cremation unit number;
- (F) Name of the person performing the cremation; and
- (G) Date and disposition of the cremated remains.

006. CREMATION PROCESSES AND PROCEDURES. A crematory must comply with Neb. Rev. Stat. §§ 71-1376 through 71-1379 and the following:

006.01 HOLDING FACILITY. A crematory, upon receiving human remains, must sign a delivery receipt form and must hold the human remains until cremation. If a crematory is unable to cremate the human remains immediately upon receipt, the crematory must place the remains in a holding facility.

006.01(A) CREMATORIES WITH HOLDING FACILITIES. The human remains may be delivered to the crematory without an alternative container or casket; however, the human

remains must be delivered directly to the holding facility for placing the human remains in the alternative container or casket. The holding facility must:

- (i) Comply with all applicable public health law;
- (ii) Provide for the health and safety of persons employed at the facility;
- (iii) Prevent unauthorized access to the facility;
- (iv) Be large enough to hold a casket and be able to transport the human remains from the cot to the container;
- (v) Be out of the public's view, except family may view; and
- (vi) Be clean, safe and secure.

006.01(B) CREMATORIES WITHOUT HOLDING FACILITIES. If a crematory does not have a holding facility, the crematory must cremate the human remains immediately and the human remains must have been delivered to the crematory in an alternative container or casket.

006.01(C) UNEMBALMED HUMAN REMAINS. Human remains which have not been embalmed, must be cremated in accordance with the following requirements.

006.01(C)(i) REFRIGERATION. If a crematory has refrigeration, the following applies:

- (1) Upon receipt of human remains, the funeral director and embalmer has 24 hours to either bury, cremate, embalm, place in refrigerated storage, or place in a hermetically sealed container (which cannot be reopened).
- (2) If placing in refrigerated storage, an un-embalmed human remains must be retained at a constant temperature of less than 40 degrees Fahrenheit for not more than 8 days. An un-embalmed human remains may be retained in storage beyond the 8 days only when:
 - (a) Written notification of a criminal proceeding is received; or
 - (b) Upon receipt of a court order; and
- (3) When human remains are removed from storage they must be cremated within 24 hours following the removal from storage.

006.01(C)(ii) NO REFRIGERATION. If a crematory does not have refrigeration, un-embalmed human remains must be cremated within 24 hours from the time the funeral home received the human remains.

007. DISPUTES, OPERATION LIMITATIONS, HANDLING OF REMAINS FOLLOWING CREMATION, AND DISPOSITION. A licensee must comply with Neb. Rev. Stat. §§ 71-1375, 71-1381, and 71-1382.

008. RENEWAL. To renew a license to operate a crematory a licensee must prior to the expiration of 5 years from date of issuance and every 5 years thereafter, file an application for renewal, pay the fee, and meet the requirements of Neb. Rev. Stat. § 71-1359 and this chapter.

008.01 RENEWAL INFORMATION. The applicant must provide:

- (A) Name of crematory;
- (B) Complete mailing address;

- (C) Name of owner, and if the owner is a sole proprietorship, the social security number (SSN) or Alien Registration Number (A#). Some applicants may have both a social security number (SSN) and an Alien Registration Number (A#) and if so, the applicant must report both; and
- (D) Telephone number and e-mail address.

008.02 DOCUMENTATION. If the owner is a sole proprietorship, the applicant must submit documentation that the owner meets the requirements set out in §§ 4-108 through 4-111.

009. DISCIPLINARY ACTION. In addition to the grounds for denial set out in Neb. Rev. Stat. § 71-1367, failure to permit an inspection for the purposes set out in this chapter is grounds for denial of an initial crematory license or other action as specified in Neb. Rev. Stat. §§ 71-1366 to 71-1369.

010. WITHDRAWN APPLICATIONS. An applicant for an initial license or a renewal of a license, may request to withdraw the application. A request to withdraw will be granted when:

- (A) The application is incomplete; or
- (B) The request for withdrawal is received within 5 business days after the receipt of a completed application.

011. FEES. Fees referred to in these regulations are set out in Neb. Rev. Stat. § 71-1363 and as follows:

- (A) \$300 for an initial and renewed crematory license;
- (B) \$300 for reinstatement of a license that has lapsed or has been suspended;
- (C) \$75 for a change in location or ownership; and
- (D) \$10 for a change in name.