



**ARKANSAS INSURANCE DEPARTMENT
FUNERAL SERVICES DIVISION | EMBALMERS & FUNERAL DIRECTORS**

**CREMATORY PERMIT PACKET CHECKLIST
TYPE (C) CREMATORY**

Documentation Checklist:

- Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.
[X-REF(S): A.C.A. § 17-29-313 (a)(2)(A)(i)]
- Notice was published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board.
[X-REF(S): A.C.A. § 17-29-313 (a)(2)(A)(ii)(a)]
- Invited members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board.
- Crematory Permit Application submitted.
[X-REF(S): A.C.A. § 17-29-313 (a)(2)(B)(i)]
- Proof of publication.
[X-REF(S): A.C.A. § 17-29-313 (a)(2)(B)(ii)(a)]
- Copy of permit issued by Arkansas Department of Environmental Quality.
[X-REF(S): A.C.A. § 17-29-313 (a)(2)(B)(ii)(b)]
- If applicable, were any written protest(s) by member(s) of the public, received by the Board?
 Yes No If "Yes," attach any comment(s) to this packet.
[X-REF(S): A.C.A. § 17-29-313 (b)(1)]
- If applicable, did the Board schedule and hold a public hearing in the city or county in which the proposed crematorium is to be located? Yes No If "Yes," list location and date(s): _____.
[X-REF(S): A.C.A. § 17-29-313 (b)(1)(A)]
- Other (Describe): _____
- Other (Describe): _____
- Other (Describe): _____

ADDITIONAL COMMENT(S):

Owner



ARKANSAS INSURANCE DEPARTMENT FUNERAL SERVICES DIVISION | EMBALMERS & FUNERAL DIRECTORS

CREMATORY CONSTRUCTION PERMIT – TYPE “C” COMPLETION INSTRUCTIONS

Pre-Permit Application Instructions:

- To minimize delays in the processing of this application, you are encouraged to read, understand, and follow the requirements under the **Arkansas Code Annotated** and **Rule 1, Section 6 D:**
[A.C.A. § 17-29-313 Permit Required – Crematorium Construction – Operation of Crematorium](#) [Updated during the 2021 AR Legislative Regular Session]
 - (a) (1) A crematorium shall **not** be constructed in this state **without a permit issued** by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.
 - (2) In order to receive a permit to construct a crematorium, a person shall:
 - (A) (i) Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.
 - (ii) **The notice shall:**
 - (a) (1) Be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board.
 - (2) Publication as described in subdivision (a)(2)(A)(ii)(a)(1) of this section is sufficient if the public notice is published in the newspaper's print edition or digital edition, or both; and (b) Invite members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board; and
 - (B) (i) Submit an application to the board for a permit to construct a crematorium.
 - (ii) The application for a permit to construct a crematorium shall include:
 - (a) Proof of publication of the notice required under subdivision (a)(2)(A) of this section;
 - (b) A copy of the permit issued by the Arkansas Department of Environmental Quality under § 8-4-203 to construct the crematorium; and
 - (c) The fee as prescribed in § 17-29-208 [repealed].*

* A.C.A. § 17-29-208 repealed, but [A.C.A. § 23-61-1103 \(a\)\(12\)](#) gives the Board the power to “establish and collect reasonable fees.” The fee established by the Board for a crematory construction permit is \$25.00, as described under Embalmers & Funeral Directors **Rule 1, Section 13. Fees.**

Items required to be submitted at the time of application:

1. Completed and signed **Application for Permit to Construct Crematorium** form.
2. Proof of publication [[A.C.A. § 17-29-313 \(a\)\(2\)\(B\)\(ii\)\(a\)](#)].
3. Copy of the permit issued by the Arkansas Division of Environmental Quality (ADEQ) [[A.C.A. § 17-29-313 \(a\)\(2\)\(B\)\(ii\)\(b\)](#)].
4. \$25.00 fee [[Embalmers & Funeral Directors Rule 1, Section 13. Fees](#)].

Additional Instructions:

- **Be sure to submit your application for a permit to construct between 7 and 15 days after publication.**
- All applications and supporting documentation should be received **at least twenty (20) business days prior to the next board meeting.**
- Once a Board Meeting agenda is established in advance of the meeting date, it will not be amended/modified within the one (1) week prior to the meeting date.
- **The crematory owner and manager are required to appear before the Board** during the Board Meeting in which the application is being considered/reviewed for approval.

If you have any questions regarding the application process, please contact our offices at **(501) 682-0574**.

Return Completed Application To:

Arkansas Department of Commerce
Arkansas Insurance Department | **Funeral Services Division**
1 Commerce Way, Suite 502 | Little Rock, AR 72202-2087
Phone (501) 682-0574 | Fax (501) 682-0575
E-Mail: AID.EFD@arkansas.gov



ARKANSAS INSURANCE DEPARTMENT
FUNERAL SERVICES DIVISION | EMBALMERS & FUNERAL DIRECTORS

APPLICATION FOR PERMIT TO CONSTRUCT CREMATORIUM
FEE = \$25.00

A.C.A. § 17-29-313 Permit required – Crematorium construction – Operation of crematorium. [Effective July 28, 2021]

- (a) (1) A crematorium shall not be constructed in this state without a permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.
(2) In order to receive a permit to construct a crematorium, a person shall:
(A) (i) Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.
(ii) The notice shall:
(a) (1) Be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board.
(2) Publication as described in subdivision (a)(2)(A)(ii)(a)(1) of this section is sufficient if the public notice is published in the newspaper's print edition or digital edition, or both; and
(b) Invite members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board; and
(B) (i) Submit an application to the board for a permit to construct a crematorium.
(ii) The application for a permit to construct a crematorium shall include:
(a) Proof of publication of the notice required under subdivision (a)(2)(A) of this section;
(b) A copy of the permit issued by the Arkansas Department of Environmental Quality under § 8-4-203 to construct the crematorium; and

The fee as prescribed in § 23-61-1103 (a)(12) and Rule 1., Section 13

QUESTIONNAIRE:

- Have you applied for a permit from the AR Dept. of Environmental Quality (ADEQ)? [] YES [] NO
If "YES," please provide supporting documentation.
How many cremations do you anticipate doing in a calendar year? (Best Estimate) _____
Has there been a public hearing/meeting in the city or county in which the proposed crematorium is to be located? [] YES [] NO
If "YES," please provide a copy of the meeting minutes or proof of that meeting.
Has the property been zoned as commercial or industrial? [] YES [] NO
If "YES," please provide supporting documentation.
What crematory model will be used? (Describe.) _____
Manufacturer of unit: _____
[] New Unit [] Refurbished Unit Fuel Type: [] Natural Gas [] Propane

Specific Project Address: _____

Legal Description: (Please enclose a copy with this application.)

Lot: _____ Block: _____ Subdivision: _____

Owner: _____ Telephone: _____ Fax: _____

Address: _____ E-Mail: _____

Has the applicant performed his/her due diligence by informing the public about the crematory? If so, please provide documentation of the notification. Please describe below how the notification was provided and how it was "received" by the public. Please submit attachment if there is not sufficient space below.

Blank lines for providing notification details.

I hereby certify that the information provided on this application and attached thereto is true and correct. Any deviation from the information contained herein, unless approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, will render this permit "null and void."

Signature of Crematory Owner or Authorized Agent

Date

Return Completed Application To: Arkansas Department of Commerce
Arkansas Insurance Department | Funeral Services Division
1 Commerce Way, Suite 502 | Little Rock, AR 72202-2087
Phone (501) 682-0574 | Fax (501) 682-0575
E-Mail: AID.EFD@arkansas.gov

OFFICE USE ONLY

Permit No: _____

Issued By: _____

Date: _____

Application Fee: \$25.00

Funeral Establishment Type C-Crematory Requirements

D. Funeral Establishment Type C- Crematory

1. A crematory is an agent of a Type A establishment and as such does not make arrangements with the public.
 2. Any person doing business in this state, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity may erect, maintain and operate a crematory in this state and provide the necessary appliances and facilities for the cremation of human remains in accordance with the provisions of this Rule.
 3. No person shall construct a new crematory or modify an existing structure into a crematory, unless the person has obtained a crematory construction permit.
 4. The requirements for obtaining a crematory construction permit are as follows:
 - a. Notice shall be published in a newspaper of general circulation in the county where the crematorium is proposed to be constructed. The notice must include language that states that the applicant intends to construct a crematorium at a designated location. This notice may be submitted to Board staff prior to publishing;
 - b. The notice shall be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting the application to the Board; and
 - c. The person must invite members of the public to submit written protest to the Board of the construction of the proposed crematorium.
 5. The application for the crematory construction permit:
 - a. Shall be made in writing on forms provided by the Board;
 - b. Be accompanied by the required crematory construction permit application fee;
 - c. Be accompanied by proof of publication of notice; and
 - d. Be accompanied by a copy of the permit issued by the Arkansas Department of Environmental Quality.
- D.
6. In the event the Board receives written protest to the application for construction of a crematorium, the Board shall:
 - a. Schedule a public hearing on the application;
 - b. Direct the applicant to publish notice of the hearing in a newspaper having general circulation within the county where the crematorium is proposed to be constructed;
 - c. Direct the applicant to publish the notice on the Sunday and the Wednesday no more than fifteen (15) days nor less than seven (7) days before the hearing; and
 - d. Ensure the public hearing is held in the city or county in which the proposed crematorium is to be located.

Funeral Establishment Type C-Crematory Requirements

Continued

7. The Board may:
 - a. Require members of the public, prior to the hearing, to notify the Board of their intent to comment publicly at the hearing;
 - b. Require members of the public who comment publicly at the hearing to sign in prior to the commencement of the hearing;
 - c. Call upon public commenters in the order in which they have signed in; and
 - d. Give each public commenter a finite number of minutes in which to speak.
8. The board will review the public comments given at the hearing at its next regularly scheduled meeting. The Board will then make a determination as to whether to grant or deny the crematory construction permit.
9. A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or on any other location consistent with local zoning regulations.
10. The Board may issue a temporary certificate of authorization to operate a crematory to any applicant whose application for a permit to construct a crematorium has been approved and whose crematory has completed construction. Before the temporary certificate will be issued, the following criteria shall be met:
 - a. The installed crematory has passed inspection by a representative of the Board;
 - b. The first operation of the crematory was successful; and
 - c. The first operation of the crematory was witnessed by a representative of the Board.
11. The temporary certificate of authorization shall be valid for a period of up to ninety (90) days or until the Board approves the Application for Crematory license (Type C) at the first regularly scheduled Board meeting after the Board representative's confirmation of successful installation and operation.
12. Application for licensure as a crematory authority shall be on forms provided by the Board. Applications are available from the Board's website, or they can be obtained by contacting the Board's office. At a minimum, the requirements for application are as follows:
 - a. The application shall be in writing and shall contain the name of the applicant, the address and location of the crematory, a description of the type of structure and equipment to be used in the operation of the crematory, proof of liability insurance in the amount of one million dollars (\$1,000,000), and any further information as the Board may reasonably require;
 - b. The application shall be submitted to the Board at least twenty (20) business days before the next regularly scheduled Board meeting;
 - c. The owner of the establishment is required to appear at the meeting for the discussion of the license application;

Funeral Establishment Type C-Crematory Requirements

Continued

- d. After the temporary certificate of authorization has been issued, initial operation of the crematory shall not occur until the Board: has received the application for licensure at least twenty (20) business days before the initial operation, has examined the premises and structure, and has noted the retort to function properly;
 - e. A license shall be issued to the crematory authority if the Board determines that the applicant meets all requirements of this Rule, that the retort operator has been trained by the manufacturer, and after the Board's examination of the application and inspection report;
 - f. All advertisements shall be consistent with the name of each crematory location on file with the Board; and
 - g. The air quality control certificate shall be submitted with the application for licensure, and upon renewal each year.
13. Each funeral establishment Type C shall have a full time licensed funeral director to serve as manager.
14. When a crematory authority is sold or changes ownership, the crematory authority shall notify the Board in writing, at least thirty (30) days prior to the sale or change of ownership. In cases where the name of the crematory authority will not change, the license then in force and effect shall be honored, for the new owner, until that license expires. If the new owner decides to change the name of the crematory authority prior to the license expiration, then the owner shall apply for a license for the crematory authority to be issued in the new name.
15. When a crematory authority closes, the Board shall be notified, in writing, within seven (7) days of the date of closure. The license in force at the time of closure shall be returned to the Board office.
16. If a crematory authority license is revoked, the license must be returned to the Board office within seven (7) days of receipt of the Board's order revoking the license.
17. No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity shall cremate any human remains except in a crematory licensed for this express purpose and under the limitations provided in this Rule.
18. No cremations of the bodies of deceased persons shall be performed except by a crematory authority holding a valid license issued by the Board.
19. Renewal of all funeral establishments Type C must be made on or before December 31st of each year, and the renewal form must be accompanied by the annual renewal fee. Licenses not renewed by December 31st of any year shall be considered delinquent and may be grounds for disciplinary action by the Board. A certificate of coverage shall be provided to the Board upon renewal of the license and upon each renewal of the insurance policy. When possible, the Board should be listed as a certificate holder. The Board should be notified of each renewal and cancellation for any reason.
20. Hospitals licensed by the Arkansas Department of Health may operate a facility that incinerates surgical waste, human body parts that have been surgically removed, or fetal remains

Funeral Establishment Type C-Crematory Requirements

Continued

with the permission of the next of kin, without an additional license issued by the Board and without the assistance of a licensed funeral establishment unless:

- a. They are holding themselves out to the public to be a licensed crematory authority;
- b. They offer cremation services to the public for the bodies of deceased persons except for the instance listed in this subsection.

E. Crematory Authority- Cremation Authorization and Record Keeping

1. Except as otherwise provided in this section, a crematory authority shall not cremate human remains until it has received:

- a. A cremation authorization form signed by an authorizing agent and which identifies the funeral director arranging the cremation. The cremation authorization form shall be provided by the crematory authority and shall contain the following information:

(1)The identity of the human remains. Permissible methods of identifying the remains include: verifying the name on the hospital bracelet or anklet with the fact sheet, verifying the name on the funeral home bracelet, a photo of the deceased, confirmation of the deceased's identity by the authorizing agent, proof of identity as submitted to the crematory authority directly by law enforcement or by any other appropriate legal or governmental authority;

(2) The name of the authorizing agent and the relationship between the authorizing agent and the deceased;

(3) Authorization for the crematory authority to cremate the human remains;

(4) Cremation Final Disposition Rights Form, or a representation that the authorizing agent is unaware of any objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

(5) The name of the person authorized to claim the remains from the crematory authority.

b. A completed and executed burial transit permit or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body, as provided in the laws of the state or territory where death occurred, indicating that the human remains are to be cremated;

Funeral Establishment Type C-Crematory Requirements

Continued

- c. A death certificate, fetal death certificate, or other disposition authorization signed by the authority having jurisdiction to authorize final disposition of a dead human body in the state, territory, or country where death occurred ; and
 - d. Any other documentation required by any county or municipality.
2. If an authorizing agent is not available to execute the cremation authorization form, that person may delegate that authority to another person in writing, or, if located outside of the area, by sending the crematory authority a written communication that contains the name, address, and relationship of the sender to the deceased, and the name and address of the individual to whom authority is delegated, indemnifying the delegated individual and the crematory authority from all liability concerning the cremation. Upon receipt of the written communication, the crematory authority shall allow this individual to serve as the authorizing agent and execute the cremation authorization form, and the crematory authority shall be entitled to rely upon the cremation authorization form.
3. A crematory authority may accept an electronic copy of the cremation authorization form, including the electronic signature of the authorizing agent.
4. A crematory authority shall maintain the necessary records as set out in this Rule.
5. Upon receipt of the human remains, the crematory authority shall furnish to the person who delivers such human remains, a receipt signed by both the crematory authority and the person who delivers the human remains showing:
 - a. The date of delivery ;
 - b. The name of the person from whom the human remains were received and that person's employer ;
 - c. The name of the person who received the human remains on behalf of the crematory authority ;
 - d. The name and license number of the crematory authority ; and
 - e. The name of the deceased.
6. The crematory authority shall retain a copy of this receipt.
7. A crematory authority shall retain at its place of business a record of each cremation which takes place at its facility, which record shall contain the information provided for in Subsection E, herein. The record of cremation shall also include the date that the cremation and distribution or disposition by the crematory authority of the cremated remains, occurred.
8. A crematory authority shall not accept unidentified human remains. If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall place appropriate identification upon the exterior of the cremation container.

Funeral Establishment Type C-Crematory Requirements

Continued

9. A crematory authority shall accept human remains from the establishment that is responsible for making arrangements with the next of kin or other authorized agent.

10. If the crematory authority accepts non-human remains for cremation, those non-human remains shall be cremated only in a cremation chamber or retort designed and manufactured for the cremation of non-human remains. Human remains shall be cremated only in a cremation chamber or retort designed and manufactured for the cremation of human remains. The cremation chamber or retort for human remains should be clearly marked as such. Likewise, the cremation chamber or retort for non-human remains should be clearly marked as such. The Board has no regulatory authority over the cremation of non-human remains except as otherwise provided in this paragraph.

F. Cremation Containers

1. The cremation authority shall require that human remains be placed in a cremation container prior to cremation unless the remains are already in a casket.
2. Except as provided in subsections 1 and 3, no crematory authority shall make or enforce any rules requiring that human remains be placed a casket before cremation, or that human remains be cremated in a casket, nor shall the crematory refuse to accept human remains for cremation for the reason that they are not in a casket.
3. Human remains delivered to a crematory shall not be removed from the cremation container and the cremation container shall be cremated with the human remains, unless the crematory authority has been provided with written instructions to the contrary by the authorizing agent.
4. Authorized crematory authority personnel may open the cremation container for inspection of the body.

G. Crematory Retort Operator

1. Any person desiring to become licensed as a crematory retort operator in this state shall be at least eighteen (18) years of age and have received a high school diploma or a Certificate of General Educational Development.
2. The applicant shall make written application to the Board on forms provided by the Board. The application shall be accompanied by the required fee.
3. The applicant shall also take and pass the appropriate examinations as determined by the Board, and provide any additional information required by the Board.
4. The license shall be granted to the applicant if he or she possesses a knowledge of the operation of a crematory retort and meets the qualifications for the licensing thereof.
5. At least thirty (30) days prior to the operation of a crematory, any person intending to own or operate a crematory shall apply for a crematory retort operator license by submitting an application accompanied by the required fee.

Funeral Establishment Type C-Crematory Requirements

Continued

6. All persons who operate the retort in a crematory shall have received certification by one of the following:
 - a. Cremation Association of North America (CANA);
 - b. The International Cemetery, Cremation, and Funeral Association (ICCFA);
 - c. National Funeral Directors Association (NFDA); or
 - d. Any other certification approved by the Board.
7. Prior to operating a retort, the operator shall become licensed. Every crematory retort operator shall obtain training and a certificate of training by the retort manufacturer. A copy of the certificate of training shall be submitted to the Board upon completion of the training. A copy of the certificate shall also be maintained on site at the crematory, and it shall be subject to inspection by the Board.
8. The certification for a retort operator must be completed on site by the manufacturer or another licensed retort operator.
9. On or before December 31st of the fifth (5th) year following the most recent training, the retort operator shall obtain new training and obtain a certificate stating completion as such. The new certificate of training shall be submitted to the Board upon completion of the training. A copy of the new certificate shall be maintained on site at the crematory, and it shall be subject to inspection by the board.
10. Persons receiving training toward certification to operate a retort shall be allowed to work under the supervision of an operator who holds a certification and license. The length of time the person receiving training can work under the supervision of an operator shall not exceed six (6) months.
11. All persons applying for licensure must submit OSHA bloodborne pathogen training with their initial application.
12. Crematory operation certifications must be posted in the crematory and available for inspection at any time.
13. Any employees of a crematory required to be certified under this section and retained prior to the effective date of this Rule shall be certified within one year of such effective date.

H. Cremation Procedures

1. In the event a death comes under the authority of the coroner or medical examiner, the human remains shall not be received by the crematory authority until authorization to cremate has been received from the coroner of the county in which the death occurred or the medical examiner. In the event the crematory authority is also authorized to perform funerals as well as perform cremation, this restriction on the receipt of human remains shall not be applicable, but cremation may not take place until authorization by the coroner or medical examiner.

Funeral Establishment Type C-Crematory Requirements

Continued

2. A crematory authority shall hold human remains, prior to their cremation, according to the following provisions of this subsection:

a. Whenever a crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall place the human remains in a holding facility.

b. A crematory authority shall not be required to accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

c. If human remains received by the crematory authority are not embalmed, they shall be held no longer than 24 hours unless within a refrigerated facility.

3. The unauthorized, simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden, unless the crematory authority shall have received specific written authorization to do so from all authorizing agents for the human remains to be so cremated. Such written authorization shall include an indemnification to exempt the crematory authority from all liability for commingling of the product of the cremation process.

4. Immediately prior to being placed within the cremation chamber, the identification of the human remains, as indicated on the cremation container, shall be removed from the cremation container and placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

5. Upon completion of the cremation, and insofar as is possible; all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as possible, all residue of the cremation process shall be separated from anything other than bone fragments and then be processed so as to reduce them to unidentifiable particles. Anything other than the particles shall be removed from the cremated residuals as far as possible, and shall be disposed of by the crematory authority.

6. Cremated remains shall be packed according to the following provisions of this subsection:

a. The cremated remains with proper identification, such as a disk tracking system, shall be placed in a temporary container or urn. The temporary container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent or as provided in subsection 6.b of this part.

b. The cremated remains with proper identification shall be placed within the temporary container or urn ordered by the authorizing agent.

c. If the cremated remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated remains shall be in a separate container.

d. When a temporary container(s) is used to return the cremated remains, that container(s) shall be placed in a suitable box and all box seams taped closed to increase the

Funeral Establishment Type C-Crematory Requirements

Continued

security and integrity of that container(s). The outside of the container(s) shall be clearly identified with the name of the deceased person whose cremated remains are contained therein and the name of the cremation authority.

e. If the cremated remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent shall be packed securely in a suitable, sturdy container and sealed properly. Cremated remains shall be shipped only by a method which has an internal tracking system available and which provides a receipt signed by the person accepting delivery.

f. When an authorizing agent has indicated a preference for cremation as the form of final disposition, embalming or refrigeration shall not be required for a forty-eight (48) hour period after death, unless a health problem dictates otherwise.

I. Disposition of Cremated Remains

1. The authorizing agent shall be required to provide the person with whom cremation arrangements are made, a signed statement specifying the disposition of the cremated remains. A copy of this statement shall be retained by the crematory authority.

2. The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of ninety (90) days from the date of cremation, the authorizing agent or his or her representative has not specified the ultimate disposition or claimed the cremated remains, the disposition authority or the person in possession of the cremated remains may dispose of the cremated remains in any manner permitted by law. The authorizing agent shall be responsible for reimbursing the disposition authority for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. All records relating to such a disposition shall be maintained by the person making such disposition. Examples of records to be maintained include written documentation of the type of disposition and any invoices or receipts for goods and/or services that were necessary to carry out the disposition.

3. In addition to disposing of cremated remains in a crypt, niche, grave or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public lands, the sea or other public waterways, cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the disposition authority with the written consent of the property owner. Prior to scattering cremated remains, the remains must be reduced to a particle size of one-eighth (1/8) inch or less. A person may use a boat or an airplane to perform the scattering, and cremated remains shall be removed from their closed container before they are scattered.

4. Except with the express written permission of the authorizing agent no person licensed by the Board shall:

a. Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another

Funeral Establishment Type C-Crematory Requirements

Continued

person. The provisions of this paragraph shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes ; or

b. Place cremated remains of more than one person in the same closed container. This paragraph shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person.

5. Cremated remains shall be delivered by the crematory authority to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory authority and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time and place of the receipt. The crematory authority shall retain a copy of this receipt. After this delivery, the cremated remains may be transported in any manner in this state, without permit, and disposed of in accordance with the provisions of Arkansas law and this Rule.

J. Crematory Authority- Limitation of Liability

1. Each cremation authorization form used by a crematory authority shall include language that: authorizes it to proceed with the cremation and disposition of the cremains; and indemnifications to exempt it from liability, when it has performed as directed and in accordance with all applicable laws and this Rule. Further, the following provisions apply:

- a. Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation. Any person signing a cremation authorization form shall be personally and individually liable for all damage occasioned thereby and resulting therefrom.
- b. A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority, disposition authority, or other person or legal entity that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization.
- c. A crematory authority shall not be responsible or liable for any valuables delivered to the crematory authority with human remains.
- c. A crematory authority shall not be liable for refusing to accept a body or to perform a cremation in dispute until it receives a court order or other suitable confirmation that a dispute has been settled if:

Funeral Establishment Type C-Crematory Requirements

Continued

- (1) It is aware of any dispute concerning the cremation of human remains ;
- (2) It has a reasonable basis for questioning any of the representations made by the authorizing agent ; or
- (3) For any other lawful reason.

d. If a crematory authority is aware of any dispute concerning the release or disposition of the cremated remains, the crematory authority may refuse to release the cremated remains until the dispute has been resolved or the crematory authority has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory authority shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection.

K. Administration

1. A crematory authority may implement additional reasonable rules and regulations, consistent with applicable law and this Rule, for the management and operation of a crematory. Nothing in this provision shall prevent a crematory authority from implementing rules and regulations which are more stringent than the provisions contained in this Rule.

2. Violations of this rule shall be punishable in accordance with all applicable law and rules pertaining to crematory authorities. Any person doing business in this state, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary or religious organization, or any other entity is prohibited from:

- a. Maintenance or operation of a building or structure within this state as a crematory without a license or in violation of this rule of the Board or laws or rules of other applicable regulatory bodies;
- b. Holding oneself out to the public as a crematory authority without being licensed under this rule , or performing a cremation without a cremation authorization form signed by the authorizing agent;
- c. Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information;
- d. Performing a cremation in other than a licensed crematory authority; and
- e. Violation of any other provision of this rule.

3. Applicable penalties may be imposed by the Board whether or not the violator holds a valid license issued to an individual, funeral establishment, crematory authority, transport service, or other entity.

L. Pre-Need Cremation Arrangements

1. Cremation arrangements that are made on a pre-need basis, between a consumer and a funeral establishment, may specify the ultimate disposition of the cremated remains, and that portion of the agreement shall be initialed by the individual making the arrangements. If there are no additional or different instructions provided to the crematory authority by the authorizing

Funeral Establishment Type C-Crematory Requirements

Continued

agent at the time of death, then the crematory authority shall be authorized to release or dispose of the cremated remains as stated in the pre-need agreement.

2. The contract or other written document that memorializes the decedent's wishes with regard to final disposition, must be executed in accordance with the provisions of the Arkansas Final Disposition Rights Act, codified at Ark. Code Ann. § 20-17-102. Those provisions require the signature of the person/declarant, and must be witnessed by two (2) individuals. The person shall have the option of designating the crematory authority. A copy of this form shall be retained by the person and a copy sent to the crematory authority, if so designated. Any person shall have the right to transfer or cancel this authorization at any time prior to his or her death by providing written notice to all parties.

3. At the time of such person's death, any person in possession of an executed pre-need cremation authorization form, and any person charged with making arrangements for the final disposition of the deceased, who has knowledge of the existence of an executed pre-need cremation authorization form, shall use his or her best efforts to ensure that the deceased is cremated and disposed of according to the instructions contained on the pre-need cremation authorization form.

4. The provision of this section shall only be applicable if the cremation authorization is executed in accordance with Ark. Code Ann. § 20-17-102. If not, then the authorized agent of the deceased shall have the right to choose another form of final disposition at the time of the person's death, unless such change is in conflict with Arkansas law.

M. Sanitation and Fire Safety

1. The crematory, cremation chamber, and all related buildings and equipment shall be maintained in a clean and sanitary manner. All equipment in and related to the crematory shall be maintained in good condition according to the directions given by the manufacturer of the equipment and the appropriate regulatory authorities.

2. Crematory authorities applying for licensure shall construct their crematories in such a manner as to meet the following minimum standards:

- a. The floor of the crematory shall be of concrete and not covered with a flammable material ;
- b. The walls and ceiling of the crematory shall be of fireproof and/or fire-retardant materials ; and
- c. The crematory shall have adequate ventilation and adequate entrances and exits for the protection of the public and authority personnel.

3. No flammable material shall be stored within five feet of the cremation chamber.

N. Miscellaneous Provisions Relating to Crematory Authorities

1. License holders agree that Board representatives have the right to inspect the crematory and the records of the crematory authority at any time.

Funeral Establishment Type C-Crematory Requirements

Continued

2. License holders shall also agree to hold valid licenses issued by any other applicable regulatory agencies. Failure to hold such other licenses or permits, when they are necessary to be held, shall be considered a violation of this rule.
3. Personal items placed or caused to be placed in the cremation container with the body of the deceased shall not be removed by the crematory authority or its representatives. This provision does not apply if the items could cause harm to the crematory or to the crematory authority personnel during the cremation process.
4. Any items removed from the cremation container shall be returned to the authorizing agent.
5. All cremations of human remains in this state shall be arranged through the holder of a licensed funeral establishment
6. Records required by this rule of crematory authorities, disposition authorities, and other parties shall be maintained in accordance with Section 22 of this rule.

A.C.A. § 17-29-313

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the Arkansas Code Revision Commission

- [AR - Arkansas Code Annotated](#)
- [Title 17 Professions, Occupations, and Businesses](#)
- [Subtitle 2. Nonmedical Professions](#)
- [Chapter 29 Embalmers, Funeral Directors, and Funeral Establishments](#)
- [Subchapter 3 — Embalmers and Funeral Directors Law — Licensing](#)

17-29-313. Permit required — Crematorium construction — Operation of crematorium.

(a)

(1) A crematorium shall not be constructed in this state without a permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(2) In order to receive a permit to construct a crematorium, a person shall:

(A)

(i) Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.

(ii) The notice shall:

(a)

(1) Be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board.

(2) Publication as described in subdivision (a)(2)(A)(ii)(a)(1) of this section is sufficient if the notice is published in the newspaper's print edition or digital edition, or both; and

(b) Invite members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board; and

(B)

(i) Submit an application to the board for a permit to construct a crematorium.

(ii) The application for a permit to construct a crematorium shall include:

(a) Proof of publication of the notice required under subdivision (a)(2)(A) of this section;

(b) A copy of the permit issued by the Division of Environmental Quality under § 8-4-203 to construct the crematorium; and

(c) The fee as prescribed in § 17-29-208 [repealed].

(b)

(1) Upon receiving a written protest to an application for the construction of a crematorium, the board shall:

(A) Schedule a public hearing on the application; and

(B)

(i) Direct the applicant to publish in a newspaper having general circulation within the county where the crematorium is proposed to be constructed a notice of the date and time of a public hearing on the application.

- (ii)** The notice shall be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before the public hearing.
- (2)** The public hearing shall be held in the city or county in which the proposed crematorium is to be located.
- (c)**
 - (1)** A crematorium shall not be operated in this state without a license issued by the board.
 - (2)** A person who desires to operate a crematorium in this state shall:
 - (A)** Make application to the board on forms furnished by the board;
 - (B)** Provide the necessary information as determined by the board;
 - (C)** Attach the fee as prescribed by the board;
 - (D)** Satisfy the requirements of the board for the safe and sanitary operation of a crematorium as determined by the board; and
 - (E)**
 - (i)** Provide to the board proof of liability insurance.
 - (ii)** The board shall develop and promulgate rules to establish minimum levels of general liability insurance coverage for licensed crematoriums.
 - (3)** The board shall grant the application if the board finds that the proposed crematorium:
 - (A)** Complies with all state and federal laws concerning environmental and public health; and
 - (B)** Will serve the public interest.

History

Acts 1993, No. 365, § 1; 2015, No. 1095, § 37; 2017, No. 788, §§ 22, 23; 2019, No. 910, § 3184; 2021, No. 396, § 3.