

REQUEST FOR TECHNICAL CHANGE

AGENCY: Cemetery Commission

RULE CITATION: 21 NCAC 07D .0108

**DEADLINE FOR RECEIPT: Friday, March 6, 2020**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form:*

*In Box 2, please include the full name of the Rule.*

*In Box 8, please check "No fiscal note provided" as set forth in your publication in the Register.*

*In Box 11, please insert your typed name and title under your signature.*

*In the Rule:*

*On line 1, the Introductory Statement will read: 21 NCAC 07D .0108 is adopted as published in 34:07 NCR 553 with changes as follows:"*

*Delete the language with the Chapter, Subchapter, and Section names on lines 4-8. It is not necessary with this submission.*

*Please use the formatted version of the Rule that you used when you published this Rule. That way, you will not have to address the formatting issues on lines 15 and 16 manually. (The language needs to be indented.)*

*In (a)(3), line 19, please remove the comma after "Commission" The way you will do this is remove the underlining from the entire rule, and then you will strike "Commission," and add "Commission" by underlining it. It will look like this: "withdrawn by the ~~Commission~~, Commission pursuant to..."*

*In (b), line 24, how is this prior consent requested? If you instead mean to refer to statute, why not state "Without prior written approval of the Commission pursuant to G.S. 65-61, no amounts..."*

*In (b)(1), line 27, and (b)(2), line 29, it seems to me that the language "at that time" is unnecessary and repeats the line above it ("at the time of withdrawal"). I suggest deleting it.*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: February 21, 2020

*In (b)(2), line 28, is “immediately” being used as its dictionary meaning, “without interval of time”?*

*In the History Note, please change the effective date to April 1, 2020, as that is the earliest date that this Rule can become effective.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: February 21, 2020

1 21 NCAC 07D .0108 is proposed for adoption as follows:

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3  
4 **CHAPTER 07 - CEMETERY COMMISSION**

5  
6 **SUBCHAPTER 07D - TRUST FUNDS**

7  
8 **SECTION .0100 - MAINTENANCE AND CARE FUNDS (PERPETUAL CARE FUNDS)**

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10  
11 **21 NCAC 07D .0108 WITHDRAWALS FROM PERPETUAL CARE TRUST FUNDS**

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13 (a) For purposes of this Rule, the following definitions shall apply:

14 (1) "corpus amount" means the sum of:

15 (a) the amount of all deposits made to a trust fund at the inception of the trust fund; and

16 (b) the aggregate amount of all deposits made to the trust fund after the inception of the trust fund.

17 (2) "deposits" means the deposits to trust funds required by GS 65-64.

18 (3) "income" means interest income, dividend income, or any amount of capital gain income to the  
19 extent allowed to be withdrawn by the Commission, pursuant to this Rule.

20 (4) "total market value" means the total market value of the assets in the trust fund, as reflected in  
21 the records of the trustee.

22 (5) "trust fund" means a care and maintenance trust fund required by G.S. 65-61 or perpetual care  
23 trust fund required by G.S. 65-63.

24 (b) Without the prior written approval of the Commission, no amounts from a trust fund may be withdrawn from  
25 the trust fund if either:

26 (1) at the time of the withdrawal, the total market value of the trust fund is less than the corpus amount  
27 at that time; or

28 (2) immediately after the withdrawal is made, the total market value of the trust fund would be less than  
29 the corpus amount at that time.

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31  
32 *Authority GS 65-49; G.S. 65-61*

33 *Effective January 1, 2020*