

## Chapter 205 –Crematories

### Rule §205.3 Crematory License Requirement and Procedure

- (a) The crematory establishment license application shall be on a form furnished by the Commission and shall contain all information required by Texas Occupations Code, §651.657, including:
- (1) a statement that all operators of the cremation chamber are certified by a reputable organization approved by the Commission; and
  - (2) the names of all persons certified to operate the cremation chamber.
- (b) The completed application, including all required documentation, and applicable fee shall be received before the Commission inspects the crematory establishment.
- (c) A license is valid for a period of one year.
- (d) The Commission may not renew an application until the applicant has met the requirements of Texas Occupations Code, §651.658(a).
- (e) A crematory that fails to renew its license by its renewal date shall pay, in addition to the renewal fee, a late payment penalty equal in amount to the renewal fee.
- (f) A crematory may not operate if a license is expired for over 30 days until the renewal fee and late payment penalty are paid.
- (g) A crematory must submit the name of the crematory manger.***
- (h) At the time of inspection the cremation log and maintenance log for each cremation chamber will also be made available upon request.***
- (i) Included with the Annual Crematory Establishment License Renewal will be proof of financial bond or insurance for liability of damages if the crematory and its contents were to be damaged.***

### Rule §205.5 Acceptance of Remains

~~A crematory not licensed as a funeral establishment may not accept deceased human remains for cremation until cremation is authorized by a justice of the peace or a medical examiner in the county in which the death occurred.~~

- (a) A crematory establishment, under contract with a funeral establishment, may accept deceased human remains for refrigeration before it receives authorization to cremate under Texas Health and Safety Code, Chapter 716, Subchapter B.***
- (b) In order for a licensed crematory establishment to received unembalmed deceased human remains, it must have sufficient refrigeration.***

### Rule §205.6 Contracts for Direct Cremation Services

An authorizing agent authorized to dispose of the remains of a deceased individual may contract directly for cremation services if the crematory is also licensed as a funeral establishment or if the authorizing agent receives written authorization ***for the disposition of an unclaimed body*** from either a Justice of the Peace or Medical Examiner of the county in which the death occurred.

#### Rule §205.7 Waiting Period for Cremation

Cremation may not occur sooner than 48 hours following the time of death indicated on the death certificate unless the waiting period is waived in writing by a Justice of the Peace or a Medical Examiner of the county in which the death occurred; or by a court order.

#### Rule §205.9 Crematory Annual Report, Extensions for Good Cause, and Late Fees

(a) The annual report required by Texas Occupation Code §651.658 shall cover the period from January 1 to December 31.

(b) The report must be postmarked by January 30 of the year following the year for which the report is due.

(c) The Executive Director shall grant an extension for filing the annual report for no more than 60 days upon proof of good cause.

(d) Good cause for purposes of subsection (c) of this section is an event beyond the control of the crematory owner or operator that prevents the owner or operator from timely completing and filing the annual report.

(e) Requests for extensions of time to file the annual report based on good cause will not be approved if received by the Commission later than January 15 following the year for which the report is due.

(f) A \$100 late fee will be imposed for each day a crematory establishment fails to submit the annual report if the Executive Director has not granted an extension of time for filing the report. The Commission has no authority to waive or reduce the late fee.

***(g) A crematory will not be allowed to renew their license if annual report and any associated penalty is more than 90 days past due.***

***(h) The Annual Report will include the name of the crematory establishment, the license number and the number of cremations.***

#### §205.11– Prerequisites for Cremation

(a) The following documents are required to cremate deceased human remains:

(1) a cremation authorization form signed by the person responsible for making arrangements for final disposition; and

(2) a death certificate or other death record indicating that the deceased human remains may be cremated.

(b) A burial transit permit is required under 25 TAC §181.2 and may be considered other death record under (a)(2).

#### Rule §205.13 Written Waiver of Identification Required

A waiver of a right of identification under Health and Safety Code, §716.104(b) is valid only if given in writing.

#### Rule §205.15 Commingling Limitations

(a) A crematory establishment may not simultaneously cremate the deceased human remains of more than one person in the same cremation chamber unless authorized by the authorizing agent of each deceased person in a cremation authorization form or other written document.

(b) A crematory establishment may not simultaneously cremate deceased human remains with items of value, pacemakers or other potentially hazardous implants that are specifically disclosed by the authorizing agent on the cremation authorization form and are not authorized by the authorizing agent to be cremated with the deceased human remains.

***Rule §205.17 Disposal of Abandoned Cremated Remains***

***In the event of a non-operational funeral establishment, crematories may contract with a local cemetery authority to dispose of abandoned cremated remains in accordance with Texas Health and Safety Code, Chapter 716.203***