

Grave Removal Process

North Carolina General Statutes, Section 65-13, require that a grave can only be moved by a party other than the next of kin, after a public hearing as prescribed by the following process:

- Give 30-day written notice of intention to next of kin of the deceased before disinterment, removal, and re-interment of any grave occurs.
- Published notice of the grave removal and re-interment at least once per week for four consecutive weeks in a newspaper or general circulation within the County where the graves(s) are situated (first publication shall be not less than 30 days before disinterment.)
- Post notice of the grave removal and re-interment on the property 30 days before the public hearing.
- Hold the public hearing to receive public input about the grave removal and re-interment.
- Upon the granting of the request, a written certificate of the removal facts, such as a description of the existing grave site and the location where the remains have been re-interred, must be filed by the party performing the removal and re-interment with the Register of Deeds within 30 days.
- The Wake County Environmental Services is required to oversee the removal and re-interment of the remains.
- Within 30 days after the completion of removal and re-interment, the petitioner must submit a Removal of Graves Certificate to the Wake County Health Department.



Grave Removal Petition

Submit required documentation to:

Wake County Planning Department/Current Planning Section
P.O. Box 550 Wake County Office Building, Suite
101
Raleigh, NC 27602-0550 336 Fayetteville Street Mall,
Downtown Raleigh

File #
Fee
Amt Paid
Check #
Rec'd Date
Rec'd By

Contact Current Planning at (919) 856-6335 for additional information.

Petitioner _____ Telephone Number _____

Address _____

City _____ State _____ Zip Code _____

(Petitioner must supply a notarized petition verification form from the property owner.)

Property Owner _____

City _____ State _____ Zip Code _____

1. Reason for Petition _____

2. For **disinterment and removal**, attach map to scale of current location of gravesites. Include PIN map number, acreage and zoning district. Deed of property must also be provided. Provide a list of all known next of kin. Provide a list of descendants buried in the graveyard.

3. Fore **reinterment**, at map of location of reentered graves. Include PIN Map number, acreage and zoning district. Written consent of property owner must be attached. Local zoning and Health Department approval may be required on some jurisdictions if a cemetery is created or expanded. In some cases, obtaining local zoning approval may be a prerequisite to this petition.

4. North Carolina General Statute 65-13 requires written notice to all known next of kin of all the descendents 30 days prior to disinterment, removal and reinterment. Attach copies of dated written notices with this petition. The notices indicate that the next of kin should notify the petitioner within 30 days if they have any objections to the disinterment and reinterment of the graves. Consent forms should be mailed with each notice and copies of the consent forms attached with this petition.

Grave Disinterment, Removal and Re-interment

- I. Who may Dissenter, Move and Re-inter
 - A. Any political unit of Federal, State and County.
 - B. Any church.
 - C. A utility that needs land for a reservoir.
 - D. Any person, firm or corporation that owns land on which abandoned cemeteries or burying grounds are located.

- II. When a public hearing is required
 - A. When remover is not the landowner and/or next of kin.
 - B. When abandoned and unidentified graves are involved and the next of kin is not known or consent is given.

- III. What areas of Wake County are regulated by Wake County
 - A. Wake County's Planning and Zoning jurisdiction.
 - B. Areas outside the corporate limits of cities and towns.

- IV. Application Process
 - A. If public hearing is required, applicant completes application form with attachments.
 - B. Tentative date set by staff for hearing.

- V. Notice of Disinterment, Removal and Re-interment
 - A. 30 days written notice of intention to next of kin of descendent before disinterment, removal and re-interment.
 - B. Notice to be published at least once per week for four successive weeks in newspaper in county where graves are situated. (The first publication shall not be less than 30 days before disinterment.)
 - C. Staff must also post property 30 days before hearing.

- VI. Agenda Item
 - A. Once applicant submits documentation that notices, consent forms and maps are complete, staff can complete agenda item information package.
 - B. Public hearing date set.

- VII. Re-interment
 - A. Within 30 days of completion of removal and re-interment, party must file a written certificate (with Register of Deeds) of the removal facts (See Form A).
 - B. Fees:
 - I. \$1.00 per page of certificate files for registration.

C. Expenses

1. Party effecting the disinterment, removal and reinterment, shall bare cost of all fees.
2. If the next of kin incurs cost of attending the same, then affecting party must pay sum of up to \$200.00.

D. The party effecting disinterment, removal and reinterment

1. provide that new site must be of suitable dimensions to accommodate graves
2. reasonably accessible to all relatives
3. written consent by next of kin required to reenter into common grave
4. if disinterment, removal and re-interment by public agency or utility, then duties must be performed by a funeral director or funeral service licenses.

E. Supervision

1. All actions shall be made under the supervision and direction of the Board of Commissioners and local health officer.

Note: County fee to file petition is \$300.00

Article 5.
Removal of Graves.

§ 65-13. Removal of graves; who may disinter, move and reinter; notice; certificate filed; reinterment expenses, due care required.

(a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:

- (1) By the State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.
- (2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery or burying ground for which such church has assumed responsibility of care and custody.
- (3) By an electric power or lighting company when it owns land that is to be used as a reservoir on which graves are located.
- (4) By any person, firm or corporation, which owns land on which abandoned cemeteries or burying grounds are located after first securing the consent of the governing body of the town, city or county in which such abandoned cemeteries or burying grounds are situated.

(b) The party effecting the disinterment, removal and reinterment of a grave containing a decedent's remains under the provisions of this Chapter shall, before disinterment, give 30 days written notice of such intention to the next of kin of the decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is situated and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery or burial ground.

(c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate

of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.

(d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars (\$200.00).

(e) The office of vital statistics of North Carolina shall promulgate regulations effecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.

(f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Chapter shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Chapter disinterment, removal, and reinterment is effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the North Carolina General Statutes.

(g) All disinterment, removal and reinterment under the provisions of this Chapter shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of the disinterment, and the reinterment shall be made under the supervision and direction of the county board of commissioners

or other appropriate official, including the local health director, appointed by such board for the county of reinterment.

Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reintering such remains. Due care shall also be taken to remove, protect and replace all tombstones or other markers, so as to leave such tombstones or other markers in as good condition as that prior to disinterment. Provided that in cases where the remains are to be moved to a perpetual care cemetery or other cemetery where upright tombstones are not permitted, a suitable replacement marker shall be provided.

(h) Nothing contained in this Article shall be construed to grant or confer the power or authority of eminent domain, or to impair the right of the next of kin of a decedent to remove or cause the removal, at his or their expense, of the remains or grave of such decedent. (1919, c. 245; C.S., ss. 5030, 5030(a); Ex. Sess. 1920, c. 46; 1927, c. 23, s. 1; c. 175, s. 1; 1937, c. 3; 1947, cc. 168, 576; 1961, c. 457; 1963, c. 915, s. 1; 1965, c. 71; 1971, c. 797, s. 1; 1977, c. 311, s. 1; 2001-390, s. 3.)

§§ 65-14 through 65-15. Repealed by Session Laws 1971, c. 797, s. 2.