

## CHAPTER 44J

### CEMETERIES

#### Authority

N.J.S.A. 45:27-4.

#### Source and Effective Date

R.2006 d.203, effective May 2, 2006.  
See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

#### Chapter Expiration Date:

Chapter 44J, Cemeteries, expires on May 2, 2011.

#### Chapter Historical Note

Chapter 44J, Cemeteries, was originally codified in Title 3 as Chapter 41, Cemeteries. Chapter 41 was adopted by R.1980 d.449, effective October 16, 1980. See: 12 N.J.R. 380(a), 12 N.J.R. 628(a).

Pursuant to Executive Order No. 66(1978), Chapter 41, Cemeteries, was readopted as R.1985 d.573, effective October 16, 1985. See: 17 N.J.R. 1704(a), 17 N.J.R. 2749(a).

Pursuant to Executive Order No. 66(1978), Chapter 41, Cemeteries, was readopted as R.1990 d.537, effective October 11, 1990. See: 22 N.J.R. 2627(a), 22 N.J.R. 3363(a).

Subchapter 11, Location of Interment Spaces, was adopted as R.1993 d.632, effective December 6, 1993. See: 25 N.J.R. 623(a), 25 N.J.R. 5462(b).

Subchapter 13, Applications, was recodified from N.J.A.C. 3:40-6 by R.1994 d.579, effective November 21, 1994. See: 26 N.J.R. 3785(a), 26 N.J.R. 4597(a).

Pursuant to Executive Order No. 66(1978), Chapter 41, Cemeteries, expired on October 11, 1995.

Chapter 41, Cemeteries, was adopted as new rules and recodified as N.J.A.C. 13:44J, and Subchapter 10, Interpretation and Construction, was repealed by R.1995 d.581, effective November 6, 1995. See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Pursuant to Executive Order No. 66(1978), Chapter 44J, Cemeteries, was readopted as R.2000 d.487, effective November 6, 2000, and Subchapter 6, Interment Space Owner, Subchapter 7, Disinterments, Subchapter 8, Cremated Remains, and Subchapter 9, Salesmen, were recodified as Subchapter 7, Memorials, Subchapter 8, Disinterment, Subchapter 9, Cremains, and Subchapter 10, Salespeople, and Subchapter 15, Removal of Monumentation, was adopted as new rules by R.2000 d.487, effective December 4, 2000. See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Chapter 44J, Cemeteries, was readopted as R.2006 d.203, effective May 2, 2006. As a part of R.2006 d.203, Subchapter 11, Interment Spaces, was renamed Interment Spaces or Niches, effective June 5, 2006. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. APPLICABILITY

**13:44J-1.1 Non-applicability of chapter to religious corporations**

Unless otherwise noted, the provisions of the chapter do not apply to religious corporations incorporated pursuant to Title 16 of the New Jersey Statutes or religious societies or to cemeteries owned by religious corporations unless said religious corporation has been issued a Certificate of Authority by the Board.

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Added "incorporated pursuant to Title 16 of the New Jersey Statutes or religious societies" preceding "or to cemeteries".

**13:44J-1.2 Application to directors, trustees, officers and employees**

Unless the context otherwise requires, the provisions of this chapter are applicable to cemetery companies.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Deleted " , and their directors, trustees, officers and employees" following "companies".

## SUBCHAPTER 2. DEFINITIONS

**13:44J-2.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings:

"Act" means the New Jersey Cemetery Act, 2003, N.J.S.A. 45:27-1 et seq.

"Adornments" means items placed on an interment space or niche on a temporary basis by the owner of the interment space or niche or by the cemetery company.

"Annual, endowed or special care" means care or maintenance of an individual interment space provided for by agreement between the cemetery and the owner of the space.

"Avenue" means a public way, street or thoroughfare.

"Board" means the New Jersey Cemetery Board.

"Bulk sales" means the sale of 17 or more interment spaces or niches, in a single transaction or series of transactions, whenever made, to any one membership or religious corporation or unincorporated association or society which provides interment spaces or niches solely for its members and their families.

"Burial" means disposition of human remains by placing them in a grave or crypt, but does not include their temporary storage.

"Burial right" means a right for the burial of human remains in a particular grave or crypt created by contract between a person and a cemetery.

"Cemetery" means any land or place used or dedicated for use for burial of human remains or disposition of cremated human remains, and also includes a crematory located on dedicated cemetery property.

"Cemetery company" means a person that owns, manages, operates or controls a cemetery or crematory, directly or indirectly, but does not include a religious organization that owns a cemetery or crematory which restricts burials or cremations to members of that religion or their families unless the organization has obtained a certificate of authority for the cemetery or crematory.

"Columbarium" means a building or structure containing niches for placement of cremated human remains.

"Cremated human remains" or "cremains" mean the recoverable bone fragments and container residue resulting from the process of cremation.

"Cremation" means the process of reducing human remains to bone fragments through flame, heat and vaporization and shall constitute the final disposition.

"Crematory" means a structure containing cremation chambers used to cremate human remains.

"Crypt" means an interment space in a mausoleum or other structure, above or below ground, which does not include a niche.

"Embellishment" means an item contributing to beauty, comfort or enhancement of a cemetery, but does not include a memorial or a disposable, perishable or seasonal item or adornment.

"Entombment" means the placement of human remains in a crypt in a mausoleum.

“For-profit management and operation certificate of authority” means a certificate of authority issued pursuant to P.L. 2006, c. 26 to a for-profit corporation, partnership, association or other private entity that managed or operated a cemetery prior to January 14, 2004, which authorizes the holder to manage or operate a cemetery.

“For-profit management services certificate of authority” means a certificate of authority issued pursuant to P.L. 2006, c. 26 to a for-profit corporation, partnership, association or other private entity that authorizes the holder to provide management services for a cemetery.

“General maintenance charge” means a fee assessed against each interment space or niche for the general upkeep of the cemetery.

“Grave” means a place for underground disposition of human remains or cremated human remains which may include spaces for the disposition of human remains of more than one person, arranged by depth.

“Human remains” means a body, or part of a body, of a deceased human being or an amputated limb of a living human being.

“Interment” means the disposition of human remains by burial in a grave or crypt but does not mean the temporary storage of remains.

“Interment space” means a grave or crypt intended for the interment of human remains.

“Inurnment” means the placement of a container of cremated human remains in a niche.

“Maintenance” means all activities of a cemetery company which further the care and upkeep of a cemetery, including cutting lawns, and preservation and repair of drains, water lines, roads, buildings, fences and other structures.

“Maintenance and preservation” means the care of the entire cemetery to the extent of the income of the Maintenance and Preservation Fund but does not include providing specific care to individual graves or plots.

“Mausoleum” means a permanent building in a cemetery above or below ground, containing crypts to be used for burial.

“Memorial” means a marker or monument located at a grave containing the name of a deceased person or the family name of a deceased person, or an effigy or other representation of a deceased person buried in the grave but does not include an embellishment.

“Multiple depth grave” means more than one interment space in a grave.

“Niche” means a space in a columbarium or mausoleum for placement of cremated human remains.

“Non-titled niche or interment space” means a niche or an interment space in a plot for which no title or deed is issued, that holds either a single inurnment or interment, or multiple inurnments or interments of unrelated persons.

“Path” means a course or way which primarily provides pedestrian access to interment spaces or niches already sold. Path does not mean an avenue or other roadway or areas reserved or set apart for building purposes.

“Person” means an individual, corporation, partnership, association or any other public or private entity.

“Plot” or “lot” means an area of cemetery ground containing two or more adjoining graves.

“Private mausoleum” means a mausoleum constructed by or for a plot owner and not owned by the cemetery.

“Public mausoleum” means a mausoleum, built in accordance with rules of the Department of Community Affairs, owned by a cemetery or cemetery company for the use of interment spaces by the general public but is not a single or multiple vault in that it is a single integrated structure assembled on the premises. It shall not consist of one or more vaults constructed off the cemetery premises and installed singly or in series at the cemetery premises.

“Roadway” means a course or way intended to provide motor vehicle access to interment spaces or niches.

“Sold” means that a contract for the sale of the interment space has been executed by the purchaser.

“Total cost of structure” as used in N.J.S.A. 45:27-14b means any expense incurred by the cemetery company due to the construction and furnishing of a public mausoleum, such as, actual building costs, walkways, architect fees, building permit fees, landscaping, installation of utility lines and internal furnishings.

“Transfer” means the sale, gift or assignment of an interment space or niche.

“Vault” means a prefabricated outer burial case of any material, designed to be installed in the ground to receive one or more burials, and not a part of a public or private mausoleum or any other structure.

Amended by R.1993 d.632, effective December 6, 1993.

See: 25 N.J.R. 623(a), 25 N.J.R. 5462(b).

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote section.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Rewrote definitions “Act”, “Bulk sales”, “Cremated human remains” or “cremains”, “Cremation”, “General maintenance charge”, “Grave”, “Interment”, “Non-titled niche or interment space”, “Path”, “Person”, “Roadway” and “Total cost of structure”; inserted definitions “Adornments”, “Annual, endowed or special care”, “Burial”, “Burial right”, “Cemetery”, “Cemetery company”, “Columbarium”, “Crematory”, “Crypt”, “Embellishment”, “Human remains”, “Interment space”, “Inurnment”, “Maintenance”, “Maintenance and preservation”, “Mausoleum”, “Memorial”, “Niche”, “Plot” or “lot”, “Private mausoleum”, “Public mausoleum”, “Transfer” and “Vault”; and deleted definition “Underground public mausoleum”.

Amended by R.2010 d.041, effective May 17, 2010.

See: 41 N.J.R. 3027(a), 42 N.J.R. 939(c).

Added definitions “For-profit management and operation certificate of authority” and “For-profit management services certificate of authority”.

## SUBCHAPTER 3. FEE SCHEDULE

**13:44J-3.1 Charges and fees**

(a) The following fees shall be charged by the Board:

1. Cemetery company fees:
  - i. Annual interment fees per interment in excess of 25 interments.....\$4.00
  - ii. Cremation fee (per cremation) ..... 1.00
  - iii. Filing amendments to charters/regulations/price list.....25.00
  - iv. Application fees:
    - (1) Certificates of authority ..... 500.00
    - (2) Sales of land/granting of easement ..... 500.00
    - (3) Merger/consolidation of cemeteries ..... 500.00
    - (4) Removal of monumentation ..... 100.00
    - (5) Renovation of interment space or niche areas ..... 100.00
    - (6) Acquisition of land ..... 250.00
    - (7) Lease of cemetery land..... 100.00
    - (8) Bulk sale of interment spaces or niches..... 75.00
    - (9) Certificate(s) issued pursuant to N.J.S.A. 8A:6-3 ..... 500.00
    - (10) Reclamation of bulk sales..... 300.00
2. Salesperson fees:
  - i. Application fee.....35.00
  - ii. Temporary license.....5.00
  - iii. Initial license:
    - (1) If paid during the first year of a biennial renewal period..... 75.00
    - (2) If paid during the second year of a biennial renewal period.....37.50
  - iv. Initial branch license:
    - (1) If paid during the first year of a biennial renewal period..... 75.00
    - (2) If paid during the second year of a biennial renewal period ..... 37.50
  - v. Temporary branch license .....5.00
  - vi. Biennial renewal license .....30.00
  - vii. Branch license renewal .....30.00
  - viii. Transfer of license.....20.00
  - ix. Duplicate license ..... 10.00
  - x. Late renewal fee ..... 10.00
3. Annual filing fee for Maintenance and Preservation Trust Fund Report and price list ..... 75.00

(b) All religious corporations holding a certificate of authority issued by the Board which provide documentation to the Board of incorporation under Title 16 of the New Jersey Statutes are exempt from paying the annual interment fees set forth in (a)1i above.

Amended by R.1995 d.581, effective November 6, 1995.  
See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).  
Amended by R.1997 d.190, effective August 4, 1997.

See: 29 N.J.R. 411(a), 29 N.J.R. 3457(a).

In (a)1i, changed fee from \$5.00 to \$4.00; inserted new (a)1ii; re-codified former (a)1ii through iv as (a)1iii through v; and added (a)2vii. Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2003 d.399, effective October 6, 2003.

See: 35 N.J.R. 504(a), 35 N.J.R. 4726(a).

Rewrote (a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Inserted "/regulations/price list" in (a)1iii; substituted "interment space or niche" for "grave" in (a)1iv(5); substituted "interment spaces or niches" for "graves" in (a)1iv(8); added current (a)2iv and (a)2v; re-codified former (a)2iv as current (a)2vi; added current (a)2vii; and re-codified former (a)2v through (a)2vii as current (a)2viii through (a)2x. Amended by R.2008 d.258, effective September 2, 2008.

See: 39 N.J.R. 4548(a), 40 N.J.R. 5049(a).

Added (a)1iv(10).

## SUBCHAPTER 4. ORGANIZATIONAL STRUCTURE

**13:44J-4.1 Organizational meetings**

(a) The Board shall elect the following officers from among its members annually at the first Board meeting of each calendar year, which officers shall execute the following duties:

1. A chairperson, who shall:
  - i. Schedule meetings of the Board;
  - ii. Set the agenda for Board meetings in consultation with the Executive Director, except that this shall not be deemed to bar any member of the Board or the counsel to the Board from having a matter placed on the agenda of the next meeting;
  - iii. Preside at meetings of the Board;
  - iv. Appoint committees of the Board; and
  - v. Provide general oversight of, and policy guidance for, the operations of the Board office between meetings; and
2. A vice-chairperson, who shall perform the functions of the chairperson during the absence or recusal of the chairperson.

(b) In the event that a person who has been serving as an officer of the Board is no longer a member of the Board or if a person who has been serving as an officer of the Board resigns as an officer but remains a member of the Board, an election to fill the office vacated by the person shall be held at the next meeting of the Board.

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Recodified from N.J.A.C. 13:44J-4.3 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section. Former N.J.A.C. 13:44J-4.1, General duties, repealed.

**13:44J-4.2 (Reserved)**

Repealed by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Section was "Bulk grave sales".

**13:44J-4.3 (Reserved)**

Recodified to N.J.A.C. 13:44J-4.1 by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

**SUBCHAPTER 5. CEMETERY COMPANIES****13:44J-5.1 Sale and installation of vaults**

(a) Cemetery companies may not sell vaults.

(b) Cemetery companies may sell multiple depth below ground burial crypts that were installed prior to December 1, 1971.

(c) Cemetery companies may only install vaults or multiple depth below ground burial crypts that were sold prior to December 1, 1971.

(d) Nothing in this section shall prevent a cemetery company from installing and/or constructing underground public mausoleums.

Amended by R.1994 d.19, effective January 3, 1994.

See: 25 N.J.R. 4819(b), 26 N.J.R. 197(a).

Amended by R.1996 d.176, effective April 1, 1996.

See: 27 N.J.R. 1507(b), 28 N.J.R. 1859(c).

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

**13:44J-5.2 Cemetery price list; future services; general maintenance charges**

(a) Every cemetery company shall have a price list which shall be posted by the cemetery company and filed with the Board pursuant to N.J.S.A. 45:27-18. Except as set forth in (b) below, a charge shall be posted and filed with the Board before it may take effect.

(b) Notwithstanding (a) above, a cemetery company may provide a unique or highly specialized good or service, and charge for that good or service, even if the price for the good or service is not listed on the price list. The following factors shall be considered in determining whether the good or service is unique or highly specialized:

1. The cemetery company has not provided the good or service in recent years or has provided it only rarely; or

2. The nature of the good or service would not be expected to be contained in the price list.

(c) A cemetery company which has no office on the cemetery grounds may satisfy the requirement to post its price list at the cemetery office by having copies of the price list available at the off-premises office and giving a copy of the price list upon request prior to rendering service or making a sale.

(d) The price list may be either printed or typed, but shall not be handwritten. The price list shall contain the name, ad-

dress and telephone number of the cemetery company, the Certificate of Authority number, and shall be dated. The effective date of the price list shall be no earlier than the date on which the price list is filed with the Board.

(e) A cemetery company shall submit its price list to the Board with its annual Maintenance and Preservation Trust Fund Report. The price list shall supersede all previous price lists of the cemetery company.

(f) The cemetery company may amend its price list for charges for individual items at times other than when its annual Maintenance and Preservation Trust Fund Report is filed, provided that the cemetery company files such amendments with the Board, pays the filing fee as set forth in N.J.A.C. 13:44J-3.1(a)1iii and posts the amendments at the office of the cemetery company and provides updated price lists upon request. A cemetery company shall not collect an amended charge until the amended price list has been filed with the Board.

(g) Any monies paid to a cemetery company for future services shall be subject to the requirements of N.J.S.A. 2A:102-13 through 17.

(h) A cemetery company may increase the general maintenance charges if the Board approves the increase. The Board shall approve the increase if it, after reviewing the cemetery company's income and operational expenses, finds that the increase is necessary to maintain the cemetery.

New Rule R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Former N.J.A.C. 13:44J-5.2, Trust funds, recodified to N.J.A.C. 13:44J-5.3.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

In (a), substituted "N.J.S.A. 45:27-18" for "N.J.S.A. 8A:5-4 and 8:5-5", "a charge shall be" for "the collection of any charge that has not been" and "before it may take effect" for "shall be a violation of the Cemetery Act"; in (f), inserted ", pays the filing fee as set forth in N.J.A.C. 13:44J-3.1(a)1iii" in the first sentence and added the last sentence.

**13:44J-5.3 Trust funds**

(a) Any maintenance, preservation, perpetual care or other trust fund, when income from the fund is dedicated to the maintenance and preservation of the entire cemetery, shall be commingled with the Maintenance and Preservation Fund.

(b) No trust fund may be commingled with the Maintenance and Preservation Fund if the income of such fund is dedicated to the maintenance and preservation of an individual lot, or private mausoleum, sarcophagus or other private structure for interment or memorialization.

(c) Monies required to be deposited into the Maintenance and Preservation Fund shall be paid to the fund on a monthly basis. Such deposits shall be made by the last day of the month following the month in which the monies were received. In the event of an installment sale of an interment space or niche, the cemetery company may make the required

deposit at the time the deed is issued or when the payments are received.

(d) No cemetery company may take credit for overpayment into the Maintenance and Preservation Fund except with consent of the New Jersey Cemetery Board.

(e) In any case in which multiple cremains are interred in one space, the maintenance and preservation interment deposit shall be made for each individual cremains.

(f) The maintenance and preservation deposit shall not be made where a living lot owner transfers an interment space or spaces to a charitable organization without monetary consideration. This is not a transfer pursuant to N.J.S.A. 45:27-13, provided that the charitable organization submits proof of its charitable status to the cemetery company and the charitable organization arranges for a payment into the Maintenance and Preservation Fund when the interment space or niche is sold, transferred or assigned.

(g) A cemetery company shall pay fees and charges required by N.J.S.A. 45:27-13 into its Maintenance and Preservation Fund in any case in which it gives an interment space, niche, or right of interment, free of charge at the time the space or right is provided and calculated at existing sales price at that time.

(h) The gross sales price of spaces on resale and the sales price of interment spaces or niches in a public mausoleum or columbarium on resale between heirs or next of kin shall be set forth in a duly notarized affidavit executed by the transferor and transferee. Such affidavit shall be kept on file in the main office of the cemetery company in question.

(i) Distribution of interment spaces or niches by a society in liquidation does not constitute a transfer and the cemetery company is not obliged to collect and deposit into the Maintenance and Preservation Fund the amounts set forth in N.J.S.A. 45:27-13. A cemetery company may, however, before recording the assignment of the interment spaces or niches, require that future general maintenance charges be assumed by the grantee or may require an endowment in place of the general maintenance charges.

(j) Membership or religious corporations or unincorporated associations or societies which sell or transfer interment spaces or niches to its members or their families shall transmit to the cemetery company for deposit in the Maintenance and Preservation Fund at least 15 percent of the gross sales price for similar interment spaces or niches established by the cemetery company at the time of the resale or transfer. A credit shall be given for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche.

Amended by R.1990 d.537, November 5, 1990.  
See: 22 N.J.R. 2627(a), 22 N.J.R. 3363(a).  
Recodified from N.J.A.C. 13:44J-5.2 and amended by R.2000 d.487, effective November 4, 2000.  
See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section. Former N.J.A.C. 13:44J-5.3, Trust fund management/recordkeeping, recodified to N.J.A.C. 13:44J-5.4.  
Amended by R.2006 d.203, effective June 5, 2006.  
See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

In (c), substituted "an interment space" for "a grave, crypt"; substituted "transfer" for "resale" in (f) and (i); substituted "N.J.S.A. 45:27-13" for "N.J.S.A. 8A:4-5" in (f), (g) and (i); inserted "or niche" in (f) and (j); also, in (f), substituted a comma for "or" and inserted "or assigned" at the end of the last sentence; substituted "interment spaces" for "crypts" in (h), inserted "or niches" twice in both (i) and (j); and in (j), deleted "corporations," following "Membership" and ", societies" following "religious corporations" and ", or \$25.00, whichever is greater" following "resale or transfer".

#### 13:44J-5.4 Trust fund management; recordkeeping

(a) All investments of cemetery trust funds shall be made pursuant to the "Prudent Investor Act," N.J.S.A. 3B:20-11.1 et seq.

(b) A cemetery company may invest its trust funds in options for stock which the cemetery company holds in its portfolio when the exercise price of the option is in excess of the original purchase price of the stock. All other option transactions are deemed overly speculative and imprudent. In instances when an option has been written, the trust is permitted to purchase options to cover the sale of any option previously written.

(c) All cemetery companies shall maintain records of income, expenses and investments of its general fund, Maintenance and Preservation Fund and any other trust fund administered directly or indirectly by a cemetery company so as to afford an intelligent understanding of the conduct of its business.

Amended by R.1995 d.581, effective November 6, 1995.  
See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).  
Recodified from N.J.A.C. 13:44J-5.3 and amended by R.2000 d.487, effective December 4, 2000.  
See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).  
Deleted a former (c); recodified former (d) as (c); and deleted former (e) through (g). Former N.J.A.C. 13:44J-5.4, Litigation involving a cemetery company, recodified to N.J.A.C. 13:44J-5.5.  
Amended by R.2006 d.203, effective June 5, 2006.  
See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

In (a), substituted "Prudent Investor Act," N.J.S.A. 3B:20-11.1 et seq." for "Prudent Investment Law," N.J.S.A. 3B:20-12 et seq."

#### 13:44J-5.4A Co-mingling of trust funds for building maintenance

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

"Private mausoleum fund" means a trust fund created for the maintenance of the structure of a private mausoleum and the area on which it is located as required by N.J.S.A. 45:27-14a.

"Public mausoleum fund" means a Building Maintenance Fund created for the maintenance of a public mausoleum as required by N.J.S.A. 45:27-14b.

(b) A cemetery company may co-mingle private mausoleum funds established pursuant to N.J.S.A. 45:27-14 in a co-mingled private mausoleum trust fund.

(c) A cemetery company may co-mingle public mausoleum funds in a co-mingled public mausoleum trust fund.

(d) If a cemetery company co-mingles private or public mausoleum trust funds pursuant to (b) or (c) above, the cemetery company shall ensure that the income of the co-mingled trust fund is allocated for the maintenance of each individual mausoleum based upon the initial contribution to the co-mingled fund. For example, if the public mausoleum trust funds for mausoleum one and mausoleum two are co-mingled, such that mausoleum one contributes 75 percent of the initial contribution to the co-mingled fund, 75 percent of the income of the co-mingled fund shall be allocated to mausoleum one.

(e) If additional money is deposited in a co-mingled trust fund created pursuant to (b) or (c) above, either from mausoleum trust funds that are already part of the co-mingled trust fund or new mausoleum trust funds being added to the co-mingled trust fund, the cemetery company shall recalculate the allocation of income from the co-mingled trust fund in proportion to the contributions from the individual private or public mausoleum trust funds.

(f) Income allocated from a co-mingled trust fund created pursuant to (b) above to an individual mausoleum shall be redeposited in the co-mingled trust fund or used for the maintenance of that mausoleum. Such income shall not be used to maintain other mausoleums or for other cemetery expenses.

(g) If the income allocated from a co-mingled trust fund created pursuant to (c) above to an individual mausoleum exceeds the cost of maintaining that mausoleum, the excess income shall be reserved for future maintenance of that mau-

soleum and shall not be used to maintain other mausoleums or for other cemetery expenses.

(h) A cemetery company that co-mingles trust funds pursuant to (b) or (c) above shall include in its annual report:

1. A list of private mausoleum funds that have been co-mingled in a co-mingled private mausoleum fund and the amount each private mausoleum fund has in the co-mingled fund;

2. A list of public mausoleum funds that have been co-mingled in a co-mingled public mausoleum fund and the amount each public mausoleum fund has in the co-mingled fund;

3. Documentation indicating the allocation made from each co-mingled trust fund to the individual mausoleums that are part of the co-mingled fund; and

4. Bank statements from the co-mingled private mausoleum fund and the co-mingle public mausoleum fund.

New Rule, R.2010 d.035, effective May 17, 2010.  
See: 41 N.J.R. 3029(a), 42 N.J.R. 941(a).

### **13:44J-5.5 Litigation involving a cemetery company**

In any action or proceeding affecting or instituted by a cemetery company the cemetery company shall file a copy of the complaint, the answer, the final judgment, order, notices of appeal, petitions for certification or settlement agreement resolving the matter with the Board, addressed to New Jersey Cemetery Board, PO Box 45031, Newark, NJ 07101, and the Attorney General, addressed to RJ Hughes Justice Complex, PO Box 112, Trenton, NJ 08625-0112.

Amended by R.1994 d.579, effective November 21, 1994.  
See: 26 N.J.R. 3785(a), 26 N.J.R. 4597(a).

Recodified from N.J.A.C. 13:44J-15.4 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section. Former N.J.A.C. 13:44J-5.5, Annual reports, recodified to N.J.A.C. 13:44J-5.6.

### 13:44J-5.6 Annual reports

(a) Each year, a cemetery company shall submit a check for all charges due the Board pursuant to N.J.A.C. 13:44J-3.1 and file a notarized annual report on a form provided by the Board with the Board. The report shall include:

1. The extent of, and sources of augmentation to, the Maintenance and Preservation Fund;
2. The designation of the income of the maintenance and preservation fund as operational expenses, retained income or both; and
3. A list of the securities, bonds, certificates of deposit or other instruments in which the corpus of the fund is invested.

(b) The cemetery company shall file the annual report required by this section no later than 120 days after the close of the cemetery company's fiscal year.

(c) Except as provided in (d) below, a cemetery company may request that the Board waive the filing fee required by N.J.A.C. 13:44J-3.1(a)3. A request for waiver shall be included with the report filed pursuant to (a) above. The Board shall grant the waiver if it determines that the annual report indicates that the cemetery company requesting the waiver does not have sufficient income from the Maintenance and Preservation Fund and from any other sources to cover the costs of maintaining the cemetery and paying the fee. If the Board determines that the fee should not be waived, it shall inform the cemetery company that the fee has not been waived and the cemetery company shall pay the fee within 60 days of receiving notification.

(d) Any cemetery company whose income from the maintenance and preservation fund, as indicated in the annual report filed pursuant to (a) above, is \$1,000 or less shall not be required to pay the filing fee required by N.J.A.C. 13:44J-3.1(a)3 and shall not be required to request a waiver pursuant to (c) above.

Amended by R.1994 d.579, effective November 21, 1994.

See: 26 N.J.R. 3785(a), 26 N.J.R. 4597(a).

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Recodified from N.J.A.C. 13:44J-5.5 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote (a). Former N.J.A.C. 13:44J-5.6, Rules and regulations of a cemetery company, recodified to N.J.A.C. 13:44J-6.1.

Amended by R.2007 d.289, effective September 17, 2007.

See: 38 N.J.R. 4169(a), 39 N.J.R. 3944(a).

Added (c) and (d).

### 13:44J-5.7 Reclamation of interment spaces or niches

(a) A cemetery may reclaim an individual interment space or niche sold prior to December 1, 1971 if:

1. No interment has been made in the grave or crypt and no inurnment has been made in the niche;
2. No provision for annual, endowed or special care or maintenance has been made; and
3. No burial has been made for 30 years in the plot that includes the interment space.

(b) A cemetery that intends to reclaim an individual interment space or niche pursuant to (a) above shall, prior to reclaiming such interment space or niche:

1. Send a certified letter, return receipt requested, to the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records, which informs the owner or heirs that they may prevent the cemetery from reclaiming the interment space or niche by sending a written objection to the cemetery company within 30 days; and
2. Publish a notice in a newspaper if the cemetery company cannot locate the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records. The newspaper's circulation shall include the county in which the interment space or niche is located. The notice shall indicate the owner and any heirs of the owner listed in the cemetery's records and contain the names of each deceased person buried in the plot that includes the interment space and the date of each burial, if these names and dates are ascertainable. The notice shall state that, in the absence of written objection received within 30 days from the publication of the notice, the vacant interment space or niche will be subject to sale.

(c) If the owner of the interment space or niche or the heirs of the owner fail to respond to the letter or notices sent pursuant to (b) above, the cemetery may sell the reclaimed interment space or niche no sooner than 30 days from the date of publication of the notice.

(d) The cemetery company shall deposit at least 75 percent of the gross proceeds received from the sale of the reclaimed interment space or niche in the Maintenance and Preservation Fund. Up to 25 percent of the gross proceeds of the sale of the reclaimed interment space or niche may be allocated by the cemetery to administrative costs, which shall include sales commission. The cemetery shall indicate these costs in its records, which shall be made available to the Board and the owner or the heirs of the owner upon request.

(e) A reclaimed interment space or niche shall be sold for the same price as other interment spaces or niches in the section in which the interment space or niche sold is located. If there are no interment spaces or niches available for sale in



the section in which the reclaimed interment space or niche is located, the reclaimed interment space or niche shall be sold for the same price as interment spaces or niches in a comparable section of the cemetery.

(f) The original owner of a reclaimed interment space or niche or the heirs of the owner may request reimbursement from the cemetery for the reclaimed interment space or niche at any time. The cemetery shall reimburse the owner or the heirs of the owner the net proceeds from the sale deposited in the Maintenance and Preservation Fund pursuant to (d) above. Payment shall be made from the operating revenues of the cemetery.

(g) A cemetery that has reimbursed, from operating revenues, an owner or the heirs of the owner of a reclaimed interment space or niche may apply to the Board for a credit against future deposits to the Maintenance and Preservation Fund. A cemetery that applies for a credit against future deposits shall submit a written request to the Board which shall include documentation that indicates:

1. The amount for which the interment space or niche was sold;
2. That the net proceeds of the sale of the interment space or niche were deposited in the Maintenance and Preservation Fund, and the date of the deposit;
3. The location of the interment space or niche and the identity of the original owner; and
4. That payment was made to the owner or heirs of the owner of the reclaimed interment space or niche.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Reclamation of interment spaces". Substituted "interment space or niche" for "grave" throughout; rewrote the introductory paragraph of (a); inserted "or crypt and no inurnment has been made in the niche" in (a)1; substituted "annual, endowed or special" for "perpetual or endowed" in (a)2; rewrote (a)3, (b)1 and (b)2 and deleted (b)3; in (e), substituted "interment spaces or niches" for "graves" two times and "interment space or niche" for "space" once.

### 13:44J-5.8 Restrictions on closings for interments

In order to ensure continued interments and cremations, no cemetery company shall be closed for more than three consecutive days for the purposes of making interments and conducting cremations except for strikes, acts of God or by direction of a competent authority, for example, a court of competent jurisdiction, the Board, the Department of Health and Senior Services or a local department of health.

Recodified from N.J.A.C. 13:44J-6.2 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Substituted a reference to cemetery companies for a reference to cemeteries, and added a reference to local departments of health.

## SUBCHAPTER 6. DOCUMENTS AND GROUNDS

### 13:44J-6.1 Regulations of a cemetery company

A cemetery company shall file with the Board a copy of its regulations. A cemetery company may amend or supplement its regulations by filing with the Board such amendments or supplements. This filing shall be accompanied by a filing fee payable to the Board, in accordance with N.J.A.C. 13:44J-3.1(a)lii. Regulations and amendments to regulations shall not be effective until filed with the Board.

Amended by R.1994 d.579, effective November 21, 1994.

See: 26 N.J.R. 3785(a), 26 N.J.R. 4597(a).

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Recodified from N.J.A.C.13:44J-5.6 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Rules and regulations of a cemetery company". Deleted "rules and" preceding "regulations" in the first and second sentences, substituted "13:44J-3.1(a)lii" for "13:44J-3.1(a)liv" in the third sentence and added the last sentence.

### 13:44J-6.2 Maps

(a) Every cemetery company shall maintain a map of the cemetery readily available for inspection at its main office. Any change in the physical layout of the cemetery shall be reflected annually on the map. The map shall show the location of interment spaces or niches with roadways, paths and building areas.

(b) A cemetery company may amend a map to include areas not previously laid out or to change the layout of plots not sold. Existing roadways and walks to graves already sold shall not be abandoned but may be altered as long as similar access to existing interment spaces and niches is not denied. Paths may be renovated or reduced in size as long as the path conforms to N.J.A.C. 13:44J-6.3(a). The amended map shall not be effective until it has been filed with the Board.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Inserted the (a) designation and added the last sentence of (a); and added (b).

### 13:44J-6.3 Paths

(a) Paths to interment spaces or niches shall be a minimum of 30 inches wide.

(b) When a cemetery company resurveys, alters, changes or modifies a portion of its grounds which have been previously laid out on a map or maps into interment spaces or niches, the cemetery company shall ensure that paths to previously sold interment spaces or niches are maintained.

(c) This section shall not apply to the laying out of portions of ground in areas of cemetery property which have

not previously been laid out on a map or maps into paths or interment spaces or niches.

(d) An unsold interment space which is plotted in a manner that does not conform with this subchapter shall not be sold or used for interment purposes.

(e) If a sold interment space, in which no interment has been made, is plotted in a manner which makes a path non-conforming, the cemetery company shall exercise due diligence and negotiate in good faith with the lot owner for the transfer or exchange of the lot owner's non-conforming space with other space that conforms with this provision. After the

transfer or exchange, the non-conforming plot shall be replotted or eliminated. The transfer or exchange of the non-conforming plot shall be provided at no expense to the lot owner beyond what the lot owner agreed to pay for the non-conforming plot.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Inserted "or niches" following "spaces" one time in (a) and (c) and two times in (b).

**13:44J-6.4 Construction of a public mausoleum**

No cemetery company shall construct a public mausoleum without first obtaining approval from the Department of Community Affairs and a building permit from the local construction official.

New Rule, R.2000 d.487, effective December 4, 2000.  
See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

**SUBCHAPTER 7. MEMORIALS****13:44J-7.1 Memorials**

(a) Once interment has been made in an interment space or niche, the cemetery company shall not prohibit reasonable memorialization of the remains subject to (d) and (e) below.

(b) A lot owner shall have the right to place a memorial, dedication or embellishment on any interment space or niche which he or she owns, and to approve or disapprove any memorial, dedication or embellishment placed or sought to be placed on an interment space or niche which he or she owns, except that:

1. In the absence of an agreement between the lot owner and the party having control over the remains, the lot owner shall not unreasonably withhold approval of a memorial on an interment space after an interment has been made therein; and

2. The cemetery company may, pursuant to N.J.S.A. 45:27-16, preclude the placement of a memorial until any outstanding charges against the interment space or niche are paid.

(c) A person who places a memorial, dedication or embellishment on an interment space or niche without the prior approval of the lot owner shall remove the memorial, dedication or embellishment at his or her own expense if the lot owner so directs.

(d) A cemetery company may adopt reasonable regulations regarding the size, form, color, composition, uniformity, construction, placement, and inscription of any memorial, dedication, embellishment or other structures sought to be placed on cemetery premises. Such regulations shall not give a competitive advantage to a particular monument dealer.

(e) A cemetery company may prohibit the installation of a memorial, dedication or embellishment if it determines that the memorial, dedication, embellishment or other structures would be inappropriate, offensive, or unsafe, or that it would be significantly detrimental to the uniform appearance of the cemetery, or that it would impose an unreasonable maintenance burden.

(f) A memorial that has been installed without the cemetery company's approval may be removed by the cemetery company. The lot owner shall be responsible for costs incurred by the cemetery company for removal.

(g) Cemetery companies are prohibited from selling commercially available bases of concrete, granite or marble to be attached to a bronze memorial, provided that the determination as to the need and design of subsurface support shall be governed by the reasonable rules of the cemetery company.

Amended by R.2000 d.487, effective December 4, 2000.  
See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2006 d.203, effective June 5, 2006.  
See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "an interment space or niche" for "a cemetery lot or grave" in (a); in (b), substituted "interment space or niche" for "grave" and "an interment space or niche" for "a grave" in the introductory paragraph and rewrote (b)2; substituted "an interment space or niche" for "a grave" in (c); in (d), deleted "rules and" preceding "regulations" in the first and last sentences and inserted "uniformity,"; and substituted "dedication, embellishment or other structures" for "dedication or embellishment" in (d) and (e).

**13:44J-7.2 Removal of monumentation**

(a) In the event that a memorial foundation installed by a cemetery company and paid for by a lot, interment space or niche owner or other interested party sinks or otherwise falls into disrepair, causing the memorial immediately above to sink or become unlevel within 10 years from the date of the original installation, the cemetery company shall raise, replace or repair the foundation and reset the memorial at its own cost and expense. After 10 years, a cemetery company may charge a lot, interment space or niche owner or a responsible party, the actual cost for the raising, replacing or repairing of the foundation and resetting of the memorial.

(b) This section shall not apply to any foundation or memorial for which a specific endowed care fund has been provided.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "interment space or niche" for "or grave" two times in (a).

**13:44J-7.3 Burial of monumentation**

For the purposes of N.J.S.A. 45:27-24, the burial of a monument or a memorial shall be considered a removal of that monument or memorial.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "N.J.S.A. 45:27-24" for "N.J.S.A. 8A:5-23".

**SUBCHAPTER 8. DISINTERMENT****13:44J-8.1 Disinterment from a non-titled interment space or niche**

(a) Any cemetery company permitting interment in a non-titled interment space to two or more unrelated individuals

shall, at the time of the sale, inform each authorizing agent in writing that remains interred in any such space may be disinterred only with the consent of the surviving spouse and children, if of full age, of all burials above the deceased sought to be disinterred, or, in absence of such consent, by a court order.

(b) Any cemetery company permitting inurnment in a non-titled niche to two or more unrelated individuals shall, at the time of the sale, inform each authorizing agent in writing that cremated remains inurned in any such space may be removed with the sole consent of any person who has the right to control the removal of the remains pursuant to N.J.S.A. 45:27-22.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Disinterment from a non-titled grave". Inserted the (a) designation and substituted "interment space" for "grave" in (a); and added (b).

### **13:44J-8.2 Additional interment; obtaining disinterment permit**

(a) In the event the remains already in an interment space must be lowered to accommodate an additional interment, a disinterment order shall be obtained permitting the lowering of the remains already in the interment space.

(b) A cemetery company shall open a multiple depth grave owned by a single purchaser to a depth sufficient to accommodate all future interments in order to avoid additional charges for deepening and the need for a disinterment permit when subsequent interments are made, unless the person authorizing the interment otherwise instructs the cemetery company in writing.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Inserted (a) designation; and added (b).

### **13:44J-8.3 Recording disinterments**

(a) Cemetery companies may, by their rules or regulations, prohibit the recording of disinterments through photographic, electrical, digital, video, wireless, optical or electromagnetic means, except that:

1. The owner or owners of an interment space may record the disinterment or authorize in writing another on their behalf to record the disinterment; and
2. Recordings may be taken as part of a criminal investigation when otherwise ordered by a court of competent jurisdiction or the Board.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

### **13:44J-8.4 Temporary storage prior to final entombment or interment within a single cemetery**

(a) For purposes of this section, "properly constructed receiving vault" means a container, constructed pursuant to the provisions of N.J.S.A. 45:27-27.

(b) A cemetery company may temporarily store human remains in a properly constructed receiving vault prior to final entombment or interment for up to four years. If a cemetery company needs to temporarily store human remains for more than four years, the cemetery company must obtain the written consent for an extension at least 120 days prior to the end of the four-year period, which includes a set term for the extension, from the person who has the right to control the disposition of remains pursuant to N.J.S.A. 45:27-22. The cemetery company shall advise the Board that the person who has the right to control the disposition of remains has granted the extension. The cemetery company may transfer the remains from the place of temporary storage to the place of final entombment or interment without obtaining a disinterment permit and without the presence of a licensed funeral director if both the temporary storage and final resting place are within a single cemetery.

(c) The receptacle to be placed in temporary storage which contains the human remains shall be clearly, legibly and durably marked with:

1. The decedent's full name and date of death as stated on the death certificate and burial permit;
2. The full name, mailing address and telephone number of both the responsible next of kin as defined under N.J.S.A. 45:27-22; and
3. The designated licensed funeral director or funeral establishment whose name appears on the death certificate and burial permit.

(d) Prior to transfer from the place of temporary storage to the place of final entombment or interment pursuant to this section, the cemetery company shall notify in writing the licensed funeral director or funeral establishment that originally supervised the delivery to temporary storage or another licensed funeral director or funeral establishment of the next of kin's choice, and the responsible next of kin as defined by N.J.S.A. 45:27-22, at least seven days before the transfer from the temporary storage.

(e) A cemetery company may not pursuant to this section temporarily store or transfer the body of a person who died of a communicable disease as defined in N.J.S.A. 26:6-38.

New Rule, R.1990 d.357, effective July 16, 1990.

See: 22 N.J.R. 1185(a), 22 N.J.R. 2142(b).

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "N.J.S.A. 45:27-27" for "N.J.S.A. 8A:3-14" in (a); deleted former (c); recodified (d) through (f) as (c) through (e); and substituted "N.J.S.A. 45:27-22" for "N.J.S.A. 8A:5-18" in (c)2 and (d).  
Amended by R.2007 d.323, effective October 15, 2007.

See: 38 N.J.R. 4170(a), 39 N.J.R. 4406(a).

In (b), substituted "up to" for "not more than"; and inserted the second and third sentences.

Amended by R.2010 d.041, effective May 17, 2010.

See: 41 N.J.R. 3027(a), 42 N.J.R. 939(c).

In (b), inserted "at least 120 days prior to the end of the four-year period".

## SUBCHAPTER 9. CREMAINS

### 13:44J-9.1 Shipment

A cemetery company may ship cremains through the U.S. Postal System, using registered mail, return receipt, or any other parcel service which provides a delivery document. The cemetery company shall label both the inside container and outside wrapper to identify the contents. The cremains shall be securely packaged and insured.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

## SUBCHAPTER 10. SALESPeOPLE

### 13:44J-10.1 Salesperson license

No person may act as a cemetery salesperson unless he or she holds a valid license issued by the Board or is an officer, superintendent, manager or clerk of the cemetery company.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

### 13:44J-10.2 Application for license as a cemetery salesperson

(a) An applicant for an initial cemetery salesperson license shall submit the following:

1. A completed application form;
2. A passport size face photograph, taken within the last year;
3. The application and temporary license fee as provided by N.J.A.C. 13:44J-3.1(a)2i;
4. A completed criminal history investigation form and fingerprint card, provided by the Board;
5. The criminal history investigation fee in the form of certified check or money order as set by the New Jersey State Police;
6. For applicants who have been convicted of a criminal offense, a completed criminal history questionnaire;

7. For applicants who reside outside of New Jersey, a completed designation of agent form;

8. A completed child support questionnaire; and

9. An affidavit stating that the applicant will not engage during active licensure as a cemetery salesperson in any activity prohibited by N.J.S.A. 45:27-16(c), which includes:

- i. The manufacture or sale of memorials;
- ii. The manufacture or sale of private mausoleums;
- iii. The manufacture or sale of vaults, including vaults installed in a grave before or after sale and vaults joined with each other in the ground; and
- iv. The conduct of any funeral home or the business or profession of mortuary science.

(b) Once the Board has received the completed application, it may issue a temporary license allowing an applicant to act as a cemetery salesperson until the Board has received the results of the criminal history investigation. The temporary license shall be valid for 60 days.

(c) The Executive Director of the Board is authorized to extend the validity of a temporary license beyond the 60-day limit for additional periods not exceeding 30 days each if:

1. The Board has not received the results of the criminal investigation by the end of the preceding period; or
2. The Board has not had an opportunity to review the results of the criminal investigation within that preceding period.

(d) The Board shall be notified that an extension has been granted at the next regularly scheduled meeting.

(e) The Board shall issue a license to the applicant once it has received and reviewed a criminal history investigation which indicates that the applicant has not been convicted of a crime or that, if the applicant was convicted of a crime, it has determined that, pursuant to N.J.S.A. 2A:168A-1 et seq., that a license should be granted. The applicant shall pay the initial license fee as set forth in N.J.A.C. 13:44J-3.1.

Amended by R.1994 d.579, effective November 21, 1994.

See: 26 N.J.R. 3785(a), 26 N.J.R. 4597(a).

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "60" for "45" in (b); and substituted "60-day limit for additional periods not exceeding 30 days each" for "45-day limit" in the introductory paragraph of (c) and substituted "preceding" for "45 day" in (c)1 and (c)2.

Amended by R.2007 d.289, effective September 17, 2007.

See: 38 N.J.R. 4169(a), 39 N.J.R. 3944(a).

In (a)7, deleted "and" from the end; in (a)8, substituted "; and" for the period at the end; and added (a)9.

**13:44J-10.3 Renewal of license**

(a) A cemetery salesperson license shall be valid for two years. An applicant for renewal of a cemetery salesperson license shall submit the following:

1. A completed renewal form;
2. The renewal fee as specified by N.J.A.C. 13:44J-3.1(a)2iii; and
3. For applicants who reside outside of this State, a designation of agent form if no designation of agent form has ever been submitted to the Board or if the designation of agent form previously submitted does not list the current agent for service of process.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Added the first sentence in the introductory paragraph of (a).

**13:44J-10.4 Possession of license**

(a) A licensed cemetery salesperson shall have the license in his or her possession whenever acting as a cemetery salesperson.

(b) A copy of the cemetery salesperson license shall be posted in each office of the cemetery company.

New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Added the (a) designation and added (b).

**13:44J-10.5 Branch licenses**

(a) A cemetery salesperson may sell for more than one cemetery company. A cemetery salesperson who sells for more than one cemetery company shall obtain an initial license for the first cemetery company for which he or she sells and a branch license for every other cemetery company for which he or she sells.

(b) A cemetery salesperson who applies for a branch license shall pay a branch license fee pursuant to N.J.A.C. 13:44J-3.1(a)2iv.

(c) Branch licenses shall be renewed at the same time as the initial license. An applicant for renewal of a branch license shall submit the following:

1. A completed renewal form;
2. The renewal fee as specified by N.J.A.C. 13:44J-3.1(a)2vi; and
3. For applicants who reside outside of this State, a designation of agent form if no designation of agent form has ever been submitted to the Board or if the designation of agent form previously submitted does not list the current agent for service of process.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Rewrote the section.

Amended by R.2003 d.399, effective October 6, 2003.

See: 35 N.J.R. 504(a), 35 N.J.R. 4726(a).

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Multiple licenses". Inserted the (a) designation and in (a), substituted "may sell" for "selling" in the first sentence, in the second sentence, inserted "A cemetery salesperson who sells for more than one cemetery company" and substituted "an initial" for "a separate", "the first" for "each" and "and a branch license for every other cemetery company for which he or she sells" for "and shall pay a license and temporary license fee for each cemetery but the applicant shall be required to pay only one application fee"; and added (b) and (c).

**13:44J-10.6 Jurisdiction; local licensing and bonding**

No county or municipality may require a validly licensed cemetery salesperson to purchase or obtain any type of license or permit or to post any type of bond in connection with the sale of cemetery property or services supplied or performed by a cemetery company.

Amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Deleted a reference to offers to sell.

**13:44J-10.7 Prohibited activities**

(a) A cemetery salesperson shall not engage during active licensure as a cemetery salesperson in any activity prohibited by N.J.S.A. 45:27-16(c) including:

1. The manufacture or sale of memorials;
2. The manufacture or sale of private mausoleums;
3. The manufacture or sale of vaults, including vaults installed in a grave before or after sale and vaults joined with each other in the ground; and
4. The conduct of any funeral home or the business or profession of mortuary science.

New Rule, R.2007 d.289, effective September 17, 2007.

See: 38 N.J.R. 4169(a), 39 N.J.R. 3944(a).

**SUBCHAPTER 11. INTERMENT SPACES OR NICHES****13:44J-11.1 Inalienability of interment spaces**

Any interment space which has been used for interment or entombment shall be inalienable and shall only be transferred pursuant to N.J.S.A. 45:27-28.

Amended by R.1995 d.581, effective November 6, 1995.

See: 27 N.J.R. 3122(a), 27 N.J.R. 4437(a).

Repeal and New Rule, R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Section was "Use of cemetery land".

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Substituted "interment space" for "grave, crypt or niche" and "N.J.S.A. 45:27-28" for "N.J.S.A. 8A:7-2".

**13:44J-11.2 Transferability of interment space or niches**

Owners or heirs, devisees and legatees of owners of unused interment spaces or niches may grant, convey, sell or donate such interment spaces or niches.

Recodified from N.J.A.C. 13:44J-6.3 and amended by R.2000 d.487, effective December 4, 2000.

See: 32 N.J.R. 3261(a), 32 N.J.R. 4265(a).

Former N.J.A.C. 13:44J-11.2, Applicability to existing sales and interments, repealed.

Amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Transferability of interment space". Substituted "interment spaces or niches" for "graves or crypts" two times.

**13:44J-11.3 Record of transfers**

(a) Every cemetery company shall maintain records of transfers of ownership of interment spaces or niches which shall include:

1. The name of every individual who has ever held title to the interment space or niche; and

2. An indication of any transfer of ownership of the interment space or niche from June 5, 2006.

(b) Records of transfers shall be indexed by:

1. The number of the interment space or niche; and

2. The name of each owner.

New Rule, R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

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**SUBCHAPTER 12. (RESERVED)**

(g) The proceeds from the resale of a reclaimed interment space or niche shall be the resale price less the amount reimbursed to the corporation, society or association. The profits of the resale of a reclaimed interment space or niche shall be the proceeds less an administrative cost of up to 25 percent of the proceeds. The profits of the resale of a reclaimed interment space or niche shall be deposited in the Maintenance and Preservation Fund.

New Rule, R.2008 d.258, effective September 2, 2008.  
See: 39 N.J.R. 4548(a), 40 N.J.R. 5049(a).

**13:44J-14.5 Sale of 17 or more interment spaces or niches to a person other than a membership or religious corporation or unincorporated association or society**

(a) A cemetery company that sells 17 or more interment spaces or niches in one or more transactions to a person other than a membership or religious corporation or unincorporated association or society shall have that person sign an affidavit substantially similar to that found in subchapter Appendix A, incorporated herein by reference, which states that the person purchasing the interment spaces or niches is not purchasing for the purpose of resale. The cemetery company shall submit the affidavit to the Board within one week of the completion of the sale.

(b) A cemetery company that sells 17 or more interment spaces or niches in one or more transactions to a person other than a membership or religious corporation or unincorporated association or society shall sign an affidavit that is substantially similar to that found in subchapter Appendix B, incorporated herein by reference, which states that it does not believe that the sale to that person is for the purposes of resale. The cemetery company shall submit the affidavit to the Board within one week of the completion of the sale.

New Rule, R.2007 d.140, effective May 7, 2007.  
See: 38 N.J.R. 3746(a), 39 N.J.R. 1762(a).

**APPENDIX A**

I certify that I, \_\_\_\_\_, am purchasing  
(Purchaser's name)  
\_\_\_\_\_ interment spaces  
(Number of spaces or niches)  
or niches from \_\_\_\_\_

(Name of Cemetery Company selling the spaces or niches)  
for the use of those whom I may designate without remuneration or compensation to me in any form. I understand that resale of interment spaces or niches is prohibited by N.J.S.A. 45:27-32.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

\_\_\_\_\_  
Purchaser's signature

New Rule, R.2007 d.140, effective May 7, 2007.  
See: 38 N.J.R. 3746(a), 39 N.J.R. 1762(a).

**APPENDIX B**

\_\_\_\_\_ certifies  
(Name of Cemetery Company selling spaces or niches)  
that it has no reason to believe that \_\_\_\_\_ is  
(Name of purchaser)  
purchasing \_\_\_\_\_ interment spaces  
(Number of spaces or niches)  
or niches for the purpose of reselling any of those interment spaces or niches.

\_\_\_\_\_ certifies that  
(Name of Cemetery Company selling spaces or niches)  
it has informed \_\_\_\_\_ that  
(Name of purchaser)  
purchasing interment spaces or niches for resale is prohibited by N.J.S.A. 45:27-32.

\_\_\_\_\_ certifies that  
(Name of Cemetery Company selling spaces or niches)  
the foregoing statements are true.

\_\_\_\_\_ is aware  
(Name of Cemetery Company selling spaces or niches)  
that if any of the foregoing statements made by it are willfully false, it will be subject to disciplinary action.

\_\_\_\_\_  
Cemetery Company's authorized signature

New Rule, R.2007 d.140, effective May 7, 2007.  
See: 38 N.J.R. 3746(a), 39 N.J.R. 1762(a).

**SUBCHAPTER 15. REMOVAL OF MONUMENTATION**

**13:44J-15.1 Removal of unauthorized monumentation**

(a) A cemetery company may remove any memorial, embellishment or impediment that:

1. Has not been authorized by the cemetery company;  
or
2. Has been altered from the original design that was authorized by the cemetery company.

(b) A cemetery company may recover the cost of removing monumentation pursuant to (a) above.

(c) A cemetery company shall store a removed memorial, embellishment or impediment in a secure manner. The cemetery company may dispose of the memorial, embellishment or impediment one year after a removal if:

1. The owner of the interment space or niche has not taken possession of the memorial, embellishment or impediment; and



2. The cemetery company notifies the Board in writing at least 90 days prior to the disposal.

Repeal and New Rule, R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Removal of unauthorized monumentation".

### 13:44J-15.2 Removal of unsafe monumentation

(a) A cemetery company may remove any authorized memorial, embellishment or impediment that is not safe.

(b) A cemetery company that wishes to remove unsafe monumentation shall:

1. Take pictures of the unsafe monumentation prior to moving and maintain these photographs as part of its records; and

2. Within 30 days of the removal, notify the owner by certified letter, return receipt requested that unsafe monumentation has been moved. Such notification shall state that the owner has the right to apply to the Board within six months of the notification for appropriate relief, such as restoration of monumentation.

(c) A cemetery company shall store a removed memorial, embellishment or impediment in a secure manner. The cemetery company may dispose of the memorial, embellishment or impediment one year after a removal if:

1. The owner of the interment space or niche has not taken possession of the memorial, embellishment or impediment; and
2. The cemetery company notifies the Board in writing at least 90 days prior to the disposal.

Amended by R.2003 d.399, effective October 6, 2003.

See: 35 N.J.R. 504(a), 35 N.J.R. 4726(a).

In (c), added "and an application fee as set forth in N.J.A.C. 13:44J-3.1(a)lv(4)" at the end of the second sentence.

Recodified from N.J.A.C. 13:44J-15.3 and amended by R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Section was "Removal of dangerous monumentation". Substituted "any authorized memorial, embellishment or impediment that is not safe" for "a dangerous monumentation. The cemetery company may place the monumentation on the interment space unless such placement would pose a danger" in (a); substituted "unsafe" for "dangerous" in (b) and (b)1 and rewrote (b)2; deleted former (c) through (e); and inserted present (c). Former N.J.A.C. 13:44J-15.2, "Application for removal of monumentation", was repealed.

### 13:44J-15.3 Removal of a memorial for renovation

(a) A cemetery company shall not remove a memorial from an interment space or niche in order to perform renovations of cemetery grounds without Board approval.

(b) A cemetery company that wishes to remove memorials for renovation of cemetery grounds shall submit to the Board:

1. A statement from the cemetery company indicating that it will notify the affected interment space or niche owner of the proposed renovations 30 days prior to the commencement of the renovations;

2. A description of the renovations that would be performed and a list of the memorials that would be removed; and

3. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)lv(5).

(c) A cemetery company that has been granted approval to remove memorials for renovation of cemetery grounds shall notify affected interment space or niche owners 30 days prior to the commencement of renovations. Publication in a local newspaper circulating in the county in which the interment space or niche is located and posting on the grounds of the cemetery company shall constitute sufficient notice.

(d) A cemetery company need not apply for approval for removal of a memorial for renovation when:

1. The removal is performed pursuant to a request from an interment space or niche owner for repair or improvements; or

2. The removal is performed in response to vandalism, damage by weather or damage caused by other acts of God.

(e) A cemetery company may temporarily remove memorials from interment spaces or niches in order to provide access for equipment and personnel to perform openings and general debris clean-up without the approval of the Board. Memorials that have been removed pursuant to this subsection shall be restored as soon as the opening or clean-up has been completed, but in no case shall a removal last longer than six months.

New Rule, R.2006 d.203, effective June 5, 2006.

See: 37 N.J.R. 4877(a), 38 N.J.R. 2502(a).

Former N.J.A.C. 13:44J-15.3, "Removal of dangerous monumentation", recodified to N.J.A.C. 13:44J-15.2.