

**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was adopted as new rules and recodified as N.J.A.C. 13:44J, and Subchapter 10, Interpretation and Construction, was repealed by R.1995 d.581, effective November 6, 1995.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, effective June 5, 2006. Subchapter 11, Interment Spaces, was renamed Interment Spaces or Niches. 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

“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”.

## 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; recodified 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; recodified former (a)2iv as current (a)2vi; added current (a)2vii; and recodified 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, address 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)liii 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)liii" 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-5.5 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).

**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, 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 (e) 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.

## 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".

iv. The total acreage of cemetery which is developed;

v. The total acreage of the cemetery which is developed but not sold;

vi. The total acreage of the cemetery which is undeveloped; and

vii. A copy of the resolution of merger or consolidation approved by a majority of the board of trustees or directors of each cemetery company, and by a majority of lot owners of each cemetery company voting at a lot owners meeting for which adequate notice was given;

5. A proposal for the continued administration of the Maintenance and Preservation Fund; and

6. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(3).

(c) The Board may request additional information from the cemetery company regarding the application for merger or consolidation.

Amended 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).

In (b), added 6.

### 13:44J-13.4 Application for sale of cemetery lands

(a) No cemetery company shall sell land dedicated for cemetery purposes or grant an easement of such land without prior Board approval.

(b) A cemetery company which wishes to sell any land dedicated to cemetery purposes shall submit to the Board:

1. A statement by the board of trustees or directors setting forth the size of the parcel to be sold, whether the parcel has been developed for cemetery use, the total acres of cemetery property prior to the sale, and the total acres of developed cemetery property prior to the sale;

2. A statement by the board of trustees or directors that the land is not necessary or suitable for interment purposes;

3. A statement by the board of trustees or directors that there are no interments within the lands requested to be sold;

4. A statement by the board of trustees or directors that when a deed is drawn for the land it will include a prohibition against using the land for any activity in which a cemetery company is prohibited from engaging by N.J.S.A. 45:27-16;

5. A statement by the board of trustees or directors that at least 15 percent of the proceeds of the sale of the land will be paid into the Maintenance and Preservation Fund of

the cemetery and the use to which the remaining proceeds will be put;

6. A resolution in favor of the sale which is approved by a majority of the board of trustees or directors;

7. A certified statement by the board of trustees or directors and the officers of the cemetery company attesting whether or not any of them has a direct or indirect interest in the purchasing entity;

8. A certified statement by the purchasing entity, its officers, and its stockholders having a 20 percent or more share of issued voting stock or a 20 percent or more share of a partnership, attesting whether any of them has a direct or indirect interest in the cemetery company; and

9. An appraisal of the property by a licensed real estate appraiser having no interest in either the cemetery company or the purchasing entity. If either the cemetery company or the purchasing entity or the principals of either has an interest in the other, two independent appraisals shall be submitted; and

10. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(2).

(c) The Board may request additional information from the cemetery company regarding the application for sale of cemetery lands.

(d) Applicants for an easement shall submit:

1. A description of the easement and the party to whom the easement will be granted;

2. Reason for the easement;

3. Payment to the cemetery company, if any; and

4. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(2).

(e) The Board may request additional information from the cemetery company regarding the application for granting an easement.

(f) A committee of the Board may visit a cemetery which has submitted an application pursuant to this section to verify that the land to be sold is not necessary or suitable for interment purposes.

Amended 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).

In (b), added 10; in (d), added 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 (a), inserted "dedicated for cemetery purposes" and "of such land"; and substituted "N.J.S.A. 45:27-16" for "N.J.S.A. 8A:5-3" in (b)4.

**13:44J-13.5 Application for enlargement of cemetery area by purchase**

(a) A cemetery company shall not purchase land to enlarge the cemetery area without prior approval of the Board.

(b) A cemetery company which wishes to purchase land and dedicate that land for cemetery purposes shall submit to the Board:

1. A statement by the board of trustees or directors that the total area of the cemetery, after the new land is added, will not exceed the statutory limits set forth in N.J.S.A. 45:27-25, unless in the latter case the municipality has waived the limit;

2. A copy of the contract for the purchase of the property, which shall include the purchase price, a survey map, the method of payment, the interest rate if any, the size of the parcel to be purchased, and an appraisal by a licensed real estate appraiser; and

3. A copy of the resolution of consent by the municipality where the cemetery is located, as required by N.J.S.A. 45:27-25; and

4. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)liv(6).

(c) The Board may request additional information from the cemetery company regarding the application for enlargement of cemetery lands by purchase.

Recodified from N.J.A.C. 13:44J-13.6 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. Former N.J.A.C. 13:44J-13.5, Application for removal of unsightly monumentation, repealed.

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

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

In (b), added 4.

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. 45:27-25" for "N.J.S.A. 8A:6-1 and 8A:6-6" in (b)1 and "N.J.S.A. 45:27-25" for "N.J.S.A. 8A:6-5" in (b)3.

**13:44J-13.6 Application to lease or license cemetery lands**

(a) A cemetery company shall not lease or license cemetery lands to another organization or entity without prior approval of the Board.

(b) An application to lease or license cemetery lands pursuant to N.J.S.A. 45:27-34 shall include:

1. A certified statement by the board of trustees or directors that the lands to be leased will not be plotted for burial lots or, if already plotted, that burial lots therein will not be sold for burial purposes or otherwise used for cemetery purposes during the term of the lease;

2. A statement by the prospective lessee that it does not engage, directly or indirectly, in an activity that a cemetery

company is prohibited from engaging in pursuant to N.J.S.A. 45:27-16;

3. A certified statement by the prospective lessee describing the expected use to be made of the portion of land;

4. A copy of the lease;

5. A statement by the board of trustees or directors that the proceeds of the lease will be used to pay the debts and liabilities of the cemetery company, to improve the cemetery, or both; and

6. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)liv(7).

(c) The Board may request additional information from the cemetery company regarding the application to lease or license unused cemetery lands.

Recodified from N.J.A.C. 13:44J-13.7 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-13.6, Application for enlargement of cemetery area by purchase, recodified to N.J.A.C. 13:44J-13.5.

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

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

In (b), added 8.

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 "Application to lease or license unused cemetery lands to a nonprofit, religious, educational or charitable organization". Deleted "unused" preceding "cemetery lands" in (a) and (b); in (a), substituted "another organization or entity" for "a nonprofit, religious, educational or charitable organization" and deleted the last sentence; in the introductory paragraph of (b), deleted "to a nonprofit, religious, educational or charitable organization", substituted "N.J.S.A. 45:27-34" for "N.J.S.A. 8A:6-12", substituted "during the term of the lease" for "for two years following the meeting of the board of trustees or directors approving the application" in (b)1, deleted former (b)2 and (b)3, inserted present (b)2, recodified (b)4 as (b)3, deleted (b)5 and recodified (b)6 through (b)8 as (b)4 through (b)6.

**13:44J-13.7 (Reserved)**

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-13.7, Application to lease or license unused cemetery lands, recodified as N.J.A.C. 13:44J-13.6.

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

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

In (b), added 5.

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

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

Section was "Leasing unused cemetery lands to a for-profit entity".

**13:44J-13.8 (Reserved)**

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

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

Recodified to N.J.A.C. 13:44J-14.1 and 13:44J-14.2 by R.2000 d.487, effective December 4, 2000.

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

Section was "Applications for bulk sales of interment spaces".

**13:44J-13.9 (Reserved)**

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

5. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)iv(8).

(d) The Board may request additional information from the selling organization, purchasing organization or cemetery company regarding the application for sale to a membership, religious corporation, society or unincorporated association or society which provides interment spaces or niches solely for its members and their families.

Recodified from N.J.A.C. 13:44J-13.8(b) 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.2003 d.399, effective October 6, 2003.

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

In (c), added 5.

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 "Sales to a membership corporation, religious corporation, society or unincorporated association or society which provides interment spaces solely for its members and their families". In (a), deleted "corporation," following "membership" and ", society" following "religious corporation", inserted "or niches" following "spaces" and substituted "N.J.S.A. 45:27-32," for "N.J.S.A. 8A:9-7"; rewrote (c); and inserted "or niches" following "spaces" in (d).

Amended by R.2008 d.258, effective September 2, 2008.

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

In (c)3v, deleted "and" from the end; and added (c)3vii and (c)3viii.

### 13:44J-14.3 Pre-construction sales of mausoleum space

(a) For the purposes of this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Complete construction" means that all requirements for entombment in the mausoleum have been met.

"Construction costs" means the costs directly associated with the building project, such as:

1. Architect fees;
2. City, county and State permit fees;
3. Contractor fees;
4. Soil testing;
5. Landscaping;
6. Furniture and fixtures;
7. Engineering;
8. Site plan development; and
9. Installation of utility lines and other expenses of a similar nature that are necessary to complete construction of the mausoleum.

"Pre-construction sale" means the sale, assignment or reservation of mausoleum space to a consumer for monetary consideration, prior to the time that the mausoleum space is available for entombment.

(b) A cemetery company may offer for sale space in a mausoleum that has not been constructed.

(c) Any cemetery company that offers mausoleum space in a pre-construction sale must complete construction of the mausoleum within four years from the date of the first pre-construction sale, except as permitted pursuant to (e) below.

(d) Within 30 days of the first pre-construction sale, a cemetery company shall inform the Board in writing of the date of the first sale and shall post notification of the date of the first sale in its office or, if the cemetery company has no office, at the construction site.

(e) A cemetery company may apply to the Board for a one year extension of the four-year deadline for completion. The Board may grant the extension if it deems the cemetery company to be actively engaged in constructing the mausoleum and determines that delays in the completion of the mausoleum are not due to any misconduct of the cemetery company. An application for an extension shall be filed at least 120 days prior to the end of the four-year period and shall include:

1. The date of the first pre-construction sale;
2. The reasons the cemetery company was unable to complete construction within the four-year deadline;
3. Any documents that establish the reasons why the cemetery company was unable to complete construction;
4. The number of human remains temporarily entombed pending completion of construction; and
5. The number of anticipated spaces in each mausoleum under construction and the number of sold spaces in each mausoleum.

(f) If a cemetery company enters into a contract with another entity for the sale of spaces in a mausoleum that will be sold in a pre-construction sale, the cemetery company shall ensure that the contract contains a provision that requires the other entity to indemnify the cemetery company, to the extent of the amount the other entity received in conjunction with the sale, for any refunds made to consumers pursuant to (h) and (i) below.

(g) A cemetery company that has been granted a one-year extension pursuant to (e) above, and that has not completed the construction of the mausoleum within that one-year period, shall apply to the Board for another one year extension pursuant to (e) above. An application for an extension shall be filed at least 120 days prior to the end of the one-year extension granted pursuant to (e) above. The Board may approve such an extension with conditions or restrictions.

(h) A cemetery company that is granted an extension pursuant to (g) above shall make a full refund of the monies paid to any pre-construction purchaser within 30 days of receiving

a request for refund from the purchaser or his or her authorized representative.

(i) If construction is not completed as required by (c) above and an extension has not been granted pursuant to (e) or (h) above, the cemetery company shall cease selling pre-construction spaces and shall make a full refund of the monies paid to every consumer who has purchased a space.

(j) A sales contract for a pre-construction mausoleum space must disclose:

1. That the sale is for mausoleum space that has not yet been constructed and is not available for interments at the time of the sale;

2. The projected date the cemetery company will complete construction; and

3. The fact that the cemetery company is allowed to apply to the Board for permission to extend the date of completion beyond four years from the date of the first pre-construction sale and that a purchaser has the right to a full refund if the cemetery company does not complete construction within five years from the date of the first pre-construction sale.

(k) The purchaser of a pre-construction mausoleum space shall initial the disclosures in the sales contract required by (j) above.

(l) A cemetery company that offers mausoleum space in a pre-construction sale must place no less than 45 percent of the purchase price in a ledgered account and use the funds in this account for deposits to the Maintenance and Preservation Fund, deposits to the building fund, construction costs or refunds. Funds remaining in this account upon the completion of construction shall revert to the cemetery company.

(m) The requirements of (a) through (l) above shall apply to all pre-construction sales made after October 15, 2007.

New Rule, R.2007 d.323, effective October 15, 2007.

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

Section was "Reserved".

**13:44J-14.4 Reclamation of interment spaces or niches owned by membership or religious corporations, societies or unincorporated associations**

(a) A cemetery company may reclaim by repurchase any interment spaces or niches owned by a membership or religious corporation, society or unincorporated association, if no interment has been made in the interment spaces, or inurnment in niches, sought to be reclaimed, and if the corporation, society or association:

1. Sells, gives or assigns interment spaces or niches to individuals who are not its members, or the interment spaces or niches are not intended for the use of its members and their families;

2. Fails to provide the cemetery company notification when it sells, gives or assigns interment spaces or niches;

3. Does not designate in writing to the cemetery company an agent who has authority to consent to burials in interment spaces or niches owned by it or a change in the agent; or

4. Fails to make payments into the Maintenance and Preservation Fund required by N.J.S.A. 45:27-13.

(b) A cemetery company that intends to reclaim interment spaces or niches owned by a membership or religious corporation, society or unincorporated association pursuant to (a) above shall, prior to reclamation, send a letter by certified mail, return receipt requested, and by regular mail to the corporation, society or association at the address listed in the cemetery company's records which informs the corporation, society or association of the cemetery company's intention to reclaim, and of the actions or omissions listed in (a) above that the corporation, society or association is alleged to have committed. A copy of the cemetery company's letter shall be sent to the Board. In its letter, the cemetery company shall also inform the corporation, society or association that it has 90 days to respond to or correct the alleged acts or omissions and that it must copy the Board with its written response.

(c) The corporation, society or association shall have 90 days to correct the acts or omissions alleged by the cemetery company, or to contend that it has not committed the alleged acts or omissions.

(d) If the cemetery company and the corporation, society or association agree that an act or omission has been corrected, the cemetery company shall notify the Board.

(e) If the cemetery company and the corporation, society or association cannot agree that an act or omission has been corrected, or if the corporation, society or association does not respond to the cemetery company's letter, the cemetery company shall apply to the Board for approval before reclaiming the interment spaces or niches owned by the corporation, society or association. An applicant for approval shall submit to the Board:

1. A completed application for reclamation form;

2. A copy of all correspondence sent by the cemetery company to, and received from the corporation, society or association; and

3. The application fee set forth in N.J.A.C. 13:44J-3.1(a)liv(10).

(f) A cemetery company that has been granted approval to reclaim interment spaces or niches pursuant to (e) above shall reimburse to the corporation, society or association the purchase price originally paid to the cemetery company for the interment spaces or niches, either upon reclamation or when the interment spaces or niches are resold by the cemetery company.