

**CHAPTER 44J
CEMETERIES****Authority**

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

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was adopted as new rules and recodified as N.J.A.C. 13:44J, and Subchapter 10, Interpretation and Construction, was repealed by R.1995 d.581, effective November 6, 1995.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 by 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.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. APPLICABILITY**

- 13:44J-1.1 Non-applicability of chapter to religious corporations
- 13:44J-1.2 Application to directors, trustees, officers and employees

SUBCHAPTER 2. DEFINITIONS

- 13:44J-2.1 Definitions

SUBCHAPTER 3. FEE SCHEDULE

- 13:44J-3.1 Charges and fees

SUBCHAPTER 4. ORGANIZATIONAL STRUCTURE

- 13:44J-4.1 Organizational meetings
- 13:44J-4.2 through 13:44J-4.3 (Reserved)

SUBCHAPTER 5. CEMETERY COMPANIES

- 13:44J-5.1 Sale and installation of vaults
- 13:44J-5.2 Cemetery price list; future services; general maintenance charges
- 13:44J-5.3 Trust funds
- 13:44J-5.4 Trust fund management; recordkeeping
- 13:44J-5.5 Litigation involving a cemetery company
- 13:44J-5.6 Annual reports
- 13:44J-5.7 Reclamation of interment spaces or niches
- 13:44J-5.8 Restrictions on closings for interments

SUBCHAPTER 6. DOCUMENTS AND GROUNDS

- 13:44J-6.1 Regulations of a cemetery company
- 13:44J-6.2 Maps
- 13:44J-6.3 Paths
- 13:44J-6.4 Construction of a public mausoleum

SUBCHAPTER 7. MEMORIALS

- 13:44J-7.1 Memorials
- 13:44J-7.2 Removal of monumentation
- 13:44J-7.3 Burial of monumentation

SUBCHAPTER 8. DISINTERMENT

- 13:44J-8.1 Disinterment from a non-titled interment space or niche
- 13:44J-8.2 Additional interment; obtaining disinterment permit
- 13:44J-8.3 Recording disinterments
- 13:44J-8.4 Temporary storage prior to final entombment or interment within a single cemetery

SUBCHAPTER 9. CREMAINS

- 13:44J-9.1 Shipment

SUBCHAPTER 10. SALESPEOPLE

- 13:44J-10.1 Salesperson license
- 13:44J-10.2 Application for license as a cemetery salesperson
- 13:44J-10.3 Renewal of license
- 13:44J-10.4 Possession of license
- 13:44J-10.5 Branch licenses
- 13:44J-10.6 Jurisdiction; local licensing and bonding

SUBCHAPTER 11. INTERMENT SPACES OR NICHES

- 13:44J-11.1 Inalienability of interment spaces
- 13:44J-11.2 Transferability of interment space or niches
- 13:44J-11.3 Record of transfers

SUBCHAPTER 12. (RESERVED)**SUBCHAPTER 13. APPLICATIONS**

- 13:44J-13.1 Application for certificate of authority
- 13:44J-13.2 Application for dissolution of a cemetery company
- 13:44J-13.3 Merger or consolidation of cemetery companies
- 13:44J-13.4 Application for sale of cemetery lands
- 13:44J-13.5 Application for enlargement of cemetery area by purchase
- 13:44J-13.6 Application to lease or license cemetery lands
- 13:44J-13.7 through 13:44J-13.10 (Reserved)

SUBCHAPTER 14. SALES OF INTERMENT SPACES

- 13:44J-14.1 Applications for bulk sales of interment spaces or niches
- 13:44J-14.2 Sales to a membership or religious corporation or unincorporated association or society which provides interment spaces or niches solely for its members and their families

SUBCHAPTER 15. REMOVAL OF MONUMENTATION

- 13:44J-15.1 Removal of unauthorized monumentation
- 13:44J-15.2 Removal of unsafe monumentation
- 13:44J-15.3 Removal of a memorial for renovation

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.

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).

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.

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-15.3 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

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

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 sub-

section 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 monummentation", recodified to N.J.A.C. 13:44J-15.2.