

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was adopted as new rules and recodified as N.J.A.C. 13:44J, and Subchapter 10, Interpretation and Construction, was repealed by R.1995 d.581, effective November 6, 1995.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

## 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”.

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

Section was "Standards for approving or disapproving applications".

### 13:44J-13.10 (Reserved)

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

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

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 "Provisions applicable to all applications".

## SUBCHAPTER 14. SALES OF INTERMENT SPACES

### 13:44J-14.1 Applications for bulk sales of interment spaces or niches

(a) No bulk sales made by a cemetery company shall become effective until approved by the Board.

(b) No cemetery company shall sell 17 or more interment spaces or niches, in one or more transactions, to a membership or religious corporation or unincorporated association or society without prior Board approval.

(c) The Executive Director of the Board is authorized to grant approval for sales pursuant to (a) above. The Board shall be notified that such approval has been granted at the next regularly scheduled meeting.

(d) An application for approval of a bulk sale shall include the following:

1. A copy of the contract of sale, which shall include the names of the parties, the number of interment spaces or niches to be sold, the location of each, and the sales price;

2. A statement by the cemetery company that:

- i. The transaction conforms to N.J.S.A. 45:27-32;

- ii. The cemetery company will deposit into its Maintenance and Preservation Fund at least 15 percent of the current retail gross sales price of comparable graves or at least 10 percent of the current retail gross sale price of comparable crypts or niches as payments are received;

- iii. The cemetery company is aware that, if the purchaser resells or transfers an interment space or niche in the future, at least 15 percent of the current retail gross sales price of comparable interment spaces or niches must be deposited into the Maintenance and Preservation Fund of the cemetery company, and that a credit shall be given for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche; and

- iv. The cemetery company is selling the interment spaces or niches in good faith and does not have any knowledge of any intent to resell on the part of the purchaser which would violate N.J.S.A. 45:27-32;

3. A certified statement by an officer of the membership or religious corporation or unincorporated association or society which provides interment spaces or niches solely for its members and their families that:

- i. The purchaser is a membership corporation or religious corporation or society, or an unincorporated association or society;

- ii. The purchaser will purchase the spaces pursuant to N.J.S.A. 45:27-32;

- iii. The purchaser will resell or give the interment spaces or niches, or the right to use the interment spaces or niches, purchased in this bulk sale only to members, and the spaces will be provided solely for members and their families;

- iv. If the purchaser transfers or resells any interment space or niche in the future, it will transmit to the cemetery for deposit into the Maintenance and Preservation Fund of the cemetery company at least 15 percent of the current retail gross sales price of comparable interment spaces or niches and that the purchaser shall receive a credit for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche;

- v. The purchaser is purchasing the interment spaces or niches in good faith and does not have any intent to resell which would violate N.J.S.A. 45:27-32; and

- vi. The purchaser shall send to the cemetery company the name and address of individuals who have the right of interment in an interment space and their next of kin;

4. A copy of the cemetery company's price list; and

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

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

Recodified from N.J.A.C. 13:44J-13.8(a) 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 (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).

Section was "Applications for bulk sales of interment spaces".  
Rewrote (b) and (d).

**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**

(a) A membership or religious corporation or an unincorporated association or society, which wishes to sell interment spaces or niches to another membership corporation or religious corporation or society, or to an unincorporated association or society pursuant to N.J.S.A. 45:27-32, must receive Board approval prior to the sale.

(b) The Executive Director is authorized to grant approval for sales pursuant to (a) above. The Board shall be notified that such approval has been granted at the next meeting.

(c) An application for sale of the interment spaces or niches shall include the following:

1. A copy of the contract of sale, which shall include the names of the parties, the number of interment spaces or niches to be sold, the location of each, and the sales price;

2. A certified statement by an officer of the selling organization that:

- i. The organization is a membership corporation or religious corporation or society, or an unincorporated association or society;

- ii. The organization will sell the spaces pursuant to N.J.S.A. 45:27-32;

- iii. The organization is aware that at least 15 percent of the current retail gross sales price of comparable graves or at least 10 percent of the current gross sale price of comparable crypts or niches will be deposited into the Maintenance and Preservation Fund of the cemetery company, and the name of the party making such deposit; and

- iv. The organization is selling the interment spaces or niches in good faith and does not have any knowledge of any intent to resell on the part of the purchaser which would violate N.J.S.A. 45:27-32;

3. A certified statement by the officer of the purchasing organization that:

- i. The organization is a membership corporation or religious corporation or society, or an unincorporated association or society;

- ii. The organization will purchase the spaces pursuant to N.J.S.A. 45:27-32;

- iii. The organization will resell or give the interment spaces or niches, or the right to use the interment spaces or niches, only to its members, and that the spaces or niches will be provided solely for members and their families;

- iv. If the purchaser transfers or resells an interment space or niche, the organization will transmit to the cemetery company for deposit into the Maintenance and Preservation Fund of the cemetery company at least 15 percent of the current retail gross sales price of comparable interment spaces or niches but the purchaser shall receive a credit for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche;

- v. The organization is purchasing the interment spaces or niches in good faith and does not have any intent to resell which would violate N.J.S.A. 45:27-32; and

- vi. The purchaser shall forward to the cemetery company the name and address of individuals who have the right of interment space and their next of kin;

4. A statement by the cemetery company that:

- i. It is aware that an amount equal to at least 15 percent of the current retail gross sales price of comparable graves or at least 10 percent of the current gross sales price of comparable crypts or niches must be deposited into the Maintenance and Preservation Fund of the cemetery company when a membership or religious organization resells its interment spaces or niches in bulk to another membership or religious organization, except that a credit shall be given for any amount previously paid into the Maintenance and Preservation Fund in connection with each particular interment space or niche;

- ii. It is aware that, if the purchasing organization resells or transfers an interment space or niche to a member, at least 15 percent of the current retail gross sales price of comparable graves, crypts or niches shall be deposited into the Maintenance and Preservation Fund of the cemetery company, less a credit for any money previously paid into the Maintenance and Preservation Fund in connection with that interment space or niche; and

- iii. To the best of its knowledge, the transaction is being undertaken in good faith, and neither the selling organization, nor the purchasing organization has an intent to resell which would violate N.J.S.A. 45:27-32; and

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

### 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 (Reserved)

#### 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)1v(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)1iv(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.