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NEW JERSEY ADMINISTRATIVE CODE  
TITLE 13  
LAW AND PUBLIC SAFETY  
CHAPTER 44J  
CEMETERIES

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## **SUBCHAPTER 1. APPLICABILITY**

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### **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.

### **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.

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## **SUBCHAPTER 2. DEFINITIONS**

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### **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, cremation of human remains, or disposition of cremated human remains.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Impediment" means any item placed on a grave that is an obstacle to access to other graves or is an obstacle to maintenance of the cemetery.

"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.

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### **SUBCHAPTER 3. FEE SCHEDULE**

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#### **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
(11) Construction of crematory.....	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.

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## SUBCHAPTER 4. ORGANIZATIONAL STRUCTURE

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### 13:44J-4.1 ORGANIZATIONAL MEETINGS

- c) 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.
- d) 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.

**13:44J-4.2 (RESERVED)****13:44J-4.3 (RESERVED)**

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**SUBCHAPTER 5.  
CEMETERY COMPANIES**

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**13:44J-5.1 SALE AND INSTALLATION OF VAULTS**

- a) Cemetery companies may not sell vaults.
- b) Cemetery companies may sell multiple depths below ground burial crypts that were installed prior to December 1, 1971.
- c) Cemetery companies may only install vaults or multiple depths 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.

**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)1iii and posts the amendments at the office of the cemetery company and provides updated price lists upon request. A cemetery company shall not collect an amended charge until the amended price list has been filed with the Board.
- g) Any monies paid to a cemetery company for future services shall be subject to the requirements of N.J.S.A. 2A:102-13 through 17.
- h) A cemetery company may increase the general maintenance charges if the Board approves the increase. The Board shall approve the increase if, it after reviewing the cemetery company's income and operational expenses, finds that the increase is necessary to maintain the cemetery.

**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) 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.

- i) Except as set forth in (j) below, membership or religious corporations or unincorporated associations or societies that 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.
- j) The deposit to the Maintenance and Preservation Fund pursuant to (i) above shall not be required if:
  - 1) Title to the interment space or niche is not transferred and the interment space or niche was purchased by the membership or religious corporation after December 1, 1971;
  - 2) The membership or religious corporation is organized as a not-for-profit entity and is operated exclusively for religious or charitable purposes provided to members or authorized designees of members; and
  - 3) A fee was paid by the membership or religious corporation for deposit into the Maintenance and Preservation Fund when the interment space or niche was originally purchased.

#### **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.
- d) Capital gains from the sale of items in a trust fund shall not be treated as income of the Maintenance and Preservation Fund and shall be retained as principal of the Maintenance and Preservation Fund.

**13:44J-5.4A CO-MINGLING OF TRUST FUNDS FOR BUILDING MAINTENANCE**

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

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

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

- b) A cemetery company may co-mingle private mausoleum funds established pursuant to N.J.S.A. 45:27-14 in a co-mingled private mausoleum trust fund.
- c) A cemetery company may co-mingle public mausoleum funds in a co-mingled public mausoleum trust fund.
- d) If a cemetery company co-mingles private or public mausoleum trust funds pursuant to (b) or (c) above, the cemetery company shall ensure that the income of the co-mingled trust fund is allocated for the maintenance of each individual mausoleum based upon the initial contribution to the co-mingled fund. For example, if the public mausoleum trust funds for mausoleum one and mausoleum two are co-mingled, such that mausoleum one contributes 75 percent of the initial contribution to the co-mingled fund, 75 percent of the income of the co-mingled fund shall be allocated to mausoleum one.
- e) If additional money is deposited in a co-mingled trust fund created pursuant to (b) or (c) above, either from mausoleum trust funds that are already part of the co-mingled trust fund or new mausoleum trust funds being added to the co-mingled trust fund, the cemetery company shall recalculate the allocation of income from the co-mingled trust fund in proportion to the contributions from the individual private or public mausoleum trust funds.
- f) Income allocated from a co-mingled trust fund created pursuant to (b) above to an individual mausoleum shall be redeposited in the co-mingled trust fund or used for the maintenance of that mausoleum. Such income shall not be used to maintain other mausoleums or for other cemetery expenses.
- g) If the income allocated from a co-mingled trust fund created pursuant to (c) above to an individual mausoleum exceeds the cost of maintaining that mausoleum, the excess income shall be reserved for future maintenance of that mausoleum and shall not be used to maintain other mausoleums or for other cemetery expenses.



- h) A cemetery company that co-mingles trust funds pursuant to (b) or (c) above shall include in its annual report:
- 1) A list of private mausoleum funds that have been co-mingled in a co-mingled private mausoleum fund and the amount each private mausoleum fund has in the co-mingled fund;
  - 2) A list of public mausoleum funds that have been co-mingled in a co-mingled public mausoleum fund and the amount each public mausoleum fund has in the co-mingled fund;
  - 3) Documentation indicating the allocation made from each co-mingled trust fund to the individual mausoleums that are part of the co-mingled fund; and
  - 4) Bank statements from the co-mingled private mausoleum fund and the co-mingle public mausoleum fund.

#### **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 45036, Newark, NJ 07101, and the Attorney General, addressed to RJ Hughes Justice Complex, PO Box 112, Trenton, NJ 08625-0112.

#### **13:44J-5.6 ANNUAL REPORTS**

- a) Each year, a cemetery company shall submit a check for all charges due the Board pursuant to N.J.A.C. 13:44J-3.1 and file a notarized annual report on a form provided by the Board with the Board. The report shall include:
- 1) The extent of, and sources of augmentation to, the Maintenance and Preservation Fund;
  - 2) The designation of the income of the maintenance and preservation fund as operational expenses, retained income or both; and
  - 3) A list of the securities, bonds, certificates of deposit or other instruments in which the corpus of the fund is invested.

- b) The cemetery company shall file the annual report required by this section no later than 120 days after the close of the cemetery company's fiscal year.
- c) Except as provided in (d) below, a cemetery company may request that the Board waive the filing fee required by N.J.A.C. 13:44J-3.1(a)3. A request for waiver shall be included with the report filed pursuant to (a) above. The Board shall grant the waiver if it determines that the annual report indicates that the cemetery company requesting the waiver does not have sufficient income from the Maintenance and Preservation Fund and from any other sources to cover the costs of maintaining the cemetery and paying the fee. If the Board determines that the fee should not be waived, it shall inform the cemetery company that the fee has not been waived and the cemetery company shall pay the fee within 60 days of receiving notification.
- d) Any cemetery company whose income from the maintenance and preservation fund, as indicated in the annual report filed pursuant to (a) above, is \$1,000 or less shall not be required to pay the filing fee required by N.J.A.C. 13:44J-3.1(a)3 and shall not be required to request a waiver pursuant to (c) above.
- e) Along with the annual report filed pursuant to (a) above, a cemetery company shall submit the following:
  - 1) For a cemetery company that files an Internal Revenue Service Form 990, a copy of that form and a copy of its annual financial report filed with the Attorney General pursuant to N.J.S.A. 45:17A-24;
  - 2) For a cemetery company that does not file an Internal Revenue Service Form 990 or which files an Internal Revenue Service Form 990 EZ, a copy of its annual financial report filed with the Attorney General pursuant to N.J.S.A. 45:17A-24; or
  - 3) For a cemetery company that is not required to file a report with the Attorney General pursuant to N.J.S.A. 45:17A-24, the following information:
    - i) Annual gross revenue;
    - ii) Annual expenses, including total compensation;
    - iii) Amounts in operating accounts;
    - iv) The name and address of the institution(s) at which operating accounts are held; and
    - v) An annual financial statement certified by the owners.

**13:44J-5.7 RECLAMATION OF INTERMENT SPACES OR NICHE**

- a) A cemetery may reclaim an individual interment space or niche sold prior to December 1, 1971 if:
  - 1) No interment has been made in the grave or crypt and no inurnment has been made in the niche;
  - 2) No provision for annual, endowed or special care or maintenance has been made; and
  - 3) No burial has been made for 30 years in the plot that includes the interment space.
- b) A cemetery that intends to reclaim an individual interment space or niche pursuant to (a) above shall, prior to reclaiming such interment space or niche:
  - 1) Send a certified letter, return receipt requested, to the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records, which informs the owner or heirs that they may prevent the cemetery from reclaiming the interment space or niche by sending a written objection to the cemetery company within 30 days; and
  - 2) Publish a notice in a newspaper if the cemetery company cannot locate the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records. The newspaper's circulation shall include the county in which the interment space or niche is located. The notice shall indicate the owner and any heirs of the owner listed in the cemetery's records and contain the names of each deceased person buried in the plot that includes the interment space and the date of each burial, if these names and dates are ascertainable. The notice shall state that, in the absence of written objection received within 30 days from the publication of the notice, the vacant interment space or niche will be subject to sale.
- c) If the owner of the interment space or niche or the heirs of the owner fail to respond to the letter or notices sent pursuant to (b) above, the cemetery may sell the reclaimed interment space or niche no sooner than 30 days from the date of publication of the notice.
- d) The cemetery company shall deposit at least 75 percent of the gross proceeds received from the sale of the reclaimed interment space or niche in the Maintenance and Preservation Fund. Up to 25 percent of the gross proceeds of the sale of the reclaimed interment space or niche may be allocated by the cemetery to administrative costs, which shall include sales commission. The cemetery shall indicate these costs in its records, which shall be made available to the Board and the owner or the heirs of the owner upon request.

- e) A reclaimed interment space or niche shall be sold for the same price as other interment spaces or niches in the section in which the interment space or niche sold is located. If there are no interment spaces or niches available for sale in the section in which the reclaimed interment space or niche is located, the reclaimed interment space or niche shall be sold for the same price as interment spaces or niches in a comparable section of the cemetery.
- f) The original owner of a reclaimed interment space or niche or the heirs of the owner may request reimbursement from the cemetery company for the reclaimed interment space or niche. Upon proving ownership, the owner or heirs shall have the option of either accepting a comparable interment space or niche in the cemetery or reimbursement of the proceeds that were deposited in the Maintenance and Preservation Fund.
- g) If the original owner of a reclaimed interment space or niche or the heirs of the owner choose reimbursement of the proceeds that were deposited in the Maintenance and Preservation Fund, the cemetery company shall provide the owner or heirs with the information required by (h)1 below, so that the owner or heirs may apply to the Board for an order directing the cemetery company to pay to the owner or heirs, out of the Maintenance and Preservation Fund, the proceeds of the sale that were deposited in the Maintenance and Preservation Fund.
- h) The original owner of a reclaimed interment space or niche or the heirs of the owner who apply to the Board for an order directing the cemetery company to pay to the owner or heirs, out of the Maintenance and Preservation Fund, the proceeds of the sale of the interment space or niche that were deposited in the Maintenance and Preservation Fund shall submit to the Board:
  - 1) A photocopy of the document of sale, which indicates the price for which the reclaimed interment space or niche was sold and the date of the sale, obtained from the cemetery company pursuant to (f) above; and
  - 2) Proof that the individual owned the reclaimed interment space or niche or are the heirs of the owner.

### **13:44J-5.8 RESTRICTIONS ON CLOSINGS FOR INTERMENTS**

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

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## **SUBCHAPTER 6. DOCUMENTS AND GROUNDS**

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### **13:44J-6.1 REGULATIONS OF A CEMETERY COMPANY**

A cemetery company shall file with the Board a copy of its regulations. A cemetery company may amend or supplement its regulations by filing with the Board such amendments or supplements. This filing shall be accompanied by a filing fee payable to the Board, in accordance with N.J.A.C. 13:44J-3.1(a)1iii. Regulations and amendments to regulations shall not be effective until filed with the Board.

### **13:44J-6.2 MAPS**

- a) Every cemetery company shall maintain a map of the cemetery readily available for inspection at its main office. Any change in the physical layout of the cemetery shall be reflected annually on the map. The map shall show the location of interment spaces or niches with roadways, paths and building areas.
- b) A cemetery company may amend a map to include areas not previously laid out or to change the layout of plots not sold. Existing roadways and walks to graves already sold shall not be abandoned but may be altered as long as similar access to existing interment spaces and niches is not denied. Paths may be renovated or reduced in size as long as the path conforms to N.J.A.C. 13:44J-6.3(a). The amended map shall not be effective until it has been filed with the Board.

### **13:44J-6.3 PATHS**

- a) Paths to interment spaces or niches shall be a minimum of 30 inches wide.
- b) When a cemetery company resurveys, alters, changes or modifies a portion of its grounds which have been previously laid out on a map or maps into interment spaces or niches, the cemetery company shall ensure that paths to previously sold interment spaces or niches are maintained.
- c) This section shall not apply to the laying out of portions of ground in areas of cemetery property which have not previously been laid out on a map or maps into paths or interment spaces or niches.
- d) An unsold interment space which is plotted in a manner that does not conform with this subchapter shall not be sold or used for interment purposes.

- e) If a sold interment space, in which no interment has been made, is plotted in a manner which makes a path nonconforming, the cemetery company shall exercise due diligence and negotiate in good faith with the lot owner for the transfer or exchange of the lot owner's nonconforming space with other space that conforms with this provision. After the transfer or exchange, the nonconforming plot shall be replotted or eliminated. The transfer or exchange of the nonconforming plot shall be provided at no expense to the lot owner beyond what the lot owner agreed to pay for the nonconforming plot.

#### **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.

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### **SUBCHAPTER 7. MEMORIALS**

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#### **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.
  - 1) A lot owner shall have the right to place a memorial or embellishment on any interment space or niche that he or she owns, and to approve or disapprove any memorial or embellishment placed or sought to be placed on an interment space or niche that he or she owns, except that:
  - 2) 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;
  - 3) 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; and
- b) A cemetery company may prohibit the placement of a memorial or embellishment that does not comply with cemetery company regulations regarding memorials and embellishments adopted pursuant to (d) below.

- c) A person who places a memorial or embellishment on an interment space or niche without the prior approval of the lot owner shall remove the memorial 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, 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 or embellishment if it determines that the memorial, embellishment or other structures would be inappropriate, offensive or unsafe, 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.

### **13:44J-7.2 REPLACING OR REPAIRING A FOUNDATION**

- 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.

### **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.

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## **SUBCHAPTER 8. DISINTERMENT**

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### **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.

### **13:44J-8.2 ADDITIONAL INTERMENT; OBTAINING DISINTERMENT PERMIT**

- a) In the event that non-vaulted remains already in an interment space must be lowered to accommodate an additional interment, a disinterment permit shall be obtained permitting the lowering of the remains already in the interment space.
- b) In the event that vaulted remains already in an interment space must be lowered to accommodate an additional interment, the cemetery company need not obtain a disinterment permit.
- c) A cemetery company shall open a multiple depths 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.

### **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.

#### **13:44J-8.4 TEMPORARY STORAGE PRIOR TO FINAL ENTOMBMENT OR INTERMENT WITHIN A SINGLE CEMETERY**

- a) For purposes of this section, "properly constructed receiving vault" means a container, constructed pursuant to the provisions of N.J.S.A. 45:27-27.
- b) A cemetery company may temporarily store human remains in a properly constructed receiving vault prior to final entombment or interment for up to four years. If a cemetery company needs to temporarily store human remains for more than four years, the cemetery company must obtain the written consent for an extension at least 120 days prior to the end of the four-year period, which includes a set term for the extension, from the person who has the right to control the disposition of remains pursuant to N.J.S.A. 45:27-22. The cemetery company shall advise the Board that the person who has the right to control the disposition of remains has granted the extension. The cemetery company may transfer the remains from the place of temporary storage to the place of final entombment or interment without obtaining a disinterment permit and without the presence of a licensed funeral director if both the temporary storage and final resting place are within a single cemetery.
- c) The receptacle to be placed in temporary storage which contains the human remains shall be clearly, legibly and durably marked with:
  - 1) The decedent's full name and date of death as stated on the death certificate and burial permit;
  - 2) The full name, mailing address and telephone number of both the responsible next of kin as defined under N.J.S.A. 45:27-22; and
  - 3) The designated licensed funeral director or funeral establishment whose name appears on the death certificate and burial permit.
- d) Prior to transfer from the place of temporary storage to the place of final entombment or interment pursuant to this section, the cemetery company shall notify in writing the licensed funeral director or funeral establishment that originally supervised the delivery to temporary storage or another licensed funeral director or funeral establishment of the next of kin's choice, and the responsible next of kin as defined by N.J.S.A. 45:27-22, at least seven days before the transfer from the temporary storage.
- e) A cemetery company may not pursuant to this section temporarily store or transfer the body of a person who died of a communicable disease as defined in N.J.S.A. 26:6-38.

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## **SUBCHAPTER 9. CREMATED HUMAN REMAINS AND CREMATORIES**

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### **13: 13:44J-9.1 PURPOSE AND SCOPE; DEFINITIONS**

- a) The purpose of this subchapter is to implement the provisions of P.L. 2011, c. 230, which requires that crematories be located on dedicated cemetery property, except for those operated in conjunction with a funeral home that was established prior to December 1, 1971.
- b) For purposes of this subchapter, "operator" means a cemetery company, governmental entity, a religious corporation or organization, or a funeral home that operates a crematory.

### **13:44J-9.2 CREMATORY RECORDS**

- a) An operator that performs cremations shall maintain records for each cremation that includes:
  - 1) The name, last residence, age, and place and date of death of the decedent;
  - 2) The name and address of the person or persons who authorized the cremation;
  - 3) The name and address of the funeral home, and the name and license number of its funeral director, from whom the remains were received for cremation;
  - 4) The date and time the cremation was started;
  - 5) The date and time the cremation was completed;
  - 6) The recipient of the cremated human remains or, if there is no recipient, the final disposition of the cremated human remains;
  - 7) The type of casket or container;
  - 8) The number of the metal identification disc, or other non-combustible identification tool, issued by the operator;
  - 9) The cremation unit or retort number, if there is more than one unit; and
  - 10) The initials of the individual or individuals performing the cremation.
- b) Cremation records shall be kept for at least seven years from the date of the cremation.

- c) An operator shall make records maintained pursuant to (a) above available to the Board upon request.

### **13:44J-9.3 AUTHORIZATION AND RECEIPT FORM(S) FOR CREMATIONS**

- a) An operator shall not perform a cremation, unless the following information has been provided by a funeral director on an authorization and receipt form(s):
  - 1) Name of the decedent;
  - 2) Last residence of decedent, if known;
  - 3) Decedent's date of birth or age and the date, time, and place of death;
  - 4) Whether the death was due to an infectious or contagious disease, if known;
  - 5) A statement that any surgical implants that must be removed prior to cremation have been removed;
  - 6) Whether the decedent received radiation therapy, the type of radiation therapy, and the date it was provided;
  - 7) Name, address, relationship to decedent, and the signature of the individual or individuals authorizing cremation;
  - 8) Name and address of the funeral home from which the remains were received for cremation;
  - 9) Name, license number, and signature of the funeral director for the funeral home from which the remains were received for cremation and a certification of the contents of the casket or container signed by the funeral director; and
  - 10) Planned disposition of cremated human remains and date on which this disposition will occur, if known.
- b) Upon delivery of human remains to a crematory, the operator shall record the following information on the authorization and receipt form(s):
  - 1) Date and time remains were received by the operator;

- 2) Type of casket or container;
  - 3) The number of the metal identification disc, or other non-combustible identification tool, issued by the operator;
  - 4) Signature of person responsible for taking custody of the remains for the operator; and
  - 5) Signature and license number of funeral director delivering the remains to the operator.
- c) After providing the information required by (b) above, the operator shall provide a copy of the authorization and receipt form(s) to the funeral director who delivered the human remains to the crematory and shall maintain a copy of the form as part of the operator's records for at least seven years from the date of the cremation.

#### **13:44J-9.4 MAINTENANCE LOGS**

- a) An operator shall maintain a log of inspections, preventative maintenance, scheduled maintenance, and emergency maintenance on cremation units or retorts. Such a log shall include:
- 1) The cremation unit or retort number, if there is more than one unit;
  - 2) Number of cremations performed since last maintenance;
  - 3) Description of the work performed on the cremation unit or retort or the type of inspection performed;
  - 4) Name of person performing the work or inspection; and
  - 5) Disposition of any debris.
- b) Logs shall be retained for at least seven years from the date the last maintenance or inspection was provided.

#### **13:44J-9.5 CASKETS AND CONTAINERS**

- a) An operator shall only accept for cremation a decedent's remains if they are in a casket or container that is:

- 1) Totally enclosed;
  - 2) Rigid;
  - 3) Has no evidence of leaking; and
  - 4) Made up of materials that will not emit hazardous or toxic elements upon combustion.
- b) An operator shall not perform a cremation if a casket or container has a zinc liner or is made of copper, bronze, fiberglass, plastic, Styrofoam, or polystyrene.
- c) Handles or ornaments that will interfere with a cremation or cause visible emission release shall be removed prior to cremation.

#### **13:44J-9.6 STORAGE FACILITIES**

- a) An operator shall have a storage facility for human remains that cannot be immediately cremated because cremation equipment is being used for other cremations. Such facilities shall be easily accessible from the area where cremations are performed.
- b) A casket or container in a storage facility shall be placed on its own shelf or rack. A casket or container shall not be placed on the floor.
- c) Un-embalmed human remains kept for more than 24 hours shall be placed in a refrigerated storage facility.

#### **13:44J-9.7 RECEIVING REMAINS FOR CREMATION**

- a) An operator shall appoint an employee or employees who are responsible for accepting human remains for cremation.
- b) A person appointed pursuant to (a) above shall, prior to accepting human remains, review and inspect the following:
- 1) Cremation authorization and receipt form(s) that contains the information required by N.J.A.C. 13:44J-9.3;
  - 2) Cremation permit required by N.J.A.C. 8:9 Appendix A or a similar form from another state; and

- 3) The casket or container to ensure it complies with the requirements of N.J.A.C. 13:44J-9.5.
- c) A person appointed pursuant to (a) above shall:
- 1) Prepare and sign the authorization and receipt form(s) pursuant to N.J.A.C. 13:44J-9.3 and provide a copy to the funeral director delivering the decedent's remains to the crematory;
  - 2) Ensure that the name of the decedent and funeral home are clearly marked on the casket or container; and
  - 3) Attach a copy of the authorization and receipt form(s) to the casket or container.
- d) An operator shall ensure that, from the time human remains have been delivered to the crematory until such time as the cremated human remains are released, the remains are identified through at least two separate means, one of which is a metal identification disc, or other non-combustible identification tool, in order to prevent the misidentification of remains.

#### **13:44J-9.8 DURING A CREMATION**

- a) During a cremation, the operator shall ensure that someone is monitoring the cremation and temperature.
- b) Upon the completion of a cremation, an operator shall ensure that cremated human remains and casket or container residue are inspected to establish that the cremation process is completed prior to starting the cool down of the cremation unit or retort.

#### **13:44J-9.9 REMOVING AND PROCESSING CREMATED HUMAN REMAINS AND CASKET OR CONTAINER RESIDUE**

- a) Prior to removing cremated human remains and casket or container residue, an operator shall ensure that the metal identification disc, or other non-combustible identification tool, is checked against the authorization and receipt form(s).
- b) Non-combustible material shall be removed from cremated human remains and casket or container residue.

**13:44J-9.10 TEMPORARY CONTAINERS AND PACKAGING**

- a) After processing pursuant to N.J.A.C. 13:44J-9.9, cremated human remains and casket or container residue shall be transferred to a leak-proof container. No other material shall be placed in the container without written instructions from the individual authorizing the cremation.
- b) The operator shall affix a label to the container with the decedent's name and the date of the cremation.
- c) Prior to affixing the label to the container pursuant to (b) above, the operator shall ensure that the metal identification disc, or other non-combustible identification tool, authorization and receipt form(s), and label are checked for consistency and accuracy.

**13:44J-9.11 NOTIFICATION**

- a) An operator shall notify the Board of any replacement or closure of a crematory.
- b) Prior to expanding an existing crematory, an operator shall notify the Board. If the Board determines that the expansion constitutes construction of a crematory, the operator shall apply to the Board for approval pursuant to N.J.A.C 13:44J-13.8.

**13:44J-9.12 SHIPMENT OF CREMATED HUMAN REMAINS**

An operator may ship cremated human remains through the U.S. Postal System, using registered or certified mail, return receipt, or any other parcel service that provides a delivery document. The operator shall label both the inside container and outside wrapper to identify the contents as cremated human remains. The cremated human remains shall be securely packaged.

**13:44J-9.13 ANNUAL CREMATION FEE**

- a) Operators shall submit to the Board the cremation fee pursuant to N.J.A.C. 13:44J-3.1(a)1ii annually.

- b) If an operator is required to submit an annual report pursuant to N.J.A.C. 13:44J-5.6, the operator shall include the cremation fee with any other charges due to the Board that are submitted with the annual report.

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## **SUBCHAPTER 10. SALESPEOPLE**

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### **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.

### **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.

### **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.

#### **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.

#### **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 apply for 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 submit an application and 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.

#### **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.

**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.

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**SUBCHAPTER 11.  
INTERMENT SPACES OR NICHES**

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**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.

**13:44J-11.2 TRANSFERABILITY OF INTERMENT SPACE OR NICHES**

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

**13:44J-11.3 RECORD OF TRANSFERS**

- a) Every cemetery company shall maintain records of transfers of ownership of interment spaces or niches which shall include:
- 1) The name of every individual who has ever held title to the interment space or niche; and
  - 2) An indication of any transfer of ownership of the interment space or niche from June 5, 2006.
- b) Records of transfers shall be indexed by:
- 1) The number of the interment space or niche; and

- 2) The name of each owner.

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## **SUBCHAPTER 12. (RESERVED)**

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## **SUBCHAPTER 13. APPLICATIONS**

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### **13:44J-13.1 APPLICATION FOR CERTIFICATE OF AUTHORITY**

- a) Every cemetery company shall hold a certificate of authority issued by the Board. All cemetery companies shall apply for this certificate to the Board pursuant to (c) or (f) below, as applicable.
- b) A cemetery company which exists solely for the maintenance and preservation of the cemetery shall have a certificate of authority and shall apply for the certificate pursuant to this section, but shall not pay an application fee.
- c) A cemetery company organized before December 1, 1971 applying for a certificate of authority shall submit to the Board:
  - 1) A completed certificate of authority application;
  - 2) A completed information sheet;
  - 3) An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(1), made payable to the New Jersey Cemetery Board;
  - 4) A copy of articles of incorporation, charter, and bylaws, and other fundamental organizational documents of the entity;
  - 5) A copy of the applicant's rules and regulations; and
  - 6) A copy of the applicant's charges for interment spaces, niches and services.
- d) The Board may request additional information from the applicant regarding the application.

- e) The Board shall establish a register in which it shall record the applications for certificates of authority and the disposition of applications for all cemetery companies organized on or after December 1, 1971. This register shall be open to inspection by the public during the business hours of the Board. Applications shall be recorded upon receipt by the Board and no action shall be taken on the application for 60 days from the date of receipt of the application.
- f) A cemetery company organized on or after December 1, 1971 applying for a certificate of authority shall submit to the Board:
  - 1) A completed certificate of authority application which shall include the information the Board needs to determine:
    - i) The necessity for the services the applicant seeks to provide, considering present or future public need and convenience, land or territorial qualifications;
    - ii) The applicant's fitness and ability to perform proposed services;
    - iii) The applicant's fitness and ability to conform to N.J.S.A. 45:27-1 et seq. and this chapter; and
    - iv) The applicant's fitness and ability to comply with health protection rules of the New Jersey Department of Health and Senior Services, the New Jersey Department of Environmental Protection, and a local health authority;
  - 2) A completed information sheet;
  - 3) An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(1), made payable to the New Jersey Cemetery Board;
  - 4) A copy of the certificate of incorporation pursuant to Title 15 A of the New Jersey Statutes;
  - 5) A copy of articles of incorporation and/or charter, and bylaws;
  - 6) A copy of the applicant's rules and regulations;
  - 7) A copy of the applicant's charges for interment spaces, niches and services;

- 8) A map of the cemetery, such as a tax map; and
  - 9) A statement and supporting evidence, if any, that the cemetery company is financially able to establish a Maintenance and Preservation Fund of \$ 75,000 pursuant to the requirements of N.J.S.A. 45:27-13, except that a cemetery company that has been engaged in the operation of a cemetery prior to December 1, 1971, shall not be required to provide such a statement.
- g) The Board may request additional information from the applicant regarding the application.
- h) Applications made pursuant to (c) and (f) above shall be made in writing and under oath on forms provided by the Board. Notice that an application has been received shall be provided in the Board agenda for the first meeting following receipt of the application. All applications shall be made available to the public upon request.
- i) Upon receipt of any written objections to an application for a certificate of authority, the Board shall schedule and conduct a public hearing pursuant to N.J.S.A. 52:14B-1 et seq. to decide whether to grant or deny the application. The Board shall notify the objector and the applicant as to when the public hearing will take place.
- j) If the Board receives no written objections to an application for a certificate of authority, it shall decide whether to grant or deny the application at the next regularly scheduled Board meeting that occurs 60 days after receipt of the application.
- k) After the Board has decided whether to grant or deny the cemetery company's application for a certificate of authority, it shall record in the register the grant or denial of the application.

### **13:44J-13.2 APPLICATION FOR DISSOLUTION OF A CEMETERY COMPANY**

- a) A cemetery company shall not dissolve without obtaining approval of the Board. The cemetery company shall arrange for a successor in interest to maintain the cemetery.
- b) A cemetery company which wishes to dissolve shall submit to the Board:
- 1) A certified statement by the board of trustees or directors of the cemetery company which:
    - i) Sets forth the reasons for dissolution;

- ii) Identifies all of the assets and liabilities of the cemetery company, including any outstanding legal actions or matters which may result in legal actions, and sets forth the amounts of all such assets and liabilities;
  - iii) States that the cemetery company is transferring its cemetery property in good faith, and has concluded that, to the best of its knowledge, the transfer would not work an injustice on any party;
  - iv) States that, when the dissolution becomes effective, the cemetery company will surrender its certificate of authority to the Board and cease cemetery activities; and
  - v) Sets forth a proposal for the continued administration of the Maintenance and Preservation Fund.
- 2) A certified statement of the successor in interest which states that:
- i) The successor in interest agrees to accept all of the duties, liabilities, obligations, rights, and assets of the cemetery company, including the duty to maintain the cemetery;
  - ii) The successor in interest holds a certificate of authority issued by the Board, or it is a religious corporation organized pursuant to either Title 16 of the New Jersey Statutes or a special act of the Legislature, or it is a religious society;
  - iii) If the successor in interest is a religious corporation organized pursuant to either Title 16 of the New Jersey Statutes or a special act of the Legislature, or it is a religious society, burials in the cemetery will be restricted to members of the faith and families of members of the faith; and
  - iv) The successor in interest accepts that transfer of the cemetery property of the cemetery company in good faith, and has concluded that, to the best of its knowledge, the transfer would not work an injustice on any party; and
- 3) A copy of the resolution of dissolution approved by:
- i) In the case of a cemetery company not owned by shareholders, a majority of the board of trustees and a majority of voting members at a meeting for which notice was given in accordance with N.J.S.A. 45:27-10; or
  - ii) In the case of a cemetery owned by shareholders, a majority of shareholders.

- c) The Board may request additional information from the applicant regarding the application.

### **13:44J-13.3 MERGER OR CONSOLIDATION OF CEMETERY COMPANIES**

- a) No cemetery company may merge or consolidate except to improve the financial or operating conditions of the cemeteries. Cemetery companies shall obtain Board approval prior to merging or consolidating.
- b) A cemetery company which wishes to merge into or consolidate with another cemetery company shall submit to the Board:
  - 1) A copy of the agreement which would effect the merger or consolidation;
  - 2) A copy of the plan of merger or consolidation, if any;
  - 3) A description of the benefit to each cemetery company as a result of the merger or consolidation; and
  - 4) An information fact sheet from each cemetery company which contains the following:
    - i) A list of officers;
    - ii) A list of the board of trustees or directors;
    - iii) The total acreage of the cemetery;
    - 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.

### **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.

### **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)1iv(6).
- c) The Board may request additional information from the cemetery company regarding the application for enlargement of cemetery lands by purchase.

#### **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 certified statement by the board of trustees or directors that 15 percent of the proceeds of the lease will be deposited into the Maintenance and Preservation Fund;
  - 3) 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;
  - 4) A certified statement by the prospective lessee describing the expected use to be made of the portion of land;
  - 5) A copy of the lease;

- 6) 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
  - 7) An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(7).
- c) The Board may request additional information from the cemetery company regarding the application to lease or license unused cemetery lands.

### **13:44J-13.7 APPLICATION FOR FOR-PROFIT MANAGEMENT CERTIFICATE OF AUTHORITY**

- a) A for-profit entity that managed or operated a cemetery company or companies prior to January 14, 2004, that seeks to continue to manage or operate the same cemetery company or companies shall file with the Board the following:
- 1) Proof that the for-profit entity managed or operated a cemetery prior to January 14, 2004;
  - 2) The management contract the entity has entered into with the cemetery. Such contracts shall be considered proprietary commercial information pursuant to N.J.S.A. 47:1A-1 et seq.;
  - 3) A completed certificate of authority application;
  - 4) A completed information sheet;
  - 5) An application fee, as set forth in N.J.A.C. 13:44J-3.1(a)1iv(1), made payable to the New Jersey Cemetery Board; and
  - 6) A copy of articles of incorporation and/or charter, and bylaws, if the entity is incorporated.
- b) A for-profit management entity that did not manage or operate a cemetery company prior to January 14, 2004 and which seeks to provide management services for a cemetery company shall apply for a for-profit management services certificate of authority by submitting the following:
- 1) The management services contract the entity has entered into with the cemetery. Such contracts shall be considered proprietary commercial information pursuant to N.J.S.A. 47:1A-1 et seq.;

- 2) A completed certificate of authority application, which shall include the information the Board needs to determine:
    - i) The applicant's fitness and ability to perform proposed services;
    - ii) The applicant's fitness and ability to conform to N.J.S.A. 45:27-1 et seq. and this chapter; and
    - iii) The applicant's fitness and ability to comply with health protection rules of the New Jersey Department of Health and Senior Services, the New Jersey Department of Environmental Protection, or a local health authority;
  - 3) A completed information sheet;
  - 4) An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1iv(1), made payable to the New Jersey Cemetery Board; and
  - 5) If the entity is incorporated, a copy of articles of incorporation and/or charter, and bylaws.
- c) For purposes of this rule, an entity that only provides sales services for a cemetery company shall not be considered as providing management services for a cemetery company and shall not be required to obtain a certificate of authority.
  - d) A for-profit entity shall hold one certificate of authority, regardless of the number of cemeteries for which the entity provides management services.
  - e) If the holder of a for-profit management and operation certificate of authority enters into a contract to provide management and operation services for a new cemetery company, it shall submit the contract to provide such services to the Board. Such contracts shall be considered proprietary commercial information pursuant to N.J.S.A. 47:1A-1 et seq.
  - f) A holder of a for-profit management services certificate of authority seeking to provide management services for a cemetery company that is not currently receiving management services from the holder of the certificate shall apply to the Board for approval to provide such services by submitting the management contract the entity has entered into with the cemetery. Such contracts shall be considered proprietary commercial information pursuant to N.J.S.A. 47:1A-1 et seq.

- g) A holder of a for-profit management services certificate of authority or a for-profit management and operation certificate of authority shall notify the Board if it ends a management relationship with any cemetery company with which it has contracted.
- h) If the holder of a for-profit management services certificate of authority or a for-profit management and operation certificate of authority ends its management relationship with every cemetery company it has contracted with, the certificate of authority shall expire and the company shall submit the expired certificate of authority to the Board. A company whose certificate of authority has expired shall not provide management services for a cemetery company until it has obtained a new for-profit management certificate of authority pursuant to (b) above.

### **13:44J-13.8 APPLICATION FOR APPROVAL TO CONSTRUCT A CREMATORY**

- a) Construction of a crematory shall not begin without, in addition to any other statutory or regulatory requirements, prior Board approval.
- b) An entity that wishes to construct a crematory shall submit to the Board:
  - 1) A completed application for approval to construct a crematory;
  - 2) Construction plans for the crematory;
  - 3) A copy of the authorization and receipt form(s) for cremations;
  - 4) Procedures for conducting cremations;
  - 5) Rules and price lists regarding cremations; and
  - 6) An application fee as set forth at N.J.A.C. 13:44J-3.1(a)1iv(11).
- c) Upon receipt of an application for approval to construct a crematory, the Board shall notify the Department of Health that it has received the application.

**13:44J-13.9 (RESERVED)****13:44J-13.10 (RESERVED)**

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**SUBCHAPTER 14.  
SALES OF INTERMENT SPACES**

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**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, except as provided in N.J.A.C. 13:44J-5.3(j), 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 that 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, except as provided in N.J.A.C. 13:44J-5.3(j), 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;
  - 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;
  - vii) The purchaser shall notify the cemetery company when it sells, gives or assigns interment spaces and niches; and
  - viii) The purchaser shall 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.
- 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)1iv(8).
- e) The Board may request additional information from the cemetery company regarding the application for the sale of spaces.

**13:44J-14.2 SALES TO A MEMBERSHIP OR RELIGIOUS CORPORATION OR UNINCORPORATED ASSOCIATION OR SOCIETY WHICH PROVIDES INTERMENT SPACES OR NICHE 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;
  - 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;
  - vii) The purchaser shall notify the cemetery company when it sells, gives or assigns interment spaces and niches; and
  - viii) The purchaser shall 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;
- 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.

### **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 written 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.

**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)1iv(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.
- g) The proceeds from the resale of a reclaimed interment space or niche shall be the resale price less the amount reimbursed to the corporation, society or association. The profits of the resale of a reclaimed interment space or niche shall be the proceeds less an administrative cost of up to 25 percent of the proceeds. The profits of the resale of a reclaimed interment space or niche shall be deposited in the Maintenance and Preservation Fund.

**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.



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**APPENDIX A**

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I certify that I, \_\_\_\_\_, am purchasing \_\_\_\_\_

(Purchaser's name)

(Number of spaces or niches)

interment spaces 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 are 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

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**APPENDIX B**

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\_\_\_\_\_ certifies that it has reason to believe that

(Name of Cemetery Company selling spaces or niches)

\_\_\_\_\_ is purchasing \_\_\_\_\_

(Name of purchaser)

(Number of spaces or niches)

interment spaces or niches for the purpose of reselling any of those interment spaces or niches.

\_\_\_\_\_ certifies that it has informed

(Name of Cemetery Company selling spaces or niches)

\_\_\_\_\_ that purchasing interment spaces or niches for resale is

(Name of purchaser)

prohibited by N.J.S.A 45:27-32.

\_\_\_\_\_ certifies that the forgoing

(Name of Cemetery Company selling spaces or niches)

statements are true.

\_\_\_\_\_ is aware that if any of the foregoing

\_\_\_\_\_  
(Name of Cemetery Company selling spaces or niches)

statements made by it are willfully false, it will be subject to disciplinary action.

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

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## **SUBCHAPTER 15. REMOVAL OF MONUMENTATION**

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### **13:44J-15.1 REMOVAL OF UNAUTHORIZED MEMORIAL, EMBELLISHMENT OR IMPEDIMENT**

- 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 a memorial, embellishment or impediment, 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.

### **13:44J-15.2 REMOVAL OF UNSAFE MEMORIAL, EMBELLISHMENT OR IMPEDIMENT**

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

- b) A cemetery company that wishes to remove an unsafe memorial, embellishment or impediment shall:
  - 1) Take pictures of the unsafe memorial, embellishment or impediment 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 an unsafe memorial, embellishment or impediment 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 re-installation of the memorial, embellishment or impediment.
- 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.

### **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.