

**NEW JERSEY REGISTER**  
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**ISSUE DATE: JUNE 5, 2006**  
**RULE ADOPTIONS**  
**LAW AND PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**New Jersey Cemetery Board**

Readoption with Amendments: N.J.A.C. 13:44J  
Adopted New Rules: N.J.A.C. 13:44J-11.3, 15.1 and 15.3  
Adopted Repeals: N.J.A.C. 13:44J-13.7, 15.1 and 15.2

#### Cemeteries

Proposed: December 19, 2005 at 37 N.J.R. 4877(a).

Adopted: March 9, 2006 by the New Jersey Cemetery Board, Frank J. DeGeeter, Jr., President.

Filed: May 2, 2006 as R.2006 d.203, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: May 2, 2006, Readoption;

June 5, 2006, Amendments, Repeals, and New Rules.

Expiration Date: May 2, 2011.

#### **Summary of Agency-Initiated Change:**

N.J.S.A. 45:27-13c(6) dictates that, when a crypt or niche is transferred, 15 percent of the current gross sales price of equivalent crypts or niches be deposited in the Maintenance and Preservation Fund. The proposed amendments to N.J.A.C. 13:44J-14.2(c)3iv required that, when a crypt or niche is transferred, 10 percent of the gross sales price of comparable crypts or niches be deposited in the Maintenance and Preservation Fund. The Board has changed N.J.A.C. 13:44J-14.2(c)3iv upon adoption to conform to N.J.S.A. 45:27-13 and require that 15 percent of the gross sales price of comparable crypts or niches be deposited in the Maintenance and Preservation Fund when a crypt or niche is transferred.

#### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the readopted rules with amendments, new rules and repeals.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:44J.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

#### **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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"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.

"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.

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

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

1. Cemetery company fees:

i.-ii. (No change.)

iii. Filing amendments to charters/regulations/price list..... 25.00

iv. Application fees:

(1)-(4) (No change.)

- (5) Renovation of interment space or niche areas..... 100.00
- (6)-(7) (No change.)
- (8) Bulk sale of interment spaces or niches..... 75.00

(9) (No change.)

2. Salesperson fees:

i.-iii. (No change.)

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. (No change in text.)

vii. Branch license renewal..... 30.00

Recodify existing v.-vii. as viii.-x. (No change in text.)

3. (No change.)

(b) (No change.)

**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)-(e) (No change.)

(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)-(h) (No change.)

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

(a)-(b) (No change.)

(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)-(e) (No change.)

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

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

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

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

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

#### **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)-(c) (No change.)

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

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

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

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

1. Send a certified letter, return receipt requested, to the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records, which informs the owner or heirs that they may prevent the cemetery from reclaiming the interment space or niche by sending a written objection to the cemetery company within 30 days; and
2. Publish a notice in a newspaper if the cemetery company cannot locate the owner of the interment space or niche, or any heirs of the owner listed in the cemetery's records, at the address listed in the cemetery's records. The newspaper's circulation shall include the county in which the interment space or niche is located. The notice shall indicate the owner and any heirs of the owner listed in the cemetery's records and contain the names of each deceased person

buried in the plot that includes the interment space and the date of each burial, if these names and dates are ascertainable. The notice shall state that, in the absence of written objection received within 30 days from the publication of the notice, the vacant interment space or niche will be subject to sale.

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

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

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

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

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

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

### **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)-(e) (No change.)

### **13:44J-7.1 Memorials**

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

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

1. (No change.)

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

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

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

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

(f)-(g) (No change.)

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

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

(b) (No change.)

### **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.

### **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-8.4 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) (No change.)

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

1. (No change.)

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. (No change.)

(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) (No change in text.)

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

(a) (No change.)

(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)-(e) (No change.)

### **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.-3. (No change.)

### **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 obtain an initial license for the first cemetery company for which he or she sells and a branch license for every other cemetery company for which he or she sells.

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

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

1. A completed renewal form;

2. The renewal fee as specified by N.J.A.C. 13:44J-3.1(a)2vi; and

3. For applicants who reside outside of this State, a designation of agent form if no designation of agent form has ever been submitted to the Board or if the designation of agent form previously submitted does not list the current agent for service of process.

## **SUBCHAPTER 11. INTERMENT SPACES OR NICHEs**

### **13:44J-11.1 Inalienability of interment spaces**

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

### **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 \*[(the effective date of this rule)]\* \*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.

### **13:44J-13.1 Application for certificate of authority**

(a)-(b) (No change.)

(c) A cemetery company organized before December 1, 1971 applying for a certificate of authority shall submit to the Board:

1.-5. (No change.)

6. A copy of the applicant's charges for interment spaces, niches and services.

(d)-(e) (No change.)

(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.-6. (No change.)

7. A copy of the applicant's charges for interment spaces, niches and services;

8. (No change.)

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 operating as a crematory which is wholly independent and physically separated from any cemetery shall not be required to provide such a statement, nor shall a cemetery company which has been engaged in the operation of a cemetery prior to December 1, 1971 be required to provide such a statement.

(g) (No change.)

(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.

Recodify existing (h)-(j) as (i)-(k) (No change in text.)

### **13:44J-13.2 Application for dissolution of a cemetery company**

(a) (No change.)

(b) A cemetery company which wishes to dissolve shall submit to the Board:

1.-2. (No change.)

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. (No change.)

(c) (No change.)

### **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.-3. (No change.)

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.-10. (No change.)

(c)-(f) (No change.)

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

(a) (No change.)

(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. (No change.)

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. (No change.)

(c) (No change.)

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

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

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

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

2. A statement by the prospective lessee that it does not engage, directly or indirectly, in an activity that a cemetery company is prohibited from engaging in pursuant to N.J.S.A. 45:27-16;

3. (No change in text.)

Recodify existing 6.-8. as 4.-6. (No change in text.)

(c) (No change.)

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

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

(a) (No change.)

(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) (No change.)

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

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

2. A statement by the cemetery company that:

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

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

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

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

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

i. (No change.)

- ii. The purchaser will purchase the spaces pursuant to N.J.S.A. 45:27-32;
  - iii. The purchaser will resell or give the interment spaces or niches, or the right to use the interment spaces or niches, purchased in this bulk sale only to members, and the spaces will be provided solely for members and their families;
  - iv. If the purchaser transfers or resells any interment space or niche in the future, it will transmit to the cemetery for deposit into the Maintenance and Preservation Fund of the cemetery company at least 15 percent of the current retail gross sales price of comparable \*[internment]\* \*interment\* spaces or niches and that the purchaser shall receive a credit for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche;
  - v. The purchaser is purchasing the interment spaces or niches in good faith and does not have any intent to resell which would violate N.J.S.A. 45:27-32; and
  - vi. The purchaser shall send to the cemetery company the name and address of individuals who have the right of interment in an interment space and their next of kin;
4. A copy of the cemetery company's price list; and
5. (No change in text.)

(e) (No change.)

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

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

(b) (No change.)

(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. (No change.)

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. (No change.)

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\*[s]\*, 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 \*[graves or at least at least 10 percent of the current gross sale price of comparable crypts]\* \*interment spaces\* or niches but the purchaser shall receive a credit for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space or niche;

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

vi. (No change.)

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. (No change.)

(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-15.1 Removal of unauthorized monumentation**

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

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

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

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

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

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

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

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

1. Take pictures of the unsafe monumentation prior to moving and maintain these photographs as part of its records; and
2. Within 30 days of the removal, notify the owner by certified letter, return receipt requested that unsafe monumentation has been moved. Such notification shall state that the owner has the right to apply to the Board within six months of the notification for appropriate relief, such as restoration of monumentation.

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

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

### **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.