

RULE ADOPTIONS
VOLUME 42, ISSUE 12
ISSUE DATE: JUNE 21, 2010
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY CEMETERY BOARD

Adopted Amendments: N.J.A.C. 13:44J-2.1, 5.3, 5.4, 5.7, 7.1, 7.2, 8.2, 10.5, 15.1 and 15.2

Definitions; Trust Funds; Trust Fund Management; Recordkeeping; Reclamation of Interment Spaces; Memorials; Replacing or Repairing a Foundation; Additional Interment; Obtaining Disinterment Permit; Branch Licenses; Removal of Unauthorized Monumentation; Removal of Unsafe Monumentation

Proposed: November 16, 2009 at 41 N.J.R. 4184(a).

Adopted: May 13, 2010 by the New Jersey Cemetery Board, William Nichols, Chairman.

Filed: May 17, 2010 as R.2010 d.092, **without change.**

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

Effective Date: June 21, 2010.

Expiration Date: May 2, 2011.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 2. DEFINITIONS

13:44J-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

...

"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.

...

SUBCHAPTER 5. CEMETERY COMPANIES

13:44J-5.3 Trust funds

(a)-(g) (No change.)

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

13:44J-5.4 Trust fund management; recordkeeping

(a)-(c) (No change.)

(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-5.7 Reclamation of interment spaces or niches

(a)-(e) (No change.)

(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.

SUBCHAPTER 7. MEMORIALS

13:44J-7.1 Memorials

(a) (No change.)

(b) 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:

1. In the absence of an agreement between the lot owner and the party having control over the remains, the lot owner shall not unreasonably withhold approval of a memorial on an interment space after an interment has been made therein;
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; and
3. 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)-(g) (No change.)

13:44J-7.2 Replacing or repairing a foundation

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

SUBCHAPTER 8. DISINTERMENT

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 [page=1239] 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) (No change in text.)

SUBCHAPTER 10. SALESPEOPLE

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) (No change.)

13:44J-15.1 Removal of unauthorized memorial, embellishment or impediment

(a) (No change.)

(b) A cemetery company may recover the cost of removing a memorial, embellishment or impediment, pursuant to (a) above.

(c) (No change.)

13:44J-15.2 Removal of unsafe memorial, embellishment or impediment

(a) (No change.)

(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) (No change.)