

NEW JERSEY REGISTER
VOLUME 32, NUMBER 23
MONDAY, **DECEMBER 4, 2000**
RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY CEMETERY BOARD
RULES OF THE NEW JERSEY CEMETERY BOARD
Additions to proposals are indicated by <<+ Text +>>; deletions from
proposals are indicated by <<- Text ->>.
Changes in tables are made but not highlighted.

Readoption with Amendments: N.J.A.C. 13:44J

Adopted Recodification with Amendments: N.J.A.C. 13:44J-5.6 as 6.1, 6.1 as 7.1, 6.2 as 5.8, 6.3 as 11.2 and 13.8 as 14.1

Proposed: September 5, 2000 at 32 N.J.R. 3261(a).

Adopted: October 12, 2000 by the New Jersey Cemetery Board, Frank J. DeGeeter, Jr., President.

Filed: November 6, 2000 as R.2000 d.487, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) with N.J.A.C. 13:44J-5.1(f) not deleted and recodified as N.J.A.C. 13:44J-5.2(g) and with proposed N.J.A.C. 13:44J-5.2(g) not adopted but still pending.

Authority: N.J.S.A. 8A:2-2 and 8A:4 et seq.

Effective Date: November 6, 2000, Readoption; December 4, 2000, Amendments and Recodifications. Expiration Date: November 6, 2005.

Summary of Agency Initiated Changes:

Upon review of the adoption, the Board has made changes to N.J.A.C. 13:44J- 10.3 by deleting a provision which requires applicants for renewal of cemetery salesperson licenses to submit a completed child support questionnaire with their renewal. The Board makes this change to reflect that it does not in fact send out a child support questionnaire when renewing cemetery salesperson licenses and it is not required to do so by law.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are dictated by State statute and are not subject to Federal requirements or standards.

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

Full text of the adopted amendments follows:

<< NJ ADC 13:44J-1.1 >>

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.

<< NJ ADC 13:44J-1.2 >>

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.

<< NJ ADC 13:44J-2.1 >>

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, N.J.S.A. 8A:1-1 et seq.

"Avenue" means a public way, street or thoroughfare.

"Board" means the New Jersey Cemetery Board.

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

"Cremains" means the recoverable bone fragments, container and retort residue resulting from the process of cremation.

"Cremation" means the reduction of the body of a deceased person to incinerated remains and shall constitute the final disposition.

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

"General maintenance charges" means the annual charge levied against each grave that was sold without any provision for maintenance and preservation on the part of the cemetery company.

"Grave" means a space of ground not exceeding 40 square feet in a cemetery used or intended to be used for interment of human remains.

"Interment" means the lawful disposition of human remains by burial, entombment or inurnment.

"Multiple depth grave" means more than one interment space in a grave.

"Non-titled space" means a grave in a plot, for which no title or deed is issued, that holds either a single interment or multiple interments of unrelated persons.

"Path" means a continuous course or way which has a minimum width of 30 inches and which primarily provides pedestrian access to interment spaces already sold. Path does not mean an avenue or other roadway or areas reserved or set apart for building purposes.

"Person" means a cemetery company, cemetery, individual, partnership, limited partnership, corporation, business association, trustee, municipality, or any officer or official board or agency of a cemetery or municipality.

... "Total cost of structure" as used in N.J.S.A. 8A:3-14e 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.

"Underground public mausoleum" means an integrated structure containing a minimum of 48 crypts set upon a poured concrete floor, with adequate drainage, and contained within walls of masonry construction. The crypts shall not include vaults as defined in N.J.S.A. 8A:1-2.

<< NJ ADC 13:44J-3.1 >>

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.-iv. (No change.)

v. Application fees:

(1) Sales of excess land plus one-half percent of gross sales in excess of \$100,000 500.00

(2) Merger/consolidation of cemeteries 500.00

(3) (No change.) (4) Renovation of grave areas 100.00

(5)-(7) (No change.)

2. Salesperson fees:

i. Application fee and temporary license 40.00

ii.-vi. (No change.)

3. Annual filing fee for maintenance and preservation of Trust Fund report 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.

SUBCHAPTER 4. ORGANIZATIONAL STRUCTURE

<< NJ ADC 13:44J-4.1 >>

13:44J-4.1 Organizational meetings

(a) The Board shall elect the following officers from among its members annually at the first Board meeting of each calendar year, which officers shall execute the following duties:

1. A chairperson, who shall:

i.-v. (No change.)

2. A vice-chairperson, who shall perform the functions of the chairperson during the absence or recusal of the

chairperson.

(b) (No change in text.)

<< NJ ADC 13:44J-5.1 >>

13:44J-5.1 Sale and installation of vaults

(a) Cemetery companies may not sell vaults.

(b) Cemetery companies may sell multiple depth below ground burial crypts that were installed prior to December 1, 1971.

(c) Cemetery companies may only install vaults or multiple depth 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.

<< NJ ADC 13:44J-5.2 >>

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. 8A:5-4 and 8:5-5. Except as set forth in (b) below, the collection of any charge that has not been posted and filed with the Board shall be a violation of the Cemetery Act.

(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 and posts the amendments at the office of the cemetery company and provides updated price lists upon request.

<<+(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.

<< NJ ADC 13:44J-5.3 >>

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 a grave, crypt 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 change.)
- (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 resale pursuant to N.J.S.A. 8A:4-5, 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 is sold or transferred.
- (g) A cemetery company shall pay fees and charges required by N.J.S.A. 8A:4-5 into its Maintenance and Preservation Fund in any case in which it gives an interment space, 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 crypts 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 by a society in liquidation does not constitute a resale 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. 8A:4-5. A cemetery company may, however, before recording the assignment of the interment spaces, 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 corporations, religious corporations, societies or unincorporated associations or societies which sell or transfer interment spaces 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 established by the cemetery company at the time of the resale or transfer, or \$25.00, whichever is greater. A credit shall be given for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space.

<< NJ ADC 13:44J-5.4 >>

13:44J-5.4 Trust fund management; recordkeeping

(a) All investments of cemetery trust funds shall be made pursuant to the "Prudent Investment Law," N.J.S.A. 3B:20-12 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.

<< NJ ADC 13:44J-5.5 >>

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 45031, Newark, NJ 07101, and the Attorney General, addressed to RJ Hughes Justice Complex, PO Box 112, Trenton, NJ 08625-0112.

<< NJ ADC 13:44J-5.6 >>

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) (No change.)

<< NJ ADC 13:44J-5.7 >>

13:44J-5.7 Reclamation of interment spaces

(a) A cemetery may reclaim an individual grave 25 or more years from the date of the sale of the grave if:

1. No interment has been made in the grave;
2. No provision for perpetual or endowed care or maintenance has been made; and
3. No annual care payment has been made during the past 25 years.

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

1. Send a certified letter, return receipt requested, to the owner of the grave, 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 the grave is sought to be reclaimed and subject to sale;

2. Publish a notice in a newspaper, whose circulation includes the county in which the grave is located, which lists the owner and any heirs of the owner listed in the cemetery's records. The notice shall state that, in the absence of written objection received within 30 days from the publication of the notice, the vacant grave will be subject to sale and that the net proceeds of the sale will be deposited in the cemetery's Maintenance and Preservation Fund; and

3. Send a copy of the published notice by certified mail, return receipt requested, to the owner of the grave, if living, or to the heirs listed in the cemetery records at their last known address at least 30 days prior to the sale of the grave.

(c) If the owner of the grave 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 grave no sooner than 30 days from the date of publication of the notice.

(d) The cemetery company shall deposit at least 85 percent of the gross proceeds received from the sale of the reclaimed grave in the Maintenance and Preservation Fund. Up to 15 percent of the gross proceeds of the sale of the reclaimed grave 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 grave shall be sold for the same price as other graves in the section in which the grave sold is located. If there are no graves available for sale in the section in which the reclaimed grave is located, the reclaimed space shall be sold for the same price as graves in a comparable section of the cemetery.

(f) The original owner of a reclaimed grave or the heirs of the owner may request reimbursement from the cemetery for the reclaimed grave 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 grave 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 grave was sold;

2. That the net proceeds of the sale of the grave were deposited in the Maintenance and Preservation Fund, and the date of the deposit;

3. The location of the grave and the identity of the original owner; and

4. That payment was made to the owner or heirs of the owner of the reclaimed grave.

<< NJ ADC 13:44J-5.8 >>

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.

SUBCHAPTER 6. DOCUMENTS AND GROUNDS

<< NJ ADC 13:44J-6.1 >>

13:44J-6.1 Rules and regulations of a cemetery company

A cemetery company shall file with the Board a copy of its rules and regulations. A cemetery company may amend or supplement its rules and 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)1iv.

<< NJ ADC 13:44J-6.2 >>

13:44J-6.2 Maps

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.

<< NJ ADC 13:44J-6.3 >>

13:44J-6.3 Paths

(a) Paths to interment spaces 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, the cemetery company shall ensure that paths to previously sold interment spaces 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.

(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 non-conforming, 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 non-conforming space with other space that conforms with this provision. After the transfer or exchange, the non-conforming plot shall be replotted or eliminated. The transfer or exchange of the non-conforming plot shall be provided at no expense to the lot owner beyond what the lot owner agreed to pay for the non-conforming plot.

<< NJ ADC 13:44J-6.4 >>

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.

SUBCHAPTER 7. MEMORIALS

<< NJ ADC 13:44J-7.1 >>

13:44J-7.1 Memorials

(a) (No change.)

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

1. (No change.)

2. The cemetery company may, pursuant to N.J.S.A. 8A:4-6, preclude the placement of a memorial until all general maintenance charges assessed on the lot and grave are paid.

(c) (No change.)

(d) A cemetery company may adopt reasonable rules and regulations regarding the size, form, color, composition, construction, placement, and inscription of any memorial, dedication or embellishment sought to be placed on cemetery premises. Such rules and 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 or embellishment 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) 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) (No change in text.)

<< NJ ADC 13:44J-7.2 >>

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 or grave 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 or grave 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.

<< NJ ADC 13:44J-7.3 >>

13:44J-7.3 Burial of monumentation

For the purposes of N.J.S.A. 8A:5-23, the burial of a monument or a memorial shall be considered a removal of that monument or memorial.

SUBCHAPTER 8. DISINTERMENT

<< NJ ADC 13:44J-8.1 >>

13:44J-8.1 Disinterment from a <<-non-tidal->> <<+non-titled+>> grave

Any cemetery company permitting interment in a non-titled grave 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.

<< NJ ADC 13:44J-8.2 >>

13:44J-8.2 Additional interment; obtaining disinterment permit

(a) In the event the remains already in an interment space must be lowered to accommodate an additional interment, a disinterment order shall be obtained permitting the lowering of the remains already in the interment space.

(b) A cemetery company shall open a multiple depth 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.

<< NJ ADC 13:44J-8.3 >>

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.

<< NJ ADC 13:44J-8.4 >>

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. 8A:3-14.

(b) A cemetery company may temporarily store human remains in a properly constructed receiving vault prior to final entombment or interment for not more than four years. 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 receiving vault and final resting place are within a single cemetery.

(c) A cemetery company may conduct temporary storage and transfer under this section only if the words "temporary storage" along with the location of the temporary storage within the cemetery appear on the burial permit.

(d) 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.

8A:5-18; and

3. The designated licensed funeral director or funeral establishment whose name appears on the death certificate and burial permit.

(e) (No change in text.)

(f) A cemetery company may not temporarily store the body of a person who died of a communicable disease as defined in N.J.S.A. 26:6-38.

SUBCHAPTER 9. CREMAINS

<< NJ ADC 13:44J-9.1 >>

13:44J-9.1 Shipment

A cemetery company may ship cremains through the U.S. Postal System, using registered mail, return receipt, or any other parcel service which provides a delivery document. The cemetery company shall label both the inside container and outside wrapper to identify the contents. The cremains shall be securely packaged and insured.

SUBCHAPTER 10. SALESPEOPLE

<< NJ ADC 13:44J-10.1 >>

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.

<< NJ ADC 13:44J-10.2 >>

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. (No change.)

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; and

8. A completed child support questionnaire.

(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 45 days.

(c) The Executive Director of the Board is authorized to extend the validity of a temporary license beyond the 45 day limit if:

1. The Board has not received the results of the criminal investigation by the end of the 45 day period; or
2. The Board has not had an opportunity to review the results of the criminal investigation within that 45 day 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.

<< NJ ADC 13:44J-10.3 >>

13:44J-10.3 Renewal of license

(a) 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<<-; and->><<+.+>>

<<-4. A completed child support questionnaire.->>

<< NJ ADC 13:44J-10.4 >>

13:44J-10.4 Possession of license

A licensed cemetery salesperson shall have the license in his or her possession whenever acting as a cemetery salesperson.

<< NJ ADC 13:44J-10.5 >>

13:44J-10.5 Multiple licenses

A cemetery salesperson selling for more than one cemetery company shall obtain a separate license for each cemetery company he or she sells for and pay the license fee for each cemetery but the applicant shall be required to pay only one application and temporary license fee.

<< NJ ADC 13:44J-10.6 >>

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.

SUBCHAPTER 11. INTERMENT SPACES

<< NJ ADC 13:44J-11.1 >>

13:44J-11.1 Inalienability of interment spaces

Any grave <<-or->><<+,+>> crypt <<+or niche+>> which has been used for interment or entombment shall be inalienable and shall only be transferred pursuant to N.J.S.A. 8A:7-2.

<< NJ ADC 13:44J-11.2 >>

13:44J-11.2 Transferability of interment space

Owners or heirs, devisees and legatees of owners of unused graves or crypts may grant, convey, sell or donate such graves or crypts.

<< NJ ADC 13:44J-13.1 >>

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)1ii, 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 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;

2. A completed information sheet;
3. An application fee as set forth in N.J.A.C. 13:44J-3.1(a)1ii, made payable to the New Jersey Cemetery Board;
4. A copy of the certificate of incorporation pursuant to Title 15A 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 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 an Initial Balance Fund of \$25,000 pursuant to the requirements of N.J.S.A. 8A:4-3, 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) The Board may request additional information from the applicant regarding the application.

(h) 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.

(i) 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.

(j) 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.

<< NJ ADC 13:44J-13.2 >>

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.-ii. (No change.)

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. 8A:3-17; 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.

<< NJ ADC 13:44J-13.3 >>

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. (No change.)

ii. A list of the board of trustees or directors;

iii.-vi. (No change.)

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 the lot owners of each cemetery company voting at a lot owners meeting for which adequate notice was given; and

5. A proposal for the continued administration of the Maintenance and Preservation Fund.

(c) The Board may request additional information from the cemetery company regarding the application for merger or

consolidation.

<< NJ ADC 13:44J-13.4 >>

13:44J-13.4 Application for sale of cemetery lands

(a) No cemetery company shall sell land or grant an easement 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. 8A:5-3;

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.

(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; and

3. Payment to the cemetery company, if any.

(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.

<< NJ ADC 13:44J-13.5 >>

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. 8A:6-1 and 8A:6-6, 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. 8A:6-5.
- (c) The Board may request additional information from the cemetery company regarding the application for enlargement of cemetery lands by purchase.

<< NJ ADC 13:44J-13.6 >>

13:44J-13.6 Application to lease or license unused cemetery lands to a nonprofit, religious, educational or charitable organization

- (a) A cemetery company shall not lease or license unused cemetery lands to a nonprofit, religious, educational or charitable organization without prior approval of the Board. Any proceeds from the lease or license shall be used to pay the debts and liabilities of the cemetery company or to improve the cemetery.
- (b) An application to lease or license unused cemetery lands to a nonprofit, religious, educational or charitable organization pursuant to N.J.S.A. 8A:6-12 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 for two years following the meeting of the board of trustees or directors approving the application;
 2. A tax map, or other equivalent official map, of the land which indicates that it abuts a public street or highway;
 3. A certified statement by the prospective lessee that it is a nonprofit, religious, educational or charitable organization;
 4. A certified statement by the prospective lessee describing the expected use to be made of the portion of land;
 5. Evidence that there is an access from the abutting public highway or street;
 6. A copy of the lease; and
 7. 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.
- (c) The Board may request additional information from the cemetery company regarding the application to lease or license unused cemetery lands.

<< NJ ADC 13:37-13.7 >>

13:37-13.7 Leasing unused cemetery lands to a for-profit entity

(a) A cemetery company may lease unused land not dedicated for cemetery purposes to a for-profit entity pursuant to N.J.S.A. 8A:6-2.

(b) A cemetery that wishes to lease unused land to a for-profit entity shall provide the Board with:

1. A copy of the lease;
2. A statement by the board of trustees or directors that the parcel has not been laid out into burial plots or lots;
3. 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 or to improve the cemetery, or both; and
4. 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. 8A:5-3.

(c) The Board may request additional information from the cemetery company regarding the application to lease unused cemetery lands.

SUBCHAPTER 14. SALES OF INTERMENT SPACES

<< NJ ADC 13:44J-14.1 >>

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

(a) <<-No cemetery company shall make a bulk sales without prior Board approval.->> <<+No bulk sales made by a cemetery company shall become effective until approved by the Board.+>>

(b) No cemetery company shall sell graves to a membership corporation, religious corporation, society or unincorporated association or society without prior Board approval if the sale to the membership corporation, religious corporation, society or unincorporated association or society would cause the number of graves held by the membership corporation, religious corporation, society or unincorporated association or society, or its members, to be more than 17 interment spaces.

(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. (No change.)
2. A statement by the cemetery company that:
 - i. The transaction conforms to N.J.S.A. 8A:7-12 and 8A:9-7;
 - ii. The cemetery company will deposit into its Maintenance and Preservation Fund at least 15 percent of the gross sales price of the interment spaces, or \$25.00 per grave, whichever is greater, as payments are received;
 - iii. The cemetery company is aware that, if the purchaser resells or transfers an interment space in the future, at least 15 percent of the gross sales price for similar interment spaces established by the cemetery company at the time of resale, or \$25.00, whichever is greater, 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; and

iv. The cemetery company is selling the interment spaces in good faith and does not have any knowledge of any speculative intent on the part of the purchaser which would violate N.J.S.A. 8A:7-12 and 8A:9-7;

3. A certified statement by an officer of the membership corporation, religious corporation, society or unincorporated association or society which provides interment spaces 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. 8A:7-12 and 8A:9-7;

iii. (No change.)

iv. If the purchaser transfers or resells any interment space 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 gross sales price for similar interment spaces established by the cemetery company at the time of resale, or \$25.00, whichever is greater, 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;

v. The purchaser is purchasing the interment spaces in good faith and does not have any speculative intent which would violate N.J.S.A. 8A:9-7; 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.

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

<< NJ ADC 13:44J-14.2 >>

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

(a) A membership corporation, religious corporation, society, or an unincorporated association or society, which wishes to sell interment spaces to another membership corporation or religious corporation or society, or to an unincorporated association or society pursuant to N.J.S.A. 8A:9-7, 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 graves shall include the following:

1. A copy of the contract of sale, which shall include the names of the parties, the number of graves 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. 8A:9-7;

iii. The organization is aware that at least 15 percent of the gross sales price of the interment spaces, or \$25.00 per grave, whichever is greater, 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 in good faith and does not have any knowledge of any speculative intent on the part of the purchaser which would violate N.J.S.A. 8A:9-7;

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. 8A:9-7;

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

iv. If the purchaser transfers or resells an interment space, 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 gross sales price for similar interment spaces established by the cemetery company at the time of resale, or \$25.00, whichever is greater, but the purchaser shall receive a credit for any money previously paid into the Maintenance and Preservation Fund in connection with the interment space;

v. The organization is purchasing the interment spaces in good faith and does not have any speculative intent which would violate N.J.S.A. 8A:9-7; and

vi. The purchaser shall forward 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 statement by the cemetery company that:

i. It is aware that an amount equal to at least 15 percent of the sale price for the interment spaces, or \$25.00, whichever is greater, must be deposited into the Maintenance and Preservation Fund of the cemetery company when a membership or religious organization resells its interment spaces 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;

ii. It is aware that, if the purchasing organization resells or transfers an interment space to a member, at least 15 percent of the gross sales price for an equivalent interment space established by the cemetery company at the time of resale, or \$25.00, whichever is greater, 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; 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 a speculative intent which would violate N.J.S.A. 8A:9-7.

(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 solely for its members and their families.

SUBCHAPTER 15. REMOVAL OF MONUMENTATION

<< NJ ADC 13:44J-15.1 >>

13:44J-15.1 Removal of unauthorized monumentation

Monumentation that has not been authorized by the cemetery company may be removed by the cemetery company.

<< NJ ADC 13:44J-15.2 >>

13:44J-15.2 Application for removal of monumentation

(a) If a cemetery company wishes to remove a monument, railing, box or other form of monumentation which is damaged, vandalized or otherwise not maintained, the cemetery company shall send by certified letter, return receipt requested, a request to remove the monumentation to the interment space owner, owners or other interested parties and obtain the written consent of the owner or, if there are multiple owners, one of the owners to the removal.

(b) The written notification shall inform the owner that the cemetery intends to remove the monumentation and, that if written consent to the removal is not received, the cemetery may apply to the Board for authorization to remove the monumentation. The cemetery shall also notify the owner that he or she has the right to appear before the Board to oppose the application for removal of the monument.

(c) If the cemetery company is unable to obtain written consent, either because the owner fails to consent or because the cemetery after diligent effort is unable to locate the owner, it may submit an application for removal to the Board. The application for removal shall include:

1. The reasons for the removal of the monument, railing, box or other form of monumentation;
2. A statement by an officer of the cemetery company that the cemetery company is unable, after diligent effort, to obtain written permission from the owner of the interment space or lot; and
3. Photographs of the monumentation sought to be removed.

(d) The Board may request additional information from the cemetery company regarding the application for the removal.

(e) If the cemetery company is unable to obtain written consent <<+because it is unable to locate the owner+>>, it shall publish, in a newspaper whose circulation includes the county in which the grave is located, a notice of intent to remove the monument, railing, box or other form of monumentation. The newspaper notice shall contain the same information required by (b) above.

(f) The Board shall not authorize the removal of the monument, railing, box or other form of monumentation until 30 days have passed since the publication of the notice.

(g) When the Board grants authorization to remove <<+a+>> monument, railing, box or other form of monumentation, it shall direct the cemetery company to provide for the monumentation of the interment space.

<< NJ ADC 13:44J-15.3 >>

13:44J-15.3 Removal of dangerous monumentation

(a) A cemetery company may remove a dangerous monumentation. The cemetery company may place the monumentation on the interment space unless such placement would pose a danger.

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

1. Take pictures of the dangerous monumentation prior to moving and maintain these photographs as part of its records; and

2. Notify the owner or interested parties by certified letter, return receipt requested that dangerous monumentation has been moved. If the letter to the owners is not received, the cemetery shall publish notice of the removal of the monumentation in a newspaper whose circulation includes the county in which the cemetery is located.

(c) The cemetery company may apply to the Board to dispose of the monumentation six months from the date of

notification if it has not heard from the owner, owners or interested parties. Applications should include the reasons for the disposal of the monumentation, proof that the certified letter has been sent to the owner, interested parties and newspaper, and photographs of the monumentation from (a) above.

(d) If the owner, owners, or interested parties believe that the monument was not dangerous, and that the removal was not necessary, they may apply to the Board for its review.

(e) If the Board finds that removal of the monumentation was unnecessary, the Board shall direct the cemetery company to provide monumentation for the space.