

## CEMETERIES AND CREMATORIA BY-LAW

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### CEMETERIES AND CREMATORIA BY-LAW

#### 1. Purpose of this By-Law

- To provide for cemeteries for the burial of dead bodies;
- To provide for procedures, methods and practices to regulate the burial and exhumation of dead bodies, the provision of grave plots and the maintenance thereof.

#### 2. Definitions

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa:

“**Berm**” means a concrete strip laid by the Municipality on a grave plot, on which a memorial stone, if any, is to be erected;

“**Body**” shall mean any dead human body, including the body of any stillborn child;

“**Burial**” means burial in the earth or some other form of internment and shall include any other mode of disposal of a body;

“**Burial Order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**Cemetery**” means any burial place which, as contemplated in section 3, has been duly set apart by the Municipality for the burial or disposal of bodies within the municipal area;

“**Holder Of Reservation Certificate**” means a person to whom a certificate has been issued in terms of section 10 or transferred to in terms of section 11;

“**Municipal Area**” means the area described in Clause 2(1) of the Establishment Notice published

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under Provincial Notice 487 dated 22 September 2000;

**"Municipality"** means \_\_\_\_\_ Municipality of the established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"Name"** includes any identifying description of a deceased human being who possessed no name or whose name is unknown.

### **3. Application**

This by-law shall be applicable in the municipal area of \_\_\_\_\_.

### **4. Establishment**

The Municipality may set apart any area as a cemetery for the burial of the dead of any religious denomination or other body or community; provided that such setting apart shall not entitle any person to be buried in any particular place in a cemetery.

### **5. Control**

Cemeteries shall be under the control of the Municipality.

### **6. Authority for burial**

(1) No person shall bury any body in the earth or cause such body to be so buried within the municipal area other than in a cemetery.

(2) (a) No body shall be buried in the earth in a cemetery within the municipal area permission of the municipality.

(b) Such permission shall not be given without a burial order authorising such burial, and

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payment of the fees determined by the municipality. If the grave plot has been reserved in terms of section 10, the certificate concerned shall be produced in lieu of payment of the relevant fees.

- (3) The municipality may at its discretion, in such manner as it may deem fit; allow the burial of any body without charge in that portion of a cemetery set apart for such purpose.

### **7. Hours of burial**

Except with the permission of the municipality, who shall record the circumstances under which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.

### **8. Register of burials**

- (1) The municipality shall keep a register of burials and of graves.
- (2) Such register shall be completed as far as possible immediately after a burial has taken place.

### **9. Demarcation of grave plots**

The municipality shall demarcate grave plots in accordance with an approved layout plan.

### **10. General provisions relating to cemeteries and burials**

- (1) No person under the age of 12 years shall enter any cemetery unless he is in the care of an adult or he does so with the approval of the municipality.
- (2) No person shall enter or leave any cemetery except by the gates provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery except on business.
- (3) No person shall carry on any trade or solicit any business, or exhibit, distribute or leave any business card or advertisement, within any cemetery, except on sites specifically determined and set apart for such purposes.
- (4) No person shall sit, stand or climb upon any grave, tombstone, work, gate, wall, fence or

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building in any cemetery.

- (5) No person shall bring or cause to be brought any animal into any cemetery without the permission of the municipality.
- (6) No person shall obstruct, resist or oppose the municipality or any employee of the municipality in the course of his duty, or refuse to comply with any order or request which the municipality may give or make under this by-law.
- (7) No person shall destroy or do or cause to be done any damage to, or shall mark or draw or erect any advertisement, bill or placard upon, or in any other way deface any grave, tombstone, monument, wall, building, fence, railing or other structure or any road in any cemetery.
- (8) Except where it is expressly permitted by this by-law or the consent of the municipality has been obtained, no person shall disturb the soil, or plant or uproot any plant, shrub or flowering plant, or in any way interfere with any grave or structure in any cemetery.
- (9) No person shall play any game or take part in any sport or fire any firearm or discharge any airgun or catapult, or disturb or interfere with any person in any cemetery.

### **11. Reservation of grave plots**

- (1) (a) Except in the case of grave plots reserved in terms of subsection (2), every grave plot in respect of which a burial has been authorised in terms of this by-law shall be reserved in the name of the next of kin, and, in the event of there being no known next of kin, in the name of the person applying for the grave.
- (b) Where a burial has been authorised upon application received from a body or an association or institution or the government, the plot allotted for such burial shall be reserved in the name of such body, association or institution or the Government, as the case may be.

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- (2) A grave plot for a person of the age of nine years or over as specified in section 15(1) may in the discretion of the municipality be reserved in advance upon application submitted to the municipality and upon payment of the respective grave plot charges as determined by the municipality, provided that no reservation effected in terms of this subsection shall confer the right for the body of a person who at the time of his death was liable for the payment of the additional charges, as determined by the municipality, to be buried in the grave plot in respect of which such reservation was effected, unless such additional charges shall have been paid.
- (3) A certificate of reservation in the form prescribed in the First Schedule to this by-law shall be issued in respect of every grave plot reserved in terms of this by-law.

### **12. Provisions relating to the transfer of certificates of reservation**

- (1) A certificate of reservation in respect of any grave plot may be transferred, assigned or alienated with the written consent of the municipality in the form prescribed in the Second Schedule to this by-law.
- (2) All particulars in regard to every reservation and transfer in terms of section 10 and subsection (1) of this section shall be entered and shown in the register of burial and graves.
- (3) At the request of any religious denomination, the municipality may in such manner as the municipality may deem fit, set apart within a cemetery such area of land as the municipality may deem necessary for the burial of the bodies of persons belonging to such denomination and for the use of persons belonging to such denomination for such other purpose as may in the discretion of the municipality be incidental to the purpose of the cemetery; provided that the municipality may at its discretion utilise the land so set apart for other purposes.
- (4) No persons shall acquire any title to or ownership of any grave plot reserved in terms of section 10 or any land set apart in terms of subsection (3), and no person shall acquire any right to or interest in any such grave plot or land in any cemetery other than such rights or interest as may be permitted under this by-law.

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### **13. Burial orders: Numbering of graves**

- (1) A notice of every burial in the form prescribed in the Third Schedule of this by-law shall, together with the burial order concerned, be delivered at the office of the municipality not less than eight working hours before any burial is to take place; provided that where a grave is to be re-opened for a second burial or where a new grave is to be dug, the said notice shall be delivered not less than 24 hours before such burial is to take place unless, in the opinion of the municipality, the burial of the body is a matter of urgency, in which case the time limit specified in this subsection shall not apply.
- (2) Every such notice shall be accompanied by the fees determined by the municipality and, in the case of the prior reservation of a grave plot, also by the certificate of reservation or transfer concerned, as the case may be.
- (3) The municipality shall, as soon as possible, issue the necessary authority for such burial.

### **14. Removal of monuments or structures**

- (1) If it is necessary to remove a monument or other structure for the purpose of a burial, it shall be removed by the holder of the certificate of reservation in respect of such plot or by his duly authorised representatives not less than eight working hours before the burial is to take place.

### **15. Grave to be identified**

- (1) In every case where a burial has been authorised in terms of section 12, the municipality shall number the plot allotted for such burial and no person shall bury any body in any grave other than that allotted by the municipality for such purpose.

### **16. Dimensions of graves**

- (1) The excavation for a single grave for a deceased person of the age of nine years or over shall be at least 1800mm deep, 2 200 mm long and 750mm wide.
- (2) The excavation for a single grave for a deceased person under the age of nine years shall be at least 1 300mm deep, 1 200mm long and 750mm wide.

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### **17. Provisions relating to grave plots**

- (1) The extent of a grave plot for a deceased person of the age of nine years or over shall be 2 500mm by 1 500mm; provided that in the case of a grave plot which is supplied with a berm, the width shall be reduced by 300mm.
- (2) The extent of a grave plot for a deceased person under the age of nine years shall be 1 500mm by 1 000mm.
- (3) The width of a kerb on any grave plot shall be 150mm.
- (4) The extent of any double grave plot shall be double the extent of any single grave plot.
- (5) Where a grave of a greater depth, length or width than that specified is required, application in respect thereof, together with payment of an extra fee, as determined by the municipality, shall be made when notice of burial is given.
- (6) All graves shall be prepared by the municipality with the exception of bricklined or concretelined graves, in which case the brick work or concrete work shall be carried out by the undertaker under the supervision of the municipality and in conformity with the specifications applicable to ordinary graves.

### **18. Burials in one grave**

- (1) In the case of a family, more than two bodies may be buried in one single grave at the discretion of the municipality; provided that not more than two coffins shall be used; provided further that the lid of the second coffin placed in the grave under no circumstances be less than 900mm from the surface, that, in the event of the reopening of the grave for the purpose of the burial of a further body, a layer of soil not less than 150mm thick shall be left undisturbed above the coffin previously placed in the grave and that, if on the reopening of any grave the soil is found to be offensive, the reopening shall not be proceeded with and the grave shall be refilled.

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### **19. Preparation of graves, and coffins**

- (1) All graves shall be prepared under the supervision of the municipality.
- (2) Bodies shall be placed in coffins for burials.
- (3) A coffin not constructed of perishable material shall not be placed or caused to be placed in a grave.

### **20. Provisions relating to funerals**

- (1) No person shall, without prior permission of the municipality, conduct any religious ceremony or service according to the rights of any denomination in any portion of any cemetery which in terms of section 11 (3) has been set apart by the municipality for the use of any other denomination.
- (2) No person shall cause any hearse, while a cemetery, to leave the roads and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (3) Every person taking part in any funeral procession or ceremony shall comply with the directions of the municipality as to the route to be taken within the cemetery.

### **21. Provisions relating to exhumations**

- (1) No person shall, unless authorised thereto by written order by the appropriate authority, exhume or cause to be exhumed any body.
- (2) Any person duly authorised to exhume a body in terms of subsection (1) shall hand the order in respect thereof to the municipality and shall give him not less than eight working hours' notice of the date and time proposed for the exhumation of such body and shall at the same time pay the fees determined by the municipality.
- (3) No person shall exhume or remove any body unless the employee of the municipality who is responsible for cemeteries is present.

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- (4) The grave from which any body is to be removed shall, if the municipality so requires, be effectively screened from view during the exhumation.

### **22. Provisions relating to memorial stones or monuments**

- (1) No person shall bring or cause to be brought any material into any cemetery for the purpose of carrying out any work in connection with a memorial stone or brickwork or stonework upon any grave, and no person shall erect or place in position any tombstone, kerbing, or monument or any structure whatsoever on any grave, unless and until -

(a) the grave plot shall have been reserved in terms of section 10 (1) in the name of the person authorising such work;

(b) a drawing with dimensions and figures thereon showing the position of the proposed work together with a specification of the material to be used, and a copy of any proposed epitaph or ornamentation have been handed to the municipality not less than three working days before it is intended to bring such material into the cemetery;

(c) all fees, determined by the municipality, which are due in respect of such work shall have been paid;

(d) the municipality's written approval of the proposed work shall have been given to the holder of the certificate of reservation or his authorised representative.

- (2) The municipality may refuse to approve any proposed work with regard to a memorial stone or monument, the plan and specification of which reveals that it will disfigure any cemetery, or which bears any epitaph which may cause offence to users of the cemetery or visitors to it.

- (3) No person shall convey any stonework or brickwork or monuments or any portion thereof within any cemetery upon any vehicle or truck which is not fitted with wheels having pneumatic tyres and which is of a kind likely to cause damage to the roads and grounds of such cemetery.

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- (4) No person engaged in work in connection with any memorial stone or monument shall at any time disturb any adjacent grave plot or, on completion of the work, leave the grave plot before it is in a clean and tidy condition.
  
- (5) All work in connection with a monument which is carried out within any cemetery shall be completed in accordance with the drawing and specification approved in terms of subsection (1).
  
- (6) Any person carrying out any work in connection with any memorial stones or monuments shall comply with the following provisions:
  - (a) The various parts of any memorial stone or monument, other than masonry, shall be affixed by copper or galvanised iron dowel pins of a length and thickness sufficient to ensure the permanent stability of the work;
  
  - (b) any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;
  
  - (c) the underside of every flat memorial stone made of stone and the base or foundation of every monument or headstone shall be set at least 50mm below the natural level of the ground;
  
  - (d) every headstone shall be securely attached to the base;
  
  - (e) the base shall consist of one solid piece in the case of a single grave plot;
  
  - (f) all kerbing or monuments on single grave plots shall be erected on concrete foundation at least 610mm wide and 205mm deep over the full width;
  
  - (g) all kerbing on plots larger than single grave plots shall be fixed to a solid concrete surface at the four corners and wherever joints occur;

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- (h) the municipality may require any concrete foundation on any grave plot to be reinforced where, owing to the mass of the monument or headstone, it is necessary in the interests of safety.
- (7)
  - (a) No person shall erect any memorial stone within any cemetery unless the number and section letter of the plot upon which such work is to be placed are indelibly engraved thereon in such a position as to be legible at all times from a pathway.
  - (b) With the consent of the registered certificate holder, the name only of the maker of such memorial stone may appear on the base.
- (8) No person shall, without municipality's permission, bring any memorial stone or material into a cemetery nor do any work in connection with any memorial stones or monuments within any cemetery from twelve noon on a Saturday until the opening hour on the following Monday.
- (9) Any person carrying out work within any cemetery shall in all matters comply with the directions of the municipality.

### **23. Grave plots supplied with a berm**

- (1) Notwithstanding anything to the contrary contained in this by-law, a grave plot which is supplied with a berm shall be subject to the following conditions:
  - (a) No kerbing shall be erected on such a plot.
  - (b) The base of a memorial stone shall not be larger than 610mm by 260mm; provided that the base of a memorial stone which is erected over two adjoining grave plots may be 1220mm by 260mm.
  - (c) A memorial stone which is erected shall not protrude beyond the base and shall be at

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least 120mm from the front edge of the berm.

### **24. Maintenance of graves**

- (1)
  - (a) Any memorial stone or monument erected upon any grave shall at all times be maintained in good order and condition by the holder of the reservation certificate in respect of such grave.
  - (b) If any such memorial stone or monument is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the municipality may, by written notice sent by registered post to the holder of the reservation certificate at his last-known postal address, require him to effect such repairs as may be necessary.
  - (c) Failure on the part of the holder of the reservation certificate to effect the required repairs within one month of the date of such notice shall be a breach of this by-law and the municipality may have the repairs effected or may have the memorial stone or monument removed, as it deems fit, and may recover the expense of such repairs or removal from the holder of the reservation certificate.
- (2)
  - (a) Any memorial stone or monument dismantled for the purpose of a further burial shall be either re-erected or removed from the cemetery by the holder of the reservation certificate within two months of date of such dismantling.
  - (b) Failure to do so shall constitute a breach of this by-law.
  - (c) In the event of such failure, the municipality shall be entitled to remove any such dismantled memorial stone or monument from the cemetery without further notice to the holder of the reservation certificate and recover from him the cost of such removal.
- (3) The municipality shall not be liable for any loss of or damage to any memorial stone, monument or any article placed upon any grave plot which may occur at any time from any cause whatsoever, nor for any compensation in respect of any memorial stone or monument

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repaired or removed in terms of subsections (1) and (2).

- (4) (a) No person shall without the prior permission in writing of the municipality plant any tree, shrub, bush or any other plant on any grave plot, nor shall any such tree, shrub, bush or plant be planted upon any portion of such plot other than that indicated by the municipality.
- (b) No holder of a reservation certificate shall allow any shrub, bush or plant to overhang or extend beyond the boundaries of such grave plot.
- (5) The municipality shall have the right to remove, trim or prune any plant which extends beyond the boundaries of the grave plot upon which it is planted or which is untidy.

### **25. Provisions relating to persons dying outside the municipal area**

- (1) The provisions of this by-law shall apply *mutatis mutandis* to any burial within the municipal area of the human remains of any person who has died outside such area.
- (2) Every application and every document relating to any burial shall be marked with a number which corresponds with the number in the register referred to in section 7 and shall be filed in order and kept by the Municipality for a period of not less than 10 years.

### **26. Fees payable**

- (1) All fees payable in respect of burials shall be determined by the municipality from time to time.

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### **27. Offences and penalties**

Any person contravening the provisions of this by-law shall be guilty of an offence and liable on conviction to-

- (1) a fine or imprisonment for a period of six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention.

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**SCHEDULE 1**

\_\_\_\_\_ MUNICIPALITY

**CEMETERIES**

Certificate of Reservation no.....

(Issued in terms of section 10)

This serves to certify that ..... of .....having paid the prescribed fees of R ....., is entitled to use the site(s) described below for the purposes of burial:

Grave plot no. .... Section .....

Measuring .....

Cemetery .....

Dated at .....this.....day of ..... 20.....

.....  
\_\_\_\_\_ Municipality

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**SCHEDULE 2**

\_\_\_\_\_ **MUNICIPALITY**

**CEMETERIES**

Transfer of Certificate of Reservation no.....

(Issued in terms of section 11)

This serves to certify that Certificate of reservation No.....in respect of grave plot no..... has been transferred from.....

Address.....

To.....

Address.....

Transferor

Confirmed on behalf of the Municipality on this ..... day of .....20.....

.....  
\_\_\_\_\_ Municipality

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**SCHEDULE 3**

\_\_\_\_\_ MUNICIPALITY

Application for burial no .....

To the Municipality of Cemeteries

.....20.....

Please supply grave in

.....

Denomination

.....

Size of coffin lid .....

Time at gate .....

For the late (state name and surname in full)

.....

Nationality.....

Sex.....

Age .....

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(1) Address where death occurred

.....

(2) Residential address

.....

Date of death .....

Cause of death .....

Name of next of kin .....

Name of applicant .....

.....

Undertaker