

City of Johannesburg Metropolitan Municipality

CEMETERIES AND CREMATORIA BY-LAWS

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**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAWS**

The Municipal Manager of the City of Johannesburg Metropolitan Municipality hereby, in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Cemeteries and Crematoria By-laws, 2004, for the City of Johannesburg Metropolitan Municipality, as amended and approved by its Council on 2 December 2025, as set out hereunder.

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY
CEMETERY AND CREMATORIA BY-LAWS**

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SCHEDULE 1
REPEALED BY-LAWS

CHAPTER 1
INTERPRETATION

1. Definitions

(1) In these by-laws, unless the context indicates otherwise:

“above-ground burial” means when a structure is employed for the interment of a body and such structure is located above normal ground level;

“administrator of cemeteries” means the head of the section or department of the Council, which has the responsibility for the administration of the cemeteries of the Council, and any person acting in his or her stead or any person duly authorised by the Council to act on his or her behalf.

“administrative check” means the process to ascertain the correctness of a burial(s), through, but not limited to, the opening of a grave to check the coffin and any other item placed on or in the coffin at the time of the burial.

“adult” means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40 m in length and 400 mm in width;

“after-hours fee” means a fee over and above the set norm or fee for burial or cremation outside normal weekday cemetery operating hours, save in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

“anatomy subject” means a body delivered to an authorised school of anatomy in terms of the Anatomy Act, 1959 (Act No. 20 of 1959);

“ashes” means the cremated remains of a body;

“authorised official” means:

- (a) any official of the Council or an entity of Council;
- (b) an employee of a management authority, or other person, acting as such on the written authorisation of a management authority;
- (b) an enforcement officer;

“berm” means a concrete base on which a memorial is erected;

“berm section” means a section set aside by the Council in a cemetery, where memorial work is erected on a berm;

“Births and Deaths Registration Act” means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

“body” means any dead human body, including the body of a stillborn child;

“burial order” means an order issued in terms of the Births and Deaths Registration Act;

“burial” means burial or inhumation into earth or any other form of interment and includes a tomb and any other mode of disposal of a body;

“cemetery” means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

“child” means a deceased person who is not an adult;

“coffin” means a receptacle to hold a body for burial and / or cremation;

“columbarium” means the place set aside in a crematorium or chapel for the placement in a niche of a receptacle containing ashes;

“Commonwealth war grave” means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

“corpse” means the remains of a deceased person and includes a still-born and foetus;

“Council” means:

- (a) the Metropolitan Municipality of the City of Johannesburg established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.

“cremation” means the disposal of a human body by means of incineration;

“crematorium” means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which the ceremony is conducted, and where the cremation carried out;

“crematorium section” means a section of a cemetery or crematorium set aside by the Council for the burial and retention of ashes;

“cremated remains” means all recoverable ashes after the cremation process;

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act 51 of 1977);

“crypt” means an individual compartment in a mausoleum for the placement of human remains;

“disposal of a body” means the burial, cremation, placing in a mausoleum or disposal of a human body by any other lawful means;

“enforcement officer” means a peace officer as contemplated in terms of section 334 of the Criminal Procedure Act and includes:

- (a) a member of the South African Police Services (SAPS);
- (b) a member of the Johannesburg Metropolitan Police Department (JMPD);
- (c) any authorised official who is designated as a peace officer;

“exhumation” means the physical removal of a body from its grave or mausoleum, tomb or crypt;

“funeral undertaker” means any person, organisation or corporate body in the business of, or which undertakes or organises the burial or cremation of corpses for commercial gain;

“garden of remembrance” means a section of a cemetery or crematorium set aside for the erection of memorial work, placing or scattering of ashes, but does not include a columbarium;

“grave” means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place, a mausoleum, tomb, crib and any other structure on or associated with such place;

“grave of conflict” means the grave of a person who died while defending the country;

“hero” means a person who performed a heroic act for the country and who is given the status of a hero by the Council;

“heroes’ acre” means an area of land set aside for the burial of a hero;

“indigent person” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or non-governmental organisation can be found to bear the burial or cremation costs of such deceased person, and includes a pauper;

“indigent relief” means assistance received for the burial or cremation of an indigent person;

“interment” means any placement of a corpse or ashes to their final resting place;

“landscape section” means a section in a cemetery set aside by the Council where memorial work is restricted to a plaque or memorial slab;

“lawn section” means a section in a cemetery set aside by the Council where memorial work is restricted to a headstone only;

“management authority” means, in relation to a cemetery or crematorium, the municipal entity or other institution or person in which the authority to manage and control the cemetery or crematorium is vested through powers delegated to it by Council;

“mausoleum” means an above-ground burial chamber/chambers to accommodate a body/bodies and a coffin/coffins within such chamber/s stacked vertically and/or horizontally in varying forms and heights;

“Medical Officer of Health” means the officer appointed by Council in terms of the applicable legislation as medical officer of health, or any other person acting in the capacity of the medical officer of health as appointed by the Council from time to time;

“memorial section” means a section of a cemetery set aside for the erection of memorials;

“memorial wall” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

“memorial work” means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“municipal area” means the area under the control and jurisdiction of the Council;

“niche” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“normal operational hours” means Monday to Friday 08:00 to 15:00 excluding Saturdays, Sundays and public holidays;

“office hours” means Monday to Friday 07:00 to 16:00 excluding Saturdays, Sundays and public holidays;

“officer-in-charge” means the registrar of a crematorium appointed in terms of Regulation 21 of the Regulations Relating to Crematoria and Cremations, made in terms of Ordinance No. 18 of 1965, as amended, and includes a person authorised by the Council to be in control of any cemetery;

“ordinance” means the Crematorium Ordinance, 1965 (Ordinance No. 18 Of 1965) and its amendments;

“peace officer” means a person appointed as a peace officer in terms of section 334 of the Criminal Procedure Act;

“prescribed” means prescribed by the Council;

“prescribed fee” means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993(Act No. 209 of 1993), or any other applicable legislation;

“private cemetery” means any cemetery, including a crematorium and pet cemetery within the geographic boundaries of the COJ and/or areas within a municipal cemetery set aside and under the administration of a private organisation, and in the case of pet cemeteries for the burial or cremation or storage of animal remains;

“private cemetery operation” means a set of regulations approved by the appropriate authority for the operation of such a cemetery or crematoria.

“regulation” means a regulation published in terms of the Ordinance;

“South African Heritage Resources Agency” means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

“stone mason” means a person carrying on business as a stone mason;

“tomb” means an above- or underground burial vault;

“undertaker” means a person whose business is preparing dead bodies for burial or cremation and making arrangements for funerals;

“victim of conflict” means a person defined as such in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

(2) If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, to an employee of the service provider authorised by it.

CHAPTER 2 DISPOSAL OF A BODY

2. Requirements for disposal of a body

- (1) No person shall, save with the prior written consent of the Council, dispose of or attempt to dispose of a body, other than by burial in a cemetery or by cremation in a crematorium.
- (2) A person may not bury or cremate a body in a cemetery without:
 - (a) the permission of the officer-in-charge; and
 - (b) arranging a date and time of such burial with such officer-in-charge.

3. Application for burial

- (1)
 - (a) A person intending to bury a body must complete and submit the prescribed application form to the officer-in-charge for approval.
 - (b) The next of kin of the deceased, or such other person who is authorised by the next of kin of the deceased, must sign such application.
 - (c) Despite the provisions of paragraph (b), the officer-in-charge may, if he or she is satisfied that the signature of the next of kin cannot be obtained timeously, approve an application by an interested party.
 - (d) The applicant must:
 - (i) submit the application at least three (3) working days before the burial;

- (ii) indicate whether the application is in respect of a first, second or third burial, in respect of a particular grave; and
 - (iii) indicate the date and time for such burial.
- (2) The officer-in-charge must approve an application if:
 - (a) it is accompanied by an original burial order in terms of the Births and Deaths Registration Act;
 - (b) the prescribed fee has been paid; and
 - (c) an application in terms of subsection (1) has been submitted.
- (3) In the case of a burial where the timelines and requirements prescribed in subsections (1) and (2) cannot reasonably be complied with on the premise of religious, cultural or exceptional requirements of the deceased and his/her family members, and who desire for the body to be interred on the same day of the death of the deceased, or the day thereafter and upon payment of the prescribed fee (or after-hours fee if applicable), such application for interment shall be submitted on the first working day after the interment, accompanied by any supporting documentation as may be necessary and required by the officer-in-charge.
- (4) The officer-in-charge must, where necessary, consider the customs of the deceased, and the people responsible for the burial.

4. Reservation of a grave

- (1) Any reservations previously approved for the reservation of a grave plot, must be re-confirmed by the applicant every 10 (ten) years from the date of first reservation and any failure to do so will result in the cancellation of the reservation.
- (2) In re-confirming the reservation of a specific grave plot, the beneficial holder of the reserved grave plot shall provide the officer-in-charge with the certificate of reservation previously issued as well as positive identification documentation, upon which the office-in-charge will issue the beneficial holder with a new certificate of reservation of the reserved grave plot.
- (3) The reservation of a grave will not confer any ownership of or title to that grave, but only the right to bury a body therein.
- (4) The Council shall not accept, consider or approve any new applications for the reservation of a grave plot.

5. Postponement or cancellation of a burial

- (1) An applicant must give notice of the postponement or cancellation of a burial, by completing the prescribed application form, to the officer-in-charge, who must approve the application at least one working day before the burial.
- (2) In a case of a cancellation of a burial:
 - (a) a refund will not be made to the applicant for costs incurred for opening an existing grave;
 - (b) the Council will only refund the applicant for costs incurred for opening a new grave.
- (3) Every effort will be made to complete a burial on the assigned day and time. If, owing to inclement weather conditions, health and safety concerns, or conditions beyond the control of the cemetery, a burial cannot be made at the scheduled time, the cemetery reserves the right to establish a temporary setup and the burial shall be completed as soon as possible at a later time.

6. Number of bodies in a coffin

- (1) Only one body in a coffin is allowed for burial or cremation.
- (2) Burial of more than one body in a coffin may be allowed if application is made to and approved by the officer-in-charge and the prescribed fee has been paid;
- (3) Such application may be made in respect of:
 - (a) family members who either died together or a short while after each other, and the burial of the first dying member has not yet taken place;
 - (b) a mother and child who died during childbirth;
 - (c) two people who have lived together as partners;
 - (d) unrelated deceased persons, whose families have no objection; or
 - (e) remains of an anatomy subject.

7. Burial and subsequent burials

- (1) Burial may take place only in a grave allocated by the officer-in-charge.
- (2)
 - (a) Subject to paragraph (b), not more than two burials may be permitted in a grave;
 - (b) A third burial may be allowed only if:
 - (i) an application has been made to the officer-in-charge and written permission has been granted;
 - (ii) the grave has been deepened; and
 - (iii) a prescribed fee has been paid;

- (c) A person who has been given permission for either a second or third burial must:
 - (i) give at least two (2) days' notice; and
 - (ii) at his or her own cost remove, and, subsequent to the burial, replace all memorial work on such a grave.
- (d) A second burial may only take place at least one year after the first burial and the third burial may only take place at least fifteen years after the second burial.
- (e) At Olifantsvlei cemetery, third burials are allowed at shortened time periods owing to deepened holes. A second burial can take place 18 months from the first burial, and a third is allowed after 12 months from the second burial. Discretion lies with the officer-in-charge.

8. Private rights

- (1) The holder of private rights includes:
 - (a) a person who purchased a grave or who received a grave as a gift from the purchaser and whose name appears in the register of the Council;
 - (b) a person who paid the prescribed burial fees in respect of the first burial in the grave;
 - (c) a person to whom private rights to a grave have been transferred;
 - (d) a person who inherited the private rights.
- (2) The private rights in a grave are transferable, but such transfer only becomes effective on registration by the Council.
- (3) If there is a dispute about the holder of private rights, the dispute must be referred to the officer-in-charge for determination.

9. Sizes of graves

Subject to the provisions of sections 7 and 10 and the National Health Act, 61 of 2003, the standard size of a grave is as follows:

- (a) an adult's grave must measure 2 300 mm in length and 900 mm in width and 2 000 mm in depth.
- (b) a child's grave must measure 1 500 mm in length and 700 mm in width and 1 500 mm in depth.
- (c) subsections (a) and (b) are subject to the National Health Act, No. 61 of 2003 as amended.

10. Enlarging and deepening a grave

- (1) An applicant for a burial may, by giving at least 24 hours' notice before the burial, request that a grave be enlarged or deepened.
- (2) If a coffin is too large for the size of an adult grave, such grave must be enlarged to accommodate such coffin.
- (3) If a child's coffin is too large for a child's grave it must be buried in an adult's grave, on payment of the prescribed fee.
- (4) A grave may, on application and on payment of the prescribed fee, be deepened for burial of a third coffin.

11. Coffins

- (1) Coffins to be placed in a grave must be made of natural wood or other perishable material.
- (2) Coffins intended for cremation must be constructed mainly of timber or wood derivatives, cannot have been treated with any chemicals and must be in compliance with any other relevant legislation.
- (3) False or cover coffins are permitted during chapel services.

12. Covering of coffins

- (1) Every coffin must be covered with at least 300 mm of soil immediately after burial;
- (2) There must be at least
 - (a) 1 200 mm of soil between a coffin of a buried adult and the surface of the ground; or
 - (b) 900 mm of soil in the case of a coffin of a child.
- (3) The provisions of subsection (2) do not apply to a burial in a tomb.
- (4) In those instances where concrete has been poured into a grave as a measure of protecting their caskets, it will not be possible to reuse or reopen such graves.

13. Body bags

- (1) If there is more than one body in a coffin, each body must be contained in a separate body bag.
- (2) A body intended for burial at a cemetery or cremation in a crematorium must be sealed in a body bag inside a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the applicant.

CHAPTER 3

FUNERALS

14. Military graves and high-profile areas

- (1) The Council may reserve a block in a cemetery as an area for military graves and/or as a high-profile area for the burial of a person who in life or on death distinguished themselves as extraordinary in the military field or any other field or in any other unselfish services or deeds, as determined by Council.
- (2) No deceased may be buried in such a block without the consent of the family of the deceased.
- (3) The family of a deceased, who consent to the burial of such deceased in a military grave or high-profile area, must accept the Council's terms and conditions governing burial in a military grave or heroes' acre.

15. Recording of burials and cremations

- (1) The Council must keep a register in duplicate of graves, burials and cremations, which must be completed within the first working day after the burial or cremation.
- (2) The register must contain the particulars of the deceased whose corpse is to be interred or has been interred, including:
 - (a) the deceased's name and identification number;
 - (b) the deceased's address;
 - (c) the date of interment;
 - (d) the number of the grave in which the corpse or ashes are interred or the location of the receptacle where the ashes have been placed.
- (3) All burial and cremation registers must be kept in a secure and fireproof location.
- (4) Upon written application, members of the public may consult the burial or cremation registers at a convenient time and under the supervision of and conditions determined by the officer-in-charge.

16. Religious or memorial services

A person who desires to have a religious or memorial service at a cemetery or crematorium must apply to the officer-in-charge and pay the prescribed fee.

17. Control of hearses at the cemetery

No person in a cemetery may:

- (a) drive a hearse or cause a hearse to be driven except on a designated roadway;
- (b) park a hearse or detain a hearse on a roadway after the coffin has been removed from the hearse; or
- (c) park a hearse in such a manner that it interferes with other burials in progress.

18. Conveyance of coffins and bodies

- (1) An applicant in terms of section 3 is responsible at his or her own cost for ensuring that a coffin is conveyed to the cemetery for burial or to the crematorium for cremation.
- (2) No person may in any street, cemetery, crematorium or other public place convey a body in a disrespectful manner.
- (3) No body or part thereof may be exposed during conveyance.
- (4) Where religion or tradition necessitates a different way of conveyance of a body prior permission must be obtained from the officer-in-charge.

19. Instructions at cemeteries

- (1) The officer-in-charge at the cemetery may issue instructions relating to:
 - (a) the parking of vehicles;
 - (b) a funeral procession;
 - (c) the duration of a service.
- (2) Every person taking part in a funeral procession at the cemetery, or attending a cremation service, must comply with all reasonable instructions of the officer-in-charge.
- (3) for an unveiling ceremony at a cemetery, an application in writing will first need to be made to the officer-in-charge, who will consider the application and either grant or refuse such application based on operational requirements and/or services.

20. Duration of service

No person may occupy a chapel at a cemetery for the purpose of a funeral service or cremation, for more than 30 minutes, unless permission is obtained from the officer-in-charge, subject to the following considerations:

- (a) the availability of facilities;
- (b) payment of the prescribed fee; and
- (c) any other factor the officer-in-charge may deem necessary and appropriate.

21. Hours for burial

- (a) Subject to paragraph (b) burial may take place only between 08h00 and 15h00.
- (b) The officer-in-charge may, on such conditions as he or she may determine, and on payment of the prescribed fee, give permission to bury outside the stipulated hours.
- (c) If the burial takes place outside the stipulated hours, the applicant will provide tools and assume the responsibility of closing the grave.
- (d) If the applicant requires the Council to provide the service outside the stipulated hours, the Council may provide such service on payment of the prescribed after-hours fee, subject to such conditions as the officer-in-charge may determine.

CHAPTER 4

RE-OPENING OF GRAVES AND EXHUMATIONS

22. Conditions for exhumations

- (1) No person may exhume or cause a body to be exhumed without the written consent of (a–e) below, unless subsection (2) applies:
 - (a) the Premier of the Gauteng Provincial Government (COGTA), and;
 - (b) the Council, and;
 - (c) the provincial Department of Health, and;
 - (d) the Administrator of cemeteries; and
 - (e) the Council’s Medical Officer of Health.
- (2) In the event that the written consent/s prescribed in subsection (1) above cannot be obtained, such written consent may be dispensed with by an Order of Court.
- (3) A member of the South African Police Services must always be present when an exhumation is being conducted.
- (4) If remains are to be exhumed from any grave, mausoleum, tomb, or crypt, only the undertaker, under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation.
- (5)
 - (a) If a grave, mausoleum, tomb or crypt is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and

- (b) The authority referred to in paragraph (1)(d) and the prescribed fee must accompany such notice.
- (6) A person who wishes to exhume the remains of an indigent person or a pauper must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.
- (7) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorised.
- (8) The South African Police Services must:
 - (a) if there is proof of illegal burial, immediately exhume the body; and
 - (b) take it to a government mortuary for investigation.
- (9) A grave of a victim of conflict or a grave, which is older than 60 years, may only be exhumed with the permission of the South African Heritage Resources Agency.
- (10) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

23. Exhumation and reburial

- (1) The Council may, if a body has been buried in contravention of these by-laws, cause the body to be exhumed and re-buried in another grave.
- (2) The relatives of the deceased must be:
 - (a) notified of the intended exhumation and re-burial; and
 - (b) allowed to attend.

24. Screening of exhumation

- (1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.
- (2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

CHAPTER 5

CARE OF GRAVES AND UNVEILING OF TOMBSTONES

25. Gardening of graves and other objects on grave

- (1) The Council is responsible for keeping cemeteries clean unless these by-laws provide otherwise.
- (2) No person may:

- (a) plant, cut or remove plants, shrubs or flowers on a grave without the permission of the officer-in-charge;
 - (b) plant, cut or remove plants, shrubs or flowers on the berm section; or
 - (c) place a metal cot on any grave.
- (3) A person may only erect, place or leave, an object or decoration on a grave during the first 30 days following the burial.
- (4) Natural or artificial flowers contained in receptacles may be placed on a grave at any time, but in a grave within a berm section or with a headstone, such flowers may only be placed in the socket provided.
- (5) The officer-in-charge may:
- (a) remove all withered natural flowers, faded or damaged artificial flowers and any receptacle placed on a grave; or
 - (b) thirty (30) days after publishing a general notice, remove all objects of decoration, for the purpose of beautification of the area, without infringing on cultural rights and / or religious rights.
- (6) The Council is not liable for any loss or damage to any object on a grave.
- (7) Any persons wishing to unveil a tombstone must obtain the prior authorisation from the officer-in-charge. The unveiling of tombstones may only take place on weekdays or on a Sunday and may not take place on a Saturday unless specific authorisation has been obtained from the officer-in-charge.
- (8) No member of the public may plant any plants, flowers, vegetation, or trees at a cemetery without the written consent of the officer-in-charge.

CHAPTER 6

MEMORIAL SECTION

26. Erection of memorial work

- (1) A person intending to erect a memorial work must make and complete an application on the prescribed application form to the officer-in-charge.
- (2) Such application must be made not less than five (5) working days before the date of erection.
- (3) Memorial work may only be erected during working hours, but may, with the approval of the officer-in-charge, be erected outside working hours.
- (4) No person may:

- (a) erect memorial work, or bring material into a cemetery for the purpose of erecting memorial work, without the written consent of the officer-in-charge;
 - (b) remove memorial work for additional inscriptions or other alterations without the consent of the officer-in-charge; or
 - (c) erect a memorial work on a Saturday, Sunday or public holiday, without the written consent of the officer-in-charge.
- (5) The Council is not liable for damage to memorial work resulting from any subsiding soil.
 - (6) A person erecting memorial work must, at the request of the officer-in-charge, produce the written consent.
 - (7) Memorial work or material to be used in the erection of such work, may not be conveyed in a cemetery or crematorium in a manner that may damage the roadways, pathways, lawns, grounds or other memorials.
 - (8) Any surplus material or rubble, resulting from the erection of any memorial work, must be removed by the person responsible for such erection, immediately after its completion and the cemetery returned to the condition in which it was found prior to the erection of such memorial work.

27. Inferior memorial work

The Council may prohibit the erection of a memorial work or may remove or reinforce erected memorial work which:

- (a) is of inferior workmanship or quality;
- (b) is indecent, offensive, or objectionable;
- (c) has deteriorated to the point of becoming unstable; or
- (d) is in contravention of these by-laws, without compensating the owner;

28. Inscription on memorial work

- (1) Any memorial work must display the number assigned to the grave by the officer-in-charge, in permanent and visible markings:
 - (a) on the side of the base of the memorial work; and
 - (b) on the upper surface, in the lower left-hand corner, of a tablet erected on a grave in a landscape section.
- (2) The name of the maker, designer or erector of the memorial work may appear on the work and must be placed at the base of the memorial work.

- (3) Only inscriptions which, at the sole discretion of the Council, are in keeping with the dignity and decorum of the cemetery, will be permitted.

29. Dismantling of memorial work

- (1) Only a holder of private rights, or a person authorised in writing by the holder of such rights, may, with the written permission of the officer-in-charge, dismantle, alter or disturb, any memorial work on a grave.
- (2) Dismantled memorial work must either be removed from a cemetery or be left on the grave on which such memorial work had been erected.
- (3) The officer-in-charge may, in the case of a second or subsequent burial in such grave, permit memorial work to be left elsewhere in the cemetery, for a period not exceeding 30 days after such burial.
- (4) The person dismantling the work must immediately after the work is completed, remove any surplus material, or rubble, resulting from the dismantling of any memorial work.
- (5) If a holder of rights or person referred to in subsection (1):
 - (a) fails to re-erect dismantled memorial work within 30 days after it was dismantled; or
 - (b) leaves such memorial work within the cemetery in contravention of subsection (2),the Council may give 30 days' written notice to such holder of rights or person, instructing him or her to remove such memorial work from the cemetery with any rubble resulting therefrom, at his or her own expense or to re-erect such memorial work.
- (6) If any memorial work has:
 - (a) been damaged;
 - (b) become a danger to the public; or
 - (c) been erected in contravention of these by-laws,the Council may give written notice to the holder of rights or person referred to in subsection (1), instructing him or her, at his or her own expense, within a period specified in the notice, to:
 - (i) alter or make such memorial work safe so that it complies with the provisions of these by-laws;
 - (ii) dismantle and remove such memorial work from the cemetery together with all rubble resulting therefrom.

- (7) If such holder of rights or person referred to in subsection (1) fails to comply with a notice in terms of subsection (5) or (6), the Council may:
 - (a) re-erect the memorial work;
 - (b) dismantle and dispose of the memorial work and remove any rubble resulting therefrom; or
 - (c) make the memorial work safe, and such holder or person will be liable for any costs incurred by the Council.
- (8) The Council may, without giving any notice, or incurring any liability to the holder of rights or person referred to in subsection (1):
 - (a) dismantle the memorial work and remove it and any rubble resulting therefrom, except memorial work that is protected by the provisions of the National Heritage Resources Act, 1999; or
 - (b) make the memorial work safe, if such memorial work has become so dangerous to the public that immediate steps to safeguard the public are essential.
- (9) After the Council has acted in terms of subsection (8), it must immediately, in writing, notify the holder of rights or person referred to in subsection (1) that, unless he or she reclaims the memorial work from the cemetery within a specified period, the Council will dispose of the memorial work.
- (10) Such holder of rights or person referred to in subsection (1) is liable for costs incurred by the Council, when the Council has acted in the manner contemplated in subsection (8).
- (11) If the holder of rights or person referred to in subsection (1) fails to pay the costs referred to in subsection (10), or to reclaim the memorial work dismantled by the Council, the Council may dispose of such memorial work in any manner it deems fit.
- (12) If any proceeds are derived from the disposal, such proceeds will be offset against the cost of the dismantling, removal, storing, and disposing of memorial work and rubble resulting therefrom.

30. General requirements for memorial work

- (1) Memorial work must be constructed or made of durable material, approved by the South African Bureau of Standards, with a life expectancy of at least 25 years.
- (2) Any person erecting memorial work in a cemetery or crematorium must do so with the approval of the officer-in-charge.
- (3) A person erecting memorial work must comply with the following requirements:

- (a) when joining any part of the memorial work to any other part of the memorial work the person must use copper or galvanised iron pins, as follows:
 - (i) for memorial work up to a height of 500 mm, two or more pins of at least 5mm thick and 100 mm long;
 - (ii) for memorial work 501 mm up to a height of 1 000 mm, two or more pins at least 10 mm thick and 200 mm long; or
 - (iii) for memorial work 1 001 mm and higher at least two or more pins 20 mm thick and 300 mm long;
- (b) any part of memorial work, which rests on the ground, stone or foundation must be properly secured and bedded;
- (c) a material of uneven thickness must not be used;
- (d) the undersides of every flat memorial work and the base of every memorial work must be sunk at least 50 mm below the natural level of the ground;
- (e) a border, which is more than 225 mm above the surface of the ground or more than 200 mm deep, must not be used without the consent of the Council;
- (f) all memorial work and border stones must be securely clamped with round copper or galvanised iron clamps;
- (g) all memorial work up to 150 mm in thickness must be securely attached to the base;
- (h) all the components of memorial work must be completed before being brought into a cemetery;
- (i) footstones must consist of one solid piece;
- (j) in all cases where memorial work rests on a base:
 - (i) such memorial work must have a foundation;
 - (ii) such memorial work must be set with cement mortar;
 - (iii) the bottom base of a single memorial work must not be less than 900mm long 220 mm wide x 250 mm thick and that of a double memorial work not less than 2 286 mm long x 200 mm wide x 250 mm thick; and
 - (iv) if loose stone chips are placed on a grave, the level of such stone chips must not be higher than 10 mm below the level of the surrounding curb stones.

31. Requirements for memorial work in lawn section

The following provisions apply to memorial work and graves in a lawn section:

- (a) the dimensions of the base of any headstones on an adult's grave must not exceed 900 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves, such base must not exceed 2 200 mm in length and 260 mm in width;
- (b) the dimensions of the base of any headstone of a child's grave must not exceed 610 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves such base must not exceed 1 200 mm in length and 260 mm in width;
- (c) no portion of any headstone may extend beyond the horizontal dimensions of its base;
- (d) headstones must be erected on the concrete berms supplied by the Council, except in the case of a temporary erection where the applicant must provide a foundation suitable to support the headstone, until the Council has installed the berm;
- (e) no part of any memorial work may exceed 1 500 mm in height above the berm;
- (f) any headstone must be so positioned that the front edge of the headstone is at least 130 mm from the edge of the berm;
- (g) no object other than a headstone, which may incorporate more than two sockets for receptacles for flowers, may be placed on any grave; and
- (h) a vase containing natural flowers, or artificial flowers and foliage, may be placed in a socket built in the headstone and such vase must not exceed 300 mm in height; and
- (h) neither a kerb demarcating any grave nor a slab covering are permitted.

32. Requirements for memorial work in a memorial section

The maximum horizontal measurements of any memorial work erected on a grave in a memorial section must:

- (a) in the case of an adult's grave, be 2 500 mm in length and 1 050 mm in width; or
- (b) in the case of a child's grave, be 1 500 mm in length and 900 mm in width.

33. Requirements for memorial work in a landscape section

- (1) The Council may set aside a section in a cemetery as a landscape section;
- (2) Memorial work erected on a grave in a landscape section must:
 - (a) not exceed 500 mm in length, 500 mm in width and a minimum of 30 mm thick;
 - (b) not be made of ferrous material.
- (3) The memorial work must be embedded horizontally on the ground level on a suitable foundation.

- (4) Where memorial work is restricted to a plaque or memorial slab, 500 mm by 500 mm, such plaque or memorial slab must be placed horizontally at 30 mm below grass level.

34. Mausolea

A mausoleum section may be established in a cemetery in which corpses are interred in mausolea.

**CHAPTER 7
CREMATIONS**

35. Application for cremation

- (1) A person intending to cremate must submit the prescribed and duly completed application form supplied by the officer-in-charge for approval not later than 15:00, one (1) day before the intended date of cremation, and such application must be accompanied by:
 - (a) a prescribed fee;
 - (b) a burial or removal order issued in terms of the Births and Deaths Registration Act, 1992;
 - (c) a death certificate; and
 - (d) cremation forms A, B, C, D, and E.
- (2) If all the above requirements are met, the officer-in-charge must approve such application.
- (3) In the case of a cremation where the timelines and requirements prescribed in sections 36(1) and 36(2) cannot reasonably be complied with on the premise of religious, cultural or exceptional requirements of the deceased and his/her family members, and who desire for the body to be cremated on the same day of the death of the deceased, or the day thereafter and upon payment of the prescribed fee (or after-hours fee if applicable), such application for cremation shall be submitted on the first working day after the cremation, accompanied by any supporting documentation as may be necessary and required by the officer-in-charge.
- (4) The cremation may only take place in a crematorium.
- (5) If the application is made in terms of subsection (1) in respect of a body of a person:
 - (a) who at the time of death was suffering from a communicable disease as defined in section 1 of the Health Act; or
 - (b) in whom at any time a pacemaker or radioactive material was inserted,

the applicant must clearly indicate this fact and, in the case of a body referred to in paragraph (b), whether such pacemaker or radioactive material was removed from the deceased.

36. Cremation times

- (1) Cremation shall take place **seven days a week**, including Saturdays, Sundays and public holidays, **between 08:00 and 14:00**, provided that the cremation has been booked in advance with the officer-in-charge.
- (2) No cremation may take place without prior booking and authorisation from the officer-in-charge.
- (3) Despite the provisions of sections 36(1) and (2) above, the officer-in-charge to whom an application is made in terms of section 35 above, may if he or she is satisfied that the case is one of emergency permit cremation outside the cremation time, on payment of the prescribed fee.
- (4) For the purposes of subsection (3), an “emergency” shall include—
 - (a) cases where public health or sanitation requires the immediate cremation of a body;
 - (b) circumstances where decomposition or other factors make early cremation necessary; or
 - (c) situations where religious, cultural customs or exceptional circumstances require cremation at a specific time and delay would cause undue hardship.

37. Provision of receptacles

- (1) The applicant must provide a receptacle for receiving ashes with the full names of the deceased, unless such ashes are to be buried by the Council.
- (2)
 - (a) A receptacle which is intended to be placed in a niche in the columbarium must be made of wood, stone, or other suitable material, and must be of such a size and design as to fit readily into such niche.
 - (b) An inscription plate may be affixed to such a receptacle, or the niche may be closed with a suitable marble or other plaque.

38. Collection and disposal of ashes

- (1) After cremation, the ashes must be entrusted to the care of:

- (a) the next of kin of the deceased; alternatively, an identified family member of the deceased;
 - (b) in the event that neither of the individuals mentioned in subsection (a) are willing or able to receive the ashes, the ashes must be entrusted to an individual named by the next of kin or family members of the deceased; or
 - (c) the person who submitted the application in terms of section 35.
- (2) The person collecting the ashes must indicate in the prescribed application forms the quantity of ashes to be retained for collection.
- (3) If there are no express arrangements for burial or safekeeping, as set out in subsections (1)(a) to (c) above, the owner of a crematorium may bury or scatter the ashes in a garden of remembrance.

39. Burial and exhumation of ashes

- (1) A person who wants to bury ashes in a grave, exhume ashes from a grave or scatter ashes must make an application to the officer-in-charge.
- (2) The officer-in-charge must, on payment of a prescribed fee, give written permission to the applicant for burial, or exhumation, or scattering of ashes, and prepare such grave for burial or exhumation of ashes.
- (a) the Council shall not be responsible for damage to any cremation urn or outer container, which occurs during the course of an exhumation.
 - (b) owing to the length of time a cremation urn or outer container has been buried and/or the conditions to which it has been exposed, the Council cannot guarantee that it can retrieve a cremation urn or outer container from a grave.
- (3) An ash grave in a crematorium section or wall of remembrance must measure 610 mm in length and 610 mm in width.

40. Use of niches and spaces, affixing of memorial work in and around crematoria

- (1) Ashes may be deposited in a columbarium or garden of remembrance if an application accompanied by the prescribed fee is made to the officer-in-charge, and if the officer-in-charge gives written permission.
- (2) A niche or a space abutting on a path in a garden of remembrance or a niche or a space in a memorial wall, must not be used for storing ashes or for affixing memorial work, without the consent of the officer-in-charge and payment of the prescribed fee.
- (3) Identity plaques must be made of material approved by the officer-in-charge and affixed simultaneously with the placing of the ashes.

- (4) Ashes and plaques may be removed with the consent of the officer-in-charge.
- (5) Flower holders may be affixed to the plaque only with the consent of the officer-in-charge.

41. Memorial work in crematorium

- (1) A person may erect a memorial work in a crematorium in remembrance of the deceased if he or she:
 - (a) was cremated at that crematorium in terms of section 35; or
 - (b) presents a cremation certificate from another crematorium
- (2) Memorial work erected in a garden of remembrance must be made of marble, granite, or other suitable material, and must measure either 230 mm by 150 mm by 25 mm thick, or 250 mm by 305 mm by 25 mm thick, as arranged with the Officer-in-charge, if it is intended:
 - (a) to be placed on a space on a memorial wall or on a space abutting on a path in a garden of remembrance;
 - (b) to seal a niche, it must be of the same material and size as to conform with the memorial work next to it and have no items affixed to it, except the lettering or photo of the deceased; or
 - (c) for erection on a grave, not exceed 610 mm in length, 610 mm in width and 1 200 mm in height.
- (3) Memorial work must only be removed from or affixed to a memorial wall or to a space abutting on a path in the garden of remembrance with the written consent of the Officer-in-charge.

42. Book of remembrance, memorial cards and miniature books

- (1) If the Council provides a book of remembrance in a cemetery or crematorium, a memorial inscription may be entered in such book on application to the officer-in-charge and on payment of the prescribed fee.
- (2) If an inscription is entered in the book of remembrance, an inscription memorial card or an inscribed miniature may be purchased, if it is available, on payment of the prescribed fee.

43. Duplicate cremation certificates

A person may obtain a duplicate cremation certificate on application and on payment of the prescribed fee to the officer-in-charge.

CHAPTER 8
INDIGENT PERSONS AND PAUPERS

44. Burial of indigent persons

- (1) A person making an application to the officer-in-charge for the burial or cremation of an indigent person must submit a written declaration confirming that the deceased qualifies as indigent in accordance with the Council's approved criteria.
- (2) An indigent person shall be buried or cremated under such conditions as may be determined by the Council, including the location, grave type, and form of service.
- (3) The Council shall appoint an undertaker to carry out the burial or cremation of each indigent person.
- (4) The undertaker must ensure that the burial or cremation is conducted in a dignified and respectful manner.
- (5) Where cremation is performed, the ashes must be retained by the Council for a minimum of twelve (12) months, after which they may be lawfully disposed of if unclaimed.
- (6) All costs associated with the burial or cremation of indigent persons shall be borne by the Council, subject to available funds and policy provisions.
- (7) The Council shall maintain a register of all indigent burials and cremations performed under this section.

45. Appointment of undertakers by region

- (1) The Council shall appoint an undertaker or undertakers for each region to ensure the efficient management of indigent and pauper burials and cremations.
- (2) Each appointed undertaker shall operate within a designated region and perform duties in accordance with the Council's policies and service standards.
- (3) The Council shall enter into service agreements with appointed undertakers, setting out responsibilities, procedures, and remuneration.
- (4) The Council shall review and, where necessary, renew or terminate appointments based on performance and compliance with municipal regulations.
- (5) No undertaker may perform indigent or pauper burials within a region unless formally appointed or approved by the Council.
- (6) The Council shall maintain a register of all appointed undertakers, specifying their regions and terms of appointment.

CHAPTER 9

GENERAL

46. Funeral undertakers

- (1) Subject to the Health Act 61 of 2003, no undertaker shall contract to bury or cremate a body in any cemetery or crematorium under the control of the Council unless:
 - (a) The funeral undertaker is in possession of a certificate of competence issued by the Department Health and Social Development and is formally registered as a funeral undertaker;
 - (b) The premises from which the funeral undertaker operates is zoned in accordance with the Council's Town Planning Scheme for such businesses.
 - (c) The requirements relating to a funeral undertaker's premises are in accordance with the Health Act.
 - (d) The premises shall be subject to inspection.
- (2) All documentation requirements pertaining to burial and cremation, including booking and payment, are to be concluded in accordance with the provisions of these bylaws.
- (3) A funeral undertaker may only transport a corpse in a vehicle suitable for such purpose.
- (4) The Council reserves the right to refuse permission to any funeral undertaker to undertake business in any cemetery or crematorium under its jurisdiction if such undertaker falls to comply with these bylaws.

47. Restricting access

- (1) The Council may restrict access to any cemetery or crematorium or to any part of a cemetery or crematorium for a specified period:
 - (a) to adhere to any directives or regulations issued by Government in terms of the Disaster Management Act 57 of 2002, or any related legislation;
 - (b) to implement effectively and enforce any necessary health and safety protocols;
 - (c) to reduce vandalism and the destruction of property;
 - (e) to improve the administration of a cemetery or crematorium;
 - (f) to develop a cemetery or crematorium; or

- (h) to undertake any activity which the Council considers reasonably necessary or appropriate to achieve the purposes of these By-laws.

48. Prohibited acts

- (1) No person:
 - (a) under the age of 16 years may enter any cemetery or crematorium unless when accompanied by an adult, or with the consent of the officer-in-charge;
 - (b) may enter or leave any cemetery or crematorium, except by the gateway provided; or
 - (c) may enter any office or enclosed place in a cemetery or crematorium, where entry is prohibited, without the consent of the officer-in-charge, which may be given only when such person is attending to business connected with such cemetery or crematorium.
- (2) No person may, within any cemetery or crematorium:
 - (a) interfere with any fountain, statue, monument, equipment, fence, grave or Council property;
 - (b) pick, damage, deface or destroy any flower, plant or seed;
 - (c) damage, deface or remove any memorial work, grave, building, fence or fixtures;
 - (d) throw litter outside of containers provided by the Council for that purpose;
 - (e) sit, stand, walk, climb, draw, or write on any grave or memorial work;
 - (f) swim, bath or wash himself him or herself or any animal in a pond, fountain, artificial watercourse, dam or stream;
 - (g) reside in a cemetery, or, without the written consent of the officer-in-charge, build any structure or encroach on any land;
 - (h) capture, chase, shoot at, or interfere with any fish, bird, or animal, except where licensed to do so, or take, touch or damage birds' eggs or nests;
 - (i) light any fire or burn any object unless there is special provision made therefore by the Council;
 - (j) drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these by-laws;
 - (k) drive or ride any vehicle, except in the places referred to in paragraph (j) at a speed exceeding 15 km per hour;

- (l) carry on or solicit business, hold any demonstration, or perform an activity, which is not normally associated with a cemetery or crematorium;
 - (m) cause a nuisance or commit any offensive or indecent act;
 - (n) play any game, except in a designated area;
 - (o) use a facility provided for the opposite sex;
 - (p) brew, sell or drink alcohol or abuse drugs;
 - (q) play any musical instrument without the written consent of the officer-in-charge;
 - (r) deliver a public speech except for a funeral service or cremation, without the written consent of the officer-in-charge,
 - (s) do anything which may endanger or cause disturbance to any person;
 - (t) hold organised functions, advertise, dig any hole or trench, or place any tent, caravan, booth screen, stand, or any construction or obstruction, without the written consent of the officer-in-charge;
 - (u) undertake any community or voluntary work, without the written consent of the officer-in-charge;
 - (v) make any film, without the written consent of the officer-in-charge, and payment of the prescribed fee;
 - (w) remain between sunset and sunrise without the written consent of the officer-in-charge;
 - (x) bring or allow an animal, except a guide dog, without the consent of the officer-in-charge;
 - (y) hinder, obstruct or resist the officer-in-charge or any official of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these by-laws.
- (3) Any animal found in a cemetery may be impounded and must be released on payment of a fee.

49. Authorised officials

- (1) The Council may appoint any member of staff as an authorised official.
- (2) Any duly appointed authorised official must be in possession of the prescribed staff identification card when exercising any power in terms of these by-laws and must, upon request, produce such card.
- (3) Should the authorised official considered in subsection (2) fail to produce the staff identification card, then no power granted in terms of these by-laws can be exercised.

50. Powers and functions of authorised officials

- (1) In this section, unless the context indicates otherwise, 'article' means anything, including a structure, object, document, book, record or electronic information or extract, part or sample therefrom that is suspected reasonably in the use of contravening these by-laws.
- (2) Without a warrant, an authorised official may stop, enter, search and seize any vessel, vehicle, premises or person if the authorised official has reasonable grounds to believe that an offence in terms of these by-laws has been or is being committed on or in such vessel, vehicle or premises if:
 - (a) the person in control of the vessel, vehicle or premises consents to such stop, entry, search or seizure; or
 - (b) the authorised official has reasonable grounds to believe that a warrant will be issued, if the authorised official applied for it, and the delay caused by the obtaining of such a warrant would defeat the object of the stop, entry, search or seizure.
- (3) If subsection (2) does not apply, then an authorised official may stop, enter and search any vessel, vehicle, premises or person and may seize an article contemplated in subsection (6)(h) only on the authority of a warrant.
- (4) A judge or magistrate in chambers may issue a warrant contemplated in subsection (3) on written application by an authorised official if it appears from information under oath or affirmation that
 - (a) there are reasonable grounds for believing that a contravention of these by-laws has occurred;
 - (b) the search and seizure is likely to yield information pertaining to the contravention; and
 - (c) the search and seizure is reasonably necessary for the purposes of these by-laws.
- (5) In relation to any cemetery or crematorium, an authorised official may:
 - (a) to the extent authorised by the Council, administer, implement and enforce the provisions of these by-laws;
 - (b) issue a notice in terms of section 51; and
 - (c) instruct any person to leave a cemetery or crematorium if the authorised official reasonably believes that the person is contravening any provision of

these by-laws, and fails immediately to cease such contravention upon the instruction of that official.

- (6) In enforcing or investigating compliance with these by-laws, an authorised official may:
- (a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;
 - (b) inspect any article, which may be relevant to the investigation;
 - (c) examine, analyse, measure or make a copy of an article and remove it for examination, analysis, measurement, copying or extraction;
 - (d) require a person to produce or to deliver at such time and place as may be determined by the authorised official, an article for inspection;
 - (e) take a photograph or make an audiovisual recording of any person or anything for his or her investigation;
 - (f) question a person who, in the opinion of the authorised official, may be able to furnish information on a matter to which these by-laws relate;
 - (g) direct a person to appear before him or her at such time and place as may be determined by the authorised official and question such person either alone or in the presence of any other person on a matter to which these by-laws relate; and
 - (h) seize an article:
 - (i) which is concerned in or is on reasonable grounds believed to be concerned in an offence in terms of these by-laws;
 - (ii) which may afford evidence of an offence in terms of these by-laws; or
 - (iii) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence in terms of these by-laws.
- (7) A person who so requests may, if possible, make a copy of an article to be removed or seized in terms of this section.
- (8) When an authorised official removes or seizes an article, the authorised official must issue a receipt to the owner or person in control thereof and, if possible, return the article as soon as practicable after achieving the purpose for which the article was removed or seized.

- (9) An authorised official must exercise their powers and functions with strict regard for decency and order, and with regard for each person’s right to dignity, freedom, security and privacy.
- (10) If such official is a peace officer, the official may exercise any power which may be exercised by a peace officer under the Criminal Procedure Act., 1977 (Act No. 51 of 1977), including but not limited to:
 - (i) issuing of notices in terms of section 341 of the Criminal Procedure Act;
 - (ii) issuing of notices in terms of section 56 of the Criminal Procedure Act;
 - (iii) executing warrants of arrest in terms of section 44 and 55(2) of the Criminal Procedure Act;
 - (iv) exercising those powers conferred upon a peace officer in terms of section 41(1) of the Criminal Procedure Act;
- (11) Notwithstanding the provisions of these by-laws, and subject to any other applicable legislation, an authorised official may:
 - (a) launch, operate or use any vehicle or vessel upon any recreational water or in any area or space regulated by the provisions of these by-laws, for the purpose of providing an emergency, rescue or transport service, to provide a municipal service, to ensure compliance with these by-laws, or for the purpose of undertaking research, monitoring or conducting a survey; and
 - (b) do anything in any area or space regulated by the provisions of these by-laws, in the exercise of a lawful power or duty.

51. Compliance notice

- (1) The authorised official may serve a written compliance notice on a person if there are reasonable grounds for believing that the person is in contravention of these by-laws.
- (2) The compliance notice must:
 - (a) describe the conduct constituting a contravention of these by-laws;
 - (b) indicate which provision of these by-laws or condition of approval is contravened;
 - (c) where relevant, state that the unlawful conduct constitutes an offence and indicate the penalty;
 - (d) where relevant, be issued together with a fine;
 - (e) instruct the person to cease the unlawful conduct;
 - (f) where relevant, impose conditions which must be complied with and specify the steps to be taken to comply;

- (g) state that a failure to comply with the notice constitutes an offence and indicate the penalty; and
 - (h) state that, in the event of non-compliance with the notice, the Council may take one or more of the following measures:
 - (i) issue the person with a fine for not complying with the compliance notice;
 - (ii) take steps to remedy any adverse effect arising from the person's actions and recover the costs from such person;
 - (iii) apply to a competent court for appropriate relief including the costs of the application; or
 - (iv) institute a criminal prosecution.
- (3) The compliance notice may:
- (a) instruct the person to inform the Council in writing, within a specified time, what steps have been taken to comply with the notice;
 - (b) instruct the person at their cost to take specified action within a specified time to the satisfaction of the Council to:
 - (i) cease, modify or control an activity causing, continuing or contributing to an adverse effect on any area or space regulated these by-laws;
 - (ii) investigate, evaluate and assess the impact of a specific situation or activity and report thereon;
 - (iii) undertake and complete specific measures;
 - (iv) eliminate or remove an encroachment or unauthorised structure;
 - (v) rehabilitate the affected environment; or
 - (vi) any combination of the provisions listed in paragraphs (i) through (v).
- (4) Should the person on whom a compliance notice under subsection (1) was issued, fail to comply, or comply inadequately with the compliance notice or authorisation, then the Council may take measures that the Council considers appropriate to remedy the situation and may authorise another person to take such measures.
- (5) The Council may recover costs to the Council, or an authorised person, for the measures to be undertaken under subsections (2) and (3), and all costs incurred as a result of acting under subsections (2) and (3), from any or all of the persons on whom the compliance notice or authorisation was issued in terms of its Credit Control and Debt Collection Policy.

52. Impounding of vessel, vehicle, items or goods

- (1) An authorised official may, without a warrant, seize and impound a vessel, vehicle, items or goods, which is concerned, or is on reasonable grounds believed to be concerned, with the commission of an offence in terms of these by-laws.
- (2) The authorised official, at the time of the impoundment, must give the holder of the impounded vessel, vehicle, items or goods an impoundment notice setting out:
 - (a) the reason for the impoundment;
 - (b) a description of the impounded vessel or vehicle;
 - (c) the address and contact details of the designated pound;
 - (d) the impoundment fee; and
 - (e) a warning that the impounded vessel or vehicle may be sold to recover the impoundment fee and any fine, costs or damages.
- (3) The authorised official must cause an impounded vessel or vehicle to be taken to a designated pound where it must be retained and dealt with in terms of this section.
- (4) The Council must release the impounded vessel, vehicle, items or goods to the owner upon presentation of proof of ownership if, in relation to the offence contemplated in subsection 1:
 - (a) a criminal charge is not laid, or a fine or a notice of intention to prosecute is not issued within 72 hours of the impoundment; or
 - (b) the criminal case against all accused persons is disposed of because:
 - (i) the charges are withdrawn;
 - (ii) the accused persons are acquitted; or
 - (iii) the accused persons are convicted and the impoundment fee and any fine, costs and damages are paid.
- (5) An impounded vessel, vehicle, items or goods is forfeited to the Council and becomes the property of the Council if:
 - (a) a court orders such forfeiture; or
 - (b) the lawful owner of the vessel, vehicle, items or goods cannot be traced within 90 days of such impoundment after reasonable efforts to trace the owner have been made but have not been successful.
- (6) If any payment contemplated in subsection (4)(b)(iii) is not made within such time as the Council may determine, and if no appeal has been lodged at the expiry of the time limit for an appeal, the Council may sell an impounded vessel, vehicle, items or goods and deal with any net proceeds in accordance with subsection 7.

- (7) Any net proceeds from the sale of an impounded vessel, vehicle, items or goods must be applied as follows and in this order:
- (a) the recovery of costs incurred by the Council during forfeiture and impoundment;
 - (b) the payment of the impoundment fee, and any fine, costs or damages ordered by a court in relation to an offence contemplated in subsection 1; and
 - (c) the return to the person who lawfully owned the vessel, vehicle, items or goods at the time of the impoundment, except where the vessel, vehicle, items or goods were forfeited to the Council.
- (8) The Council may determine an impoundment fee and designate a pound contemplated in this section.

53. Offences

Any person who:

- (a) contravenes a provision of these by-laws;
- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of these by-laws;
- (c) fails to comply with the terms of any notice or signage displayed in terms of these by-laws;
- (d) contravenes a lawful instruction given by an authorised official in terms of these by-laws;
- (e) threatens, obstructs, hinders or uses abusive language to an authorised official or a person lawfully accompanying the authorised official in the exercise of a power conferred in terms these by-laws;
- (f) when called upon by an authorised official to furnish information, furnishes false or misleading information; or
- (g) falsely holds himself or herself to be an authorised official or a person authorised to act on behalf of the Council in terms of these by-laws;

commits an offence.

54. Penalty clause

- (1) Any person who commits an offence referred to in section 53 is liable to a fine or, upon conviction, to imprisonment of which period of imprisonment is at the discretion of the court, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

- (2) In the case of a continuous offence, such a person is liable to a proportionate part of the fine contemplated above for each day during which the offence continues after the date on which notice in writing has been given to perform or to discontinue a specific act or, in default of payment of the proportionate fine, to imprisonment for a period at the discretion of the court.
- (3) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence in terms of these by-laws:
 - (a) to rectify the harm caused;
 - (b) to forfeit to the Council a vessel or vehicle impounded in terms of section 52;
 - (c) to pay the costs incurred by the Council as a consequence of the contravention; and
 - (d) to pay damages for harm caused to another person or property within the area or space regulated by these b-laws, which order shall have the force and effect of a civil judgment.
- (4) The Council may ban any person who fails to comply with any provisions of these by-laws from entering any areas or spaces regulated by these by-laws, for a determined period of time.
- (5) The Council may restrict access to a vessel or vehicle that fails to comply with any provisions of these by-laws from entering any public open space/s for a determined period of time.
- (6) A ban imposed in terms of subsections (4) and (5) must be reduced to writing and served on the person or owner of the vessel or vehicle.
- (7) The Council must provide a person, vessel or vehicle contemplated in terms of subsections (4) and (5), with a written notice of its intention to ban such person, vessel or vehicle in terms of subsections (4) and (5). Such a person, or owner of the vessel or vehicle has seven (7) days to provide reasons why the Council should not ban such person.
- (8) A person, vehicle of vessel who has been banned in terms of subsections (4) and (5) above may make written representations to the Accounting Officer of the Council as to why the ban should be lifted or reduced in length within 48 hours of receipt of written confirmation of the ban by the Council.

55. Liability of Council

- (1) The Council shall not be liable for any injury or death of a person nor any damage or theft of property and memorial work in a cemetery or crematorium.

- (2) Persons entering cemeteries, do so at their own risk.

56. Directions of officer-in-charge/ cemetery officer

The officer-in-charge or any cemetery officer may give directions, which must be heeded, as to:

- (1) The execution or quality of any work undertaken in a cemetery;
- (2) The parking of vehicles in or at cemeteries or crematoria;
- (3) The conduct of a ceremony or procession in a cemetery or at a crematorium;
- (4) The placing of structures, chairs, voice amplification equipment and other equipment used for ceremonies or processions in cemeteries or crematoria.

CHAPTER 10

PRIVATE CEMETERIES REGULATIONS

57. Establishment and Registration

No person or entity may establish a private cemetery unless:

- (a) they are a registered legal entity or trust, with the ability to exist in perpetuity;
- (b) they submit a formal application to the Council on the prescribed form;
- (c) they own, lease, or otherwise lawfully control the land proposed for the cemetery;
- (d) they have conducted a full Environmental Impact Assessment (EIA) and submitted the final report to the Council, including:
 - (i) soil conditions and drainage capability;
 - (ii) impact on groundwater, surrounding land uses and ecosystems; and
 - (iii) mitigation plans for potential environmental harm;
- (e) they submit a cemetery layout plan including grave sections, pathways, buffer zones, fencing, signage and access roads;
- (f) they provide a management plan that details record-keeping, maintenance, staffing, and access; and
- (g) they submit proof of public and community consultation, where applicable.

58. Grounds for refusal

The Council may refuse an application to establish a private cemetery if:

- (a) the proposed site does not comply with local zoning or land use schemes;

- (b) the environmental impact is determined to be high or unacceptable, as per the EIA findings;
- (c) the site poses a risk to public health owing to:
 - (i) poor drainage or high water table;
 - (ii) proximity to water sources or boreholes;
 - (iii) unstable or contaminated soil;
- (d) the cemetery design fails to include adequate infrastructure for long-term access and maintenance;
- (e) the applicant has previously mismanaged a cemetery or other public site;
- (f) the development would interfere with protected natural areas, conservation zones, or heritage sites;
- (g) the applicant fails to demonstrate the financial or operational capacity to manage the cemetery;
- (h) there is significant, unresolved community opposition; or
- (i) the layout fails to provide for accessibility or safety (e.g., emergency access, fencing, lighting, etc.).

59. Site design and safety standards

All approved private cemeteries must comply with at least the following design and infrastructure requirements:

- (a) clearly marked grave blocks, roads, and pedestrian paths;
- (b) adequate drainage and storm-water management systems;
- (c) perimeter fencing or boundary markers to prevent trespassing;
- (d) signage with contact details and cemetery layout;
- (e) provision for disabled access and emergency services; and
- (f) environmentally sensitive burial practices, where applicable.

60. Burial records and data management

The private cemetery operator must:

- (a) keep an updated burial register with details of all interments;
- (b) store records in both physical and digital formats;
- (c) submit quarterly burial statistics, including burial statistics and copies of all burial records, to the Council;
- (d) ensure compliance with privacy and data protection laws; and

- (e) make burial records accessible to family members and Council officials upon request.

61. Transfer, sale or decommissioning

- (1) No private cemetery may be transferred, sold, or closed without:
 - (a) prior written approval from the Council;
 - (b) a public notice period of at least 60 days;
 - (c) a plan, approved by Council, ensuring continued maintenance of graves;
 - (d) arrangements for continued access by next of kin and immediate family members; and
 - (e) where applicable, consultation with the Provincial Heritage Resources Authority, if grave relocations are proposed.
- (2) The Council may impose conditions on closure, including environmental rehabilitation of the site.

CHAPTER 11

PRIVATE BUSINESSES IN CEMETERIES

62. Purpose

The purpose of this chapter is to regulate and monitor private business activities conducted within or in association with cemeteries and crematoria to ensure that they align with the dignity, solemnity, and purpose of these spaces, and do not interfere with cemetery operations, environmental standards or public sensitivities.

63. Permitted business activities

- (1) Subject to approval by the Council, the following types of businesses may operate within cemetery boundaries or on adjacent land zoned for cemetery-related activities:
 - (a) Monumental masonry and tombstone erection services;
 - (b) Florists and flower sellers;
 - (c) Grave care and cleaning services;
 - (d) Catering services linked to a designated memorial hall or chapel (if such a facility exists on-site);
 - (e) Funeral undertakers (as regulated in Chapter 9);
 - (f) Historical or heritage tour operators (see Chapter 12 – Tourism); and

- (g) Photography or videography services for memorial events, if approved in writing by the officer-in-charge.
- (2) No other business types are permitted unless explicitly approved by the Council through a formal application and licensing process.

64. Application for business operation

- (1) A person or entity intending to conduct any private business within a cemetery must apply in writing to the officer-in-charge and submit:
 - (a) Proof of registration as a business entity;
 - (b) A valid business licence or trading permit;
 - (c) Proof of zoning compliance in terms of the municipal planning scheme;
 - (d) Proof of liability insurance;
 - (e) A code of conduct and operating hours proposal; and
 - (f) A maintenance and waste management plan, where applicable.
- (2) The Council may impose fees, conditions, and restrictions on the operation of private businesses in cemeteries.

65. Operating conditions

- (1) Any private business operating within a cemetery must:
 - (a) Maintain a professional, respectful, and dignified manner of conduct at all times;
 - (b) Avoid solicitation or canvassing of families or visitors;
 - (c) Refrain from causing noise, disruption or littering;
 - (d) Operate only during designated cemetery working hours unless otherwise authorised;
 - (e) Comply with all cemetery rules and any direction given by the officer-in-charge;
 - (f) Display a valid business permit when requested by Council staff or an authorised official; and
 - (g) Ensure that all employees or agents adhere to appropriate dress codes and conduct.
- (2) The Council may designate specific zones or facilities within cemeteries where business activities are permitted.

66. Prohibited conduct

No business trading within a cemetery shall:

- (a) Conduct sales, marketing, or promotional activities at or near burial sites during funerals or memorial services;
- (b) Erect any structure or stall without prior written approval obtained from the officer-in-charge;
- (c) Store tools, vehicles, or inventory in a way that obstructs cemetery operations or pathways;
- (d) Offer services not consistent with the solemn nature of the cemetery;
- (e) Sell alcohol, tobacco, or any offensive or inappropriate goods; or
- (f) Employ minors.

67. Inspection and compliance

- (1) The Council reserves the right to inspect any business operations within a cemetery at any reasonable time.
- (2) Without derogating from any of the enforcement measures set out in these by-laws elsewhere herein, any non-compliance with these by-laws or licensing conditions may result in:
 - (a) Immediate suspension or revocation of operating rights;
 - (b) Confiscation of unauthorised goods or signage;
 - (c) Fines or penalties as outlined in Chapter 9; and
 - (d) Removal from the cemetery premises.

68. Termination of rights

The Council may terminate a business permit with immediate effect if the business:

- (a) Repeatedly violates cemetery rules or causes disturbance;
- (b) Commits fraud, misrepresentation, or unethical behaviour;
- (c) Ceases to trade or becomes insolvent; or
- (d) Fails to renew its business permit or submit any required documentation.

69. Appeals

Any person aggrieved by a decision of the Council under this chapter may submit a written appeal within 30 days to the Accounting Officer of the Council, who must consider the appeal within 60 days and make a final determination.

CHAPTER 12

TOURISM IN CEMETERIES

70. Purpose

The purpose of this chapter is to establish a regulatory framework for tourism within cemeteries, to:

- (a) Promote cultural, historical and heritage awareness;
- (b) Encourage respectful public access and education;
- (c) Protect the dignity of the deceased and their families;
- (d) Preserve cemetery infrastructure, ecology and security; and
- (e) Facilitate sustainable, respectful, and managed tourism.

71. Designation of Heritage Cemeteries or Sections

- (1) The Council may designate any cemetery or part thereof as a “Heritage Cemetery” or “Heritage Section” if it meets criteria related to:
 - (a) Historic events or notable persons interred;
 - (b) Age of cemetery (typically over 60 years old);
 - (c) Architectural, religious or artistic value;
 - (d) Cultural or anthropological importance; and
 - (e) Protected status under national or provincial heritage legislation.
- (2) Such designation must be publicly notified and recorded in the cemetery registry.
- (3) The Council may collaborate with local heritage bodies or museums in managing and interpreting these sites.

72. Permitted tourism activities

- (1) Subject to approval of the Council, the following tourism-related activities may be permitted:
 - (a) Guided walking tours;
 - (b) Historical re-enactments (non-intrusive and respectful);
 - (c) Educational workshops or field trips;
 - (e) Heritage photography and videography;
 - (e) Art, architecture and religious studies; and
 - (f) Self-guided visits using approved maps or digital apps.
- (2) No tourism activities may occur during funeral services, burials, or times designated for religious observance, unless expressly authorised.

73. Tour operator permits

- (1) Any tour guide, historical society, or tourism operator intending to conduct guided tours in a cemetery must apply to Council, in writing, for a Cemetery Tour Operator Permit.
- (2) The application must include:
 - (a) Proof of public liability insurance;
 - (b) A code of conduct for guides and tourists;
 - (c) Proposed tour routes and times;
 - (d) Historical qualifications or narrative materials; and
 - (e) Any planned equipment use (e.g. loudspeakers, recording devices).
- (3) Permits are valid for one year unless otherwise specified.

74. Conditions of Conduct

- (1) All tourism within cemeteries must adhere to the following minimum standards:
 - (a) Respectful behaviour and dress by all visitors;
 - (b) No walking over graves or tampering with memorials;
 - (c) No littering, vandalism or noise disturbance;
 - (d) No photography of mourners or funeral services without consent;
 - (e) No use of amplified sound unless authorised by the officer-in-charge; and
 - (f) Compliance with all signage and staff instructions.
- (2) Visitors may be asked to leave the cemetery if behaviour is deemed disrespectful, disruptive or non-compliant.

75. Commercial filming and photography

- (1) Commercial photography or filming (including documentaries, movies, advertisements, etc.) requires prior written approval from the Council and may be subject to:
 - (a) Location fees;
 - (b) Site-use agreements;
 - (c) Conditions on privacy, conduct and restoration; and
 - (d) Limitations on working hours and equipment.
- (2) The Council may refuse applications, including on grounds that applications are inconsistent with the solemnity or historical integrity of the cemetery.

76. Infrastructure and Interpretation

- (1) The Council may install at any cemetery or crematorium:
 - (a) Signage, wayfinding, or interpretive plaques;
 - (b) Public access pathways to heritage graves or landmarks;
 - (c) Visitor information kiosks or mobile apps; and
 - (d) Benches or shaded rest areas in approved zones.
- (2) All interpretive materials must be factually accurate, culturally sensitive, and approved by the Council and relevant heritage authorities.

77. Environmental and site protection

- (1) Tourism in cemeteries must not:
 - (a) Cause damage to graves, headstones, or natural vegetation;
 - (b) Interfere with flora or fauna; and
 - (c) Exceed carrying capacity for paths or infrastructure.
- (2) Council may, at its sole discretion, require Environmental Impact Assessments (EIAs) for large-scale tourism events or installations.

78. Refusal, suspension or revocation of access

The Council may, at its discretion and on consideration of reasonable grounds, refuse, suspend, or revoke tourism access or permits if:

- (a) There is misuse or abuse of the site or violation of these by-laws;
- (b) Tourism activities cause disturbance to mourners or funeral proceedings;
- (c) Misrepresentation of historical facts occurs; and
- (d) Cultural or religious sensitivities are disregarded.

79. Fees and revenues

- (1) The Council may charge tourism permit fees and location-use fees.
- (2) All fees must be published annually in the Council's schedule of tariffs.
- (3) Proceeds from cemetery tourism may be used exclusively for:
 - (a) Maintenance and preservation of heritage sites;
 - (b) Educational and interpretive materials; and
 - (c) Security and infrastructure upgrades at cemeteries and crematoria.

CHAPTER 13
MEMORIAL DONATIONS

80. Purpose

The purpose of this chapter is to provide a regulated and transparent framework for receiving, managing and allocating donations made in memory of deceased persons for the maintenance, beautification or improvement of cemeteries or specific gravesites.

81. Types of memorial donations

- (1) The Council may accept the following types of memorial donations:
 - (a) Monetary donations – once-off or recurring financial contributions;
 - (b) In-kind donations – goods or services, such as benches, trees, plants, or art installations;
 - (c) Sponsorships – funding for maintenance of specific sections, features or heritage areas; and
 - (d) Bequests or legacies – donations made by will or estate plans.
- (2) Donations may be unrestricted or directed towards a specific purpose, subject to Council's approval.

82. Donation application and approval

- (1) Any individual, estate, or organisation wishing to make a memorial donation must complete a Memorial Donation Application.
- (2) Applications must include:
 - (a) Donor contact details;
 - (b) Nature and value of the donation;
 - (c) Proposed purpose or location (if applicable); and
 - (d) Desired form of acknowledgment (if any).
- (3) The Council reserves the right to:
 - (a) Accept, (including on the basis of proposed terms agreed upon with any donor), or reject the donation; or
 - (b) Suggest alternative applications for the donation.

83. Use of memorial funds

- (1) All monetary donations must be deposited into a Dedicated Cemetery Donations Account, which shall be ring-fenced and used exclusively for cemetery-related purposes.
- (2) Funds may, in the discretion of Council and subject to any terms agreed upon with the donor, be used for:
 - (a) General maintenance and landscaping;
 - (b) Restoration of neglected or historic gravesites;

- (c) Infrastructure improvements (e.g., pathways, lighting, benches);
 - (d) Installation of memorial plaques or artworks; and
 - (e) Heritage conservation efforts.
- (3) The use of funds must align with the intentions of the donor wherever feasible.

84. Memorial recognition and naming

- (1) The Council may, at its discretion, allow for donor recognition through:
- (a) Small plaques on donated items (e.g., “In memory of...”);
 - (b) Acknowledgment on a digital or physical donor wall; or
 - (c) Listings in Council cemetery reports or websites.
- (2) The size, placement, and wording of recognition plaques must:
- (a) Be consistent with cemetery aesthetics and dignity;
 - (b) Be approved in writing by the Council prior to installation; and
 - (c) Not promote commercial branding or advertising.
- (3) Naming rights to larger features (e.g., gardens or structures) may be granted only upon formal agreement and subject to Council policy.

85. Maintenance of donated items

- (1) The Council assumes responsibility for routine care of donated infrastructure (e.g., benches, trees), unless otherwise agreed.
- (2) The Council reserves the right to:
- (a) Relocate or remove donated items if damaged, no longer fit for purpose, or interfering with cemetery operations; and
 - (b) Replace natural items (e.g., trees) with similar alternatives in case of disease, death, operational requirements or environmental issues.

86. Transparency and reporting

- (1) The Council must maintain accurate records of:
- (a) All memorial donations received;
 - (b) Their source and intended use; and
 - (c) How and when funds or items were utilised.
- (2) An annual report on cemetery donations and expenditures shall be published and made available to the public, to be published in the Johannesburg City Parks and Zoo Annual Report.

87. Refusal of donations

- (1) The Council may, at its discretion, refuse a memorial donation, including circumstances where:
 - (a) The item or proposal is not compatible with the cemetery's character or religious/cultural sensibilities;
 - (b) The donation would place unreasonable obligations on the Council for future maintenance or liabilities; or
 - (c) The source of funds or intention of the donation is questionable, unethical, or likely to cause reputational harm.
- (2) Refusal of donations must be documented and reasons communicated to the applicant.

CHAPTER 14
MISCELLANEOUS

88. Repeal of by-laws

The by-laws listed in Schedule 1 hereto are hereby repealed.

89. Short title

These by-laws are called the Cemeteries and Crematoria By-laws, 2004, as amended 2025.

SCHEDULE 1
REPEALED BY-LAWS

Number and Year	Name of By-laws	Extent of Repeal
Administrator's Notice 638 dated 19 August 1953	Transvaal Board for the Development of Peri-Urban Areas: Cemetery By-laws as applied by Midrand and Sandton Municipalities and as applied in area for which Management Committee of Ennerdale was established	Whole
Administrator's Notice 391 dated 8 April 1981	Johannesburg Municipality: Cemetery and Crematorium By-laws	Whole
Administrator's Notice 289 dated 10 March 1982	Randburg Municipality: Cemetery By-laws	Whole
Government Notice R.2611 dated 2 December 1983 under section 27 (2A) of the Black Local Authorities Act, 1982 (Act 102 of 1982)	By-laws relating to the Control over Cemeteries as applied by the Municipalities of Alexandra, Diepmeadow, Dobsonville and Soweto	Whole
Local Authority Notice dated 5 August 1987	Roodepoort Municipality: Cemetery By-laws	Whole