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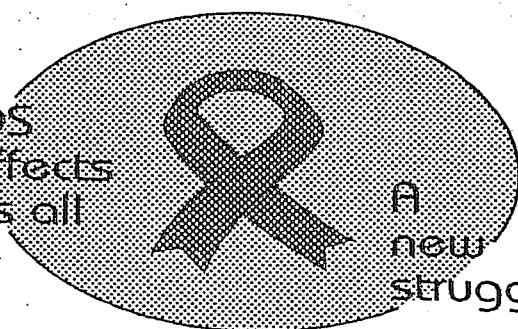
Vol. 12

BISHO/
KING WILLIAM'S TOWN, 4 NOVEMBER 2005

No. 1448
(Extraordinary)

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH



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NOTICE 175 OF 2005

LOCAL GOVERNMENT NOTICE
MUNICIPALITY OF BUFFALO CITY
BY- LAW ON THE DISPOSAL OF HUMAN REMAINS:

I, Mxolisi Tsika, the Buffalo City Municipal Manager hereby publish, in terms of section 13 of the Local Government Municipal Systems Act 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Law Relating to the Disposal of Human Remains.

PURPOSE OF THE BY-LAW:

The purpose of this by-law is to regulate the disposal of human remains by burial or cremation, cemeteries, funerals, exhumation, the care of graves, memorial work, pauper burials and all other matters pertaining thereto.

CHAPTER 1

DEFINITIONS

1. In this by-law, unless the context otherwise indicates:

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

"after hours fee" means a fee over and above the set fee for burial or cremation outside normal week-day 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;

"berm" means a concrete base on which a memorial is erected;

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

"Births and Deaths Registration Act" means the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

"body" means any dead human body including the body of a still-born 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 burial and includes interment in a mausoleum and any other mode of disposal of a body;

"cemetery" means any land or part thereof within the local authority set aside by the Council or approved by Council as a cemetery;

"child" means a deceased person who is not an adult;

"columbarium" means the place set aside in the basement of the crematorium or chapel for the placement in niches of receptacles containing ashes;

"Council" means:

- (a) the municipal council of Buffalo City Municipality, or the Council's successor-in-title, or any committee or person to which or whom an institution has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in Section 59 of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000); or
- (b) a service provider in respect of any power, function or duty of the Council as contemplated in paragraph (a), assigned by it for the purposes of this by-law to that service provider in terms of section 81(2) of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000).

"cremation" means the process of disposing of the human body by fire;

"crematorium" means a crematorium as defined in section 1 of the Ordinance or superseding legislation, which includes the buildings in which the ceremony is conducted and the cremation carried out;

"crematorium section" means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

"cremated remains" means all recoverable ashes after the cremation process;

"exhumation" means the removal of a body from its grave;

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

"grave" means any piece of land or property excavated or prepared for the burial of a body or human remains within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

"grave of conflict" means the grave of a person who died as a result of political or military conflict in or involving South Africa;

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

"Heroes' Acre" means an area of land set aside for the burial of heroes;

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

"indigent relief" means assistance received for burial or cremation of an indigent person;

"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;

"Medical Officer of Health" means the officer appointed by Council or any other person acting in the capacity of the Medical Officer of Health;

"memorial section" means a section of a cemetery set aside for 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 similar work erected or intended to be erected in any cemetery or crematorium commemorating 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 08h00 to 15h00 excluding Saturdays, Sundays and Public Holidays;

"NGO" means a non-governmental organization;

"office hours" means Monday to Friday 08h00 to 16h30 excluding Saturdays, Sundays and Public Holidays;

"officer-in-charge" means the Chief Cemeteries Officer, as appointed by Council, and his or her assignee;

"person" means a natural or juristic person;

"prescribed" means prescribed by the Council from time to time;

"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 superseding or applicable legislation;

"stone mason" means a person carrying on business as a stone mason;

"tomb" means an above ground burial vault;

"Victim of Conflict" means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

CHAPTER 2

DISPOSAL OF A BODY

2. REQUIREMENTS FOR DISPOSAL OF A BODY

A person can only bury or cremate a body in a cemetery after obtaining the permission of the Officer-in-charge and after arranging the date and time of the burial with the Officer-in-charge.

3. APPLICATION FOR BURIAL

- (1) A person intending to bury a body must submit a duly completed application form to the Officer-in-charge for approval.
- (2) The next-of-kin of the deceased or such other person who is authorized by the next of kin of the deceased must sign such application.

- (3) Despite the provisions of paragraph (2) the Officer-in-charge may, if she is satisfied that the signature of the next of kin cannot be obtained timeously, approve an application by an interested party.
- (4) The applicant must:
 - (a) Submit the application at least three working days before the burial;
 - (b) Indicate whether the application is in respect of a first or second burial, in respect of a particular grave;
 - (c) Indicate the date and time for such burial.
- (5) 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) A prescribed fee has been paid; and
 - (c) An application in terms of this section has been submitted.
- (6) The Officer-in-charge must, where practicable, take into account the customs of the deceased and the people responsible for the burial.

4. RESERVATION OF A GRAVE

- (1) An application for the reservation of a grave must be made to the Officer-in-charge.
- (2) A surviving spouse of the deceased may apply for the reservation of an adjoining grave.
- (3) In the event of persons other than the applicant utilizing a reserved grave, the Officer-in-charge must allocate another grave to the applicant within the cemetery.
- (4) A grave will only be reserved upon payment of the prescribed fee.

5. POSTPONEMENT OR CANCELLATION OF A BURIAL

- (1) An applicant must give notice of postponement or cancellation of a burial on a duly completed application form to the Officer-in-charge at least one working day before the burial, for approval.
- (2) In the case of a cancellation of a burial:
 - (a) The applicant will not be refunded for costs incurred in opening an existing grave;
 - (b) The applicant will only be refunded for costs incurred in opening a new grave.

6. NUMBER OF BODIES IN A COFFIN

Only one body is allowed in a coffin for burial or cremation.

7. BURIAL AND SUBSEQUENT BURIALS

- (1) Burial must take place only in a grave allocated by the Officer-in-charge.
- (2) Subject to paragraph (a), no more than one burial may be permitted in a grave.
 - (a) A second 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 is of a depth of at least 270 cm unless in the case of the burial of a still-born child; and
 - (iii) A prescribed fee has been paid;
- (3) A person who has been given permission for a second burial must:
 - (a) Give at least two days notice; and
 - (b) At his or her own costs, remove and subsequent to the burial, rehabilitate all memorial work on such a grave.

8. PRIVATE RIGHTS

- (1) The holder of private rights to a grave includes:
 - (a) A person who purchased a grave or who received the grave as a gift from the purchaser and whose name appears in the register of the Council;
 - (b) A person who paid the burial tariffs in respect of the first burial in the grave;
 - (c) A person to whom private rights to a grave have been transferred; and
 - (d) A person who legally inherited such private rights.
- (2) The private rights to a grave are transferable, but such transfer becomes effective only upon 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 section 10 the standard size of a grave is as follows:

- (a) An adult's grave is 230 cm in length, 90 cm in width and 200 cm in depth; and
- (b) A child's grave is 150 cm in length, 70 cm in width and 150 cm in depth.

10. ENLARGING AND DEEPENING A GRAVE

- (a) An applicant for a burial may, by giving at least 24 hours notice before the burial, request that a grave be enlarged or deepened.
- (b) If a coffin is too big for the size of an adult grave, such grave must be enlarged to accommodate the coffin.
- (c) 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 applicable to an adult grave.

11. COFFINS

- (a) Coffins to be placed in a grave must be made of natural wood or other material.
- (b) Coffins intended for cremation must be constructed mainly of timber or wood derivatives, or other combustible material.

12. COVERING OF COFFINS

- (1) Every coffin must be covered with at least 30 cm of soil immediately after burial.
- (2) There must be at least:
 - (a) 120 cm of soil between a coffin of a buried adult and the surface of the ground; or
 - (b) 90 cm of soil between a coffin of a buried child and the surface of the ground.
- (3) The provisions of paragraph (2) do not apply to burial in a tomb.

CHAPTER 3**FUNERALS****13. 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.

14. CONTROL OF HEARSES AT THE CEMETERY

No person in the cemetery may:

- (a) Drive a hearse or cause a hearse to be driven in a cemetery except on a designated roadway;
- (b) Park a hearse or leave a hearse stationary on an internal cemetery 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.

15. CONVEYANCE OF COFFINS AND BODIES

- (a) An applicant in terms of section 4 is responsible at own cost for ensuring that a coffin is conveyed to the cemetery for burial or to the crematorium for cremation.
- (b) No person may in any street, cemetery, crematorium or other public place convey a body in a manner intended to, or which may cause offence or disrespect.

16. INSTRUCTIONS AT CEMETERIES

- (1) The Officer-in-charge at the cemetery may issue instructions relating to:
 - (a) The parking of vehicles;
 - (b) The procession of a funeral party;
 - (c) The duration of a service or ritual within the cemetery precincts.
- (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.

17. DURATION OF SERVICE OR RITUAL

No person must occupy a chapel at a cemetery for the purpose of a funeral or cremation service, ceremony or ritual for more than 30 minutes, without the permission of the Officer-in-charge and payment of the prescribed fee.

18. HOURS FOR BURIAL

- (a) A burial service, ceremony or ritual must ordinarily begin and be completed between the hours of 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 for such service, ceremony or ritual to continue outside the hours stipulated in paragraph (a).
- (c) If the applicant requests the Council to provide the service outside the stipulated hours, the Council may provide such service on payment of the prescribed after-hours tariffs, subject to such conditions as the Officer-in-charge may determine.

CHAPTER 4

RE-OPENING OF GRAVES AND EXHUMATIONS

19. CONDITIONS OF EXHUMATIONS

- (1) No person may exhume or cause to be exhumed a body without the written consent of the Council, which shall for this purpose be represented by the City Manager or his assignee.
- (2) Whenever an exhumation is to take place, the Officer-in-charge must inform the Provincial Commissioner of the South African Police Service.
- (3) A member of the South African Police Service must be present when an exhumation is being conducted.
- (4) An exhumation must not take place when the cemetery is open to the public and must take place under the direct supervision of the Officer-in-charge.
- (5) If remains are to be exhumed from any grave, only the undertaker commissioned for the purpose, under the supervision of the Officer-in-charge, may cause the grave to be excavated for such exhumation.

- (6) If a grave is to be excavated for exhumation, the Officer-in-charge must be given 48 hours written notice before the time of exhumation. The authority for exhumation and the prescribed fee must accompany such notice.
- (7) A person who wishes to exhume the remains of a pauper or indigent person must pay to the Council the costs incurred by the Council at the time of burial.
- (8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (9) If there is proof of illegal burial, the Officer-in-charge must, in the presence of the South African Police Service:
 - (a) Immediately exhume the body; and
 - (b) Take it to a government mortuary for investigation.
- (10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of South African National Heritage Resources Agency.
- (11) A Commonwealth War grave must be exhumed according to section 3 of the Commonwealth War Graves Act, 1992 (Act No.8 of 1992).

20. EXHUMATION AND REBURIAL

- (1) The Council may, if a body has been buried in contravention of this by-law, 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.

21. SCREENING OF EXHUMATION

- (a) The grave from which the body is to be exhumed must be screened from view of the public during the exhumation.
- (b) The person carrying out the exhumation must provide a coffin (other the coffin from which the body is exhumed) for each body or remains.

CHAPTER 5

CARE OF GRAVES

22. GARDENING AROUND GRAVES AND OTHER OBJECTS ON GRAVE

- (1) The Council is responsible, within its means, for keeping cemeteries clean unless this by-law provides 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; or
 - (b) Plant, cut or remove plants, shrubs or flowers on the berm section.
- (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) 30 days after publishing a general notice remove all objects of decoration, if it is in the public interest.
- (6) The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is as a result of the negligence of employees of the Council.

CHAPTER 6

MEMORIAL SECTION

23. ERECTION OF MEMORIAL WORK

- (1) A person intending to erect a memorial work must make an application on the applicable form submitted to the Officer-in-charge.
- (2) Such application must be made not less than five 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 a 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.

(a) A person erecting a memorial work must at the request of the Officer-in-Charge produce the written consent.

(b) Memorial work or material to be used in the erection of such work must not be conveyed in a cemetery or crematorium in a manner that may damage the roadways, pathways, lawns, grounds or other memorials.

(c) 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 completion.

24. INFERIOR MEMORIAL WORK

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

(a) Of inferior workmanship or quality;

(b) Is indecent, offensive or objectionable; or

(c) In contravention of these by-laws, without compensating the owner.

25. 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;

(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.

26. 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 paragraph (1):
- (a) Fails to re-erect dismantled memorial work within 30 days after it was dismantled; or
 - (b) Such memorial work is left 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 there from, 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 or person, 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 there from.
- (7) If such holder or person 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 there from; 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:

(a) dismantle the memorial work and remove it and any rubble resulting there from, except memorial work classified as National Heritage; 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 paragraph (8), it must immediately, in writing, notify the holder of rights or person 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 is liable for costs incurred by the Council.

(11) If the holder of rights or person fails to pay the costs 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 there from.

27. GENERAL REQUIREMENTS FOR MEMORIAL WORK

(1) Memorial work must be constructed or made of durable material, with a life expectancy of at least 25 years with the approval of the South African Bureau of Standards approved.

(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 galvanized iron pins as follows:
- (i) for memorial work up to a height of 500mm, two or more pins of at least 5mm thick and 100mm long;
 - (ii) for memorial work 501mm up to a height of 1000mm two or more pins at least 10mm thick and 200mm long; or
 - (iii) for memorial work 1001mm and higher at least two or more pins 20mm thick and 300mm 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 50mm below the natural level of the ground;
- (e) A border which is more than 225mm above the surface of the ground or more than 200mm 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 galvanized iron clamps;
- (g) All memorial work up to 150mm in thickness must be securely attached to the base;
- (h) All the components of memorial work must be completed before being brought in 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 220mm wide x 250mm thick and that of a double memorial work not less than 2286mm long x 200mm wide x 250mm thick; and
 - (iv) if loose stone chips are placed on a grave, the level of such stone chips must not be higher than 10mm below the level of the surrounding kerbstones.

28. 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 900mm in length and 260mm in width, but if the base of the headstone is erected over two adjoining graves, such base must not exceed 2200mm in length and 260mm in width;
- (b) The dimensions of the base of any headstone of a child's grave must not exceed 610mm in length and 260mm in width, but if the base of the headstone is erected over two adjoining graves such base must not exceed 1200mm in length and 260mm in width;
- (c) No portion of any headstone must 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 must exceed 1500mm in height above the berm;
- (f) Any headstone must be so positioned that the front edge of the headstone is at least 130mm from the edge of the berm;
- (g) No object other than a headstone which may incorporate more than two sockets for receptacles for flowers must be placed on any grave; and
- (h) A vase in which natural flowers or artificial flowers and foliage may be placed in a socket built in the headstone and such vase must not exceed 300mm in height;
- (i) A kerb demarcating any grave and a slab covering are not permitted.

29. REQUIREMENTS FOR MEMORIAL WORK IN 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 2500mm in length and 1050mm in width; or
- (b) In the case of a child's grave, be 1500mm in length and 900mm in width.

30. REQUIREMENTS FOR MEMORIAL WORK IN 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:
 - (a) Must not exceed 500mm in length or 500mm in width;
 - (b) Must be a minimum of 30mm thick; and
 - (c) Must 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 500mm, such plaque or memorial slab must be placed horizontal at 30 mm below grass level.

CHAPTER 7

CREMATIONS

31. APPLICATION FOR CREMATION

- (1) A person intending to cremate human remains must submit a duly completed application form supplied by the Officer-in-charge for approval not later than 15h00 a day before the intended date of cremation and such application must be accompanied by:
 - (a) The prescribed documentation;
 - (b) A prescribed fee;
 - (c) A burial or removal order issued in terms of the Births and Deaths Registration Act, 1992; and
 - (d) A death certificate.
- (2) If all the above requirements are met, the Officer-in-charge must approve such application.
- (3) The cremation must only take place in a legally operational crematorium.
- (4) If the application is made in terms of paragraph (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 (b), whether such pacemaker or radioactive material was removed from the deceased.

32. CREMATION TIMES

- (1) Cremation may take place from Monday to Saturday between 09h00 and 14h00 at the ordinary tariff prescribed by Council from time to time.
- (2) No cremation may take place on the good Friday and Christmas public holidays.
- (3) Despite the provisions of subsection (1), the Officer-in-charge to whom an application is made, may if he or she is satisfied that the case is one of emergency permit cremation outside cremation time on payment of prescribed fee.

33. PROVISION OF RECEPTACLES

- (1) The applicant must provide a receptacle with full names of the deceased for receiving ashes, unless such ashes are to be buried by the Council.
- (2) 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.
- (3) An inscription plate may be affixed to such a receptacle, or the niche may be closed with a suitable marble or other plaque.

34. ASH COLLECTION AND DISPOSAL

- (1) After cremation the ashes must be entrusted to the care of the person who applied for the cremation, should he or she so desire if not, be kept by the owner of the crematorium.
- (2) The person collecting the ash must indicate in the duly completed application forms the quantity of ash to be retained for collection.
- (3) If there are no express arrangements for burial or safekeeping, the owner of a crematorium may bury or scatter the ashes in a garden of remembrance.

35. 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, exhumation or scattering of ashes respectively, and prepare such grave for burial or exhumation of ashes.
- (3) An ash grave in a crematorium section or wall of remembrance must measure 610mm in length and 610mm in width.

36. USE OF NICHEs AND SPACES, AFFIXING OF MEMORIAL

- (1) Ashes may be deposited in a columbarium or garden of remembrance if an application accompanied by a 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.

37. MEMORIAL WORK IN CREMATORIA

- (1) A person may erect a memorial work in a crematorium in remembrance of the deceased if:
 - (a) The deceased was cremated at that crematorium; or
 - (b) He or she presents a cremation certificate from another legally operational crematorium.
- (2) Memorial work erected in a garden of remembrance must if it is intended to be placed in a space on a memorial wall or in a space encroaching on a path in a garden of remembrance, be made of marble, granite or other suitable material and measure either 230mm by 150mm by 25mm thick, or 250mm by 305mm by 25mm thick, as arranged with the Officer-in-charge.
- (3) If such memorial work is intended to seal a niche, it must be of the same material and size as to conform with the memorial work next to it and may have no items affixed to it except the lettering and/or photographic image of the deceased.
- (4) If such memorial work is intended for erection on a grave, it must not exceed 610mm in length, 610mm in width and 1,2m in height.
- (5) Memorial work may 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.

38. 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 a 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 a prescribed fee.

39. DUPLICATE CREMATION CERTIFICATES

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

CHAPTER 8

PAUPERS AND INDIGENT PERSONS

40. PAUPERS' AND INDIGENT BURIALS

- (1) A person making an application for an indigent or paupers' burial must make a declaration to that effect.
- (2) A pauper or an indigent person shall only be buried or cremated according to the conditions determined by the Council from time to time.
- (3) If a pauper or an indigent person is cremated the ashes must be retained by the Council for a period not exceeding 12 months.
- (4) If ashes are not claimed within the period of 12 months, they may be buried in an ash grave specifically provided by Council for that purpose.

CHAPTER 9

GENERAL

41. PROHIBITED ACTS

- (1) No person:
 - (a) under the age of 16 years may enter any cemetery or crematorium except 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;
 - (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 business connected with such cemetery or crematorium.

(2) No person must, within any cemetery or crematorium:

- (a) interfere with any fountain, statue, monument, equipment, fence, grave or other 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 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 a special provision made 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 designated areas;
- (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 organized functions, advertise, dig any hole, 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 officer 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 prescribed fee.

42. PENALTY CLAUSE

Any person who:

- (a) Contravenes any provision of this By-law;
- (b) fails to comply with any notice issued in terms of this By-Law;
- (c) fails to comply with any lawful instruction given in terms of this By-law; or
- (d) obstructs or hinders any authorized representative or employee of the Council in the execution of his or her duties under this By-law,

Shall be prosecuted for an offence and liable on conviction to a fine not exceeding five thousand Rand or, in default of payment of such a fine, to imprisonment for a period not exceeding one month.

43. CONFLICTING BY-LAWS

- (1) In the event of a conflict between this By-law and any other By-law, this By-law prevails and such other By-law becomes inoperative and unenforceable for as long as the conflict remains.
- (2) Where possible, when considering an apparent conflict between this By-law and any other By-law, a reasonable interpretation that avoids a conflict must be preferred over any alternative interpretation that results in a conflict.

44. DATE OF COMMENCEMENT

This By-law commences on the date of publication in the Eastern Cape Provincial Gazette.
