

# CITY OF TSHWANE METROPOLITAN MUNICIPALITY CEMETERY AND CREMATORIUM BY-LAWS

## CHAPTER I

### DEFINITIONS, ESTABLISHMENT AND CONTROL

#### DEFINITIONS

1. In these by-laws, unless the context indicates otherwise -

"**ashes**" means the remains of a corpse that are the end-product of cremation;

"**berm**" means a concrete strip constructed by the Municipality's contractor at a grave plot on which only a headstone may be erected, and includes an ash berm;

"**burial**" means the burying of a corpse or ashes in earth or any other form of interment, and "**bury**" has a corresponding meaning;

"**burial order**" means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992), whereby authorisation is granted for the burial or cremation of a corpse;

"**cemetery**" means an area of land which has been duly set apart by the Municipality for interment purposes within the area of jurisdiction of the Municipality;

"**corpse**" means the body of a dead human being, including the body of a stillborn child;

"**cremation**" means the disposal of a corpse by means of incineration, and "**cremate**" has a corresponding meaning;

"**crematorium**" means that section of a cemetery that is used for the cremation of corpses;

"**General Manager**" means the person appointed by the Municipality as General Manager: Environmental Management or his or her duly authorised representative;

"**headstone**" means a commemorative stone erected on a berm;

"**interment**" means burial or cremation or any other mode of disposal of a corpse;

"**Manager: Cemetery Services**" means the person appointed by the Municipality as head of all the cemeteries under the control of the Municipality or his or her duly authorised representative;

"**memorial**" means any tombstone, monument, kerbing, graveguard, bed and chips, plaque, and inscription on it, or other similar work erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person;

"**Municipality**" means the City of Tshwane Metropolitan Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the provisions of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"**niche**" means a space in a columbarium or in a wall of remembrance in which a funeral urn containing ashes can be placed and over which a memorial is erected;

"**reservation certificate holder**" means a person to whom the right to bury a corpse in a certain grave has been granted;

"**Senior Administrative Officer**" means the person appointed by the Municipality to be the officer in charge of a cemetery or his or her duly authorised representative; and

"**stillborn**", in relation to a child, means viable but having showed no sign of life at birth.

"**Strategic Executive Officer (SEO)**", means the person appointed by Council as the Head of the Housing, City Planning and Environmental Management Department or his/her duly authorised representative.

## **ESTABLISHMENT**

2. The Municipality may from time to time set apart for the purpose of a cemetery any piece of land within the Municipality's area of jurisdiction and may set apart separate areas for different religious denominations within a cemetery, and may also establish a monumental section and a berm section within a cemetery.

## **CONTROL**

3. All the cemeteries which have been established or which may be established within the area of jurisdiction of the Municipality must be under the control of the Municipality.

**CHAPTER II**  
**CEMETERIES**  
**GENERAL**

4. No person may bury a corpse or cause a corpse to be buried within the Municipality's area of jurisdiction, other than in a cemetery.
5. The Senior Administrative Officer must keep a burial register in duplicate.
6. The burial register must, as far as possible, be filled in immediately after a burial has taken place.
7. One copy of the burial register must be kept up to date at the office of the Senior Administrative Officer and the other copy at a place that the Municipality may determine from time to time.
8. A corpse may not be buried in a cemetery without the permission of the Municipality, granted in writing by the Senior Administrative Officer.
9. Permission in terms of section 8 is not granted unless -
  - (1) a burial order authorising the burial is submitted to the Strategic Executive Officer or any employee appointed by him/her; and
  - (2) the relevant fees, as determined by the Municipality from time to time, have been paid.
10. Where a grave has been reserved in terms of section 24, the reservation certificate must be produced in lieu of the payment of the reservation fees, and only the grave service fee is levied.
11. The office of the Senior Administrative Officer must be open on official working days from 07:30 to 15:45.
12. Entrances at every cemetery must be open from 07:00 to 18:00 daily during the months of September to March and from 07:00 to 17:00 daily during the months of April to August.
13. Burials must take place from Monday to Thursday from 08:00 to 14:30 and on Fridays from 08:00 to 13:30 in the presence of the Senior Administrative Officer.

14. With the special permission of the SEO or his nominated representative, burials may take place after hours or on a Saturday, Sunday or public holiday.
15. No person may -
  - (1) enter or exit any cemetery except through the gates provided for that purpose; and
  - (2) enter any office or enclosed area in a cemetery except to undertake a lawful activity in accordance with the provisions of these by-laws.
16. No person may place any articles outside of or on the sidewalks at a cemetery with the intention of selling the articles.
17. No person may carry on an occupation or solicit any orders for any business, or exhibit, distribute or leave any business card or advertisement inside or outside a cemetery, except on sites specifically determined and set aside for that purpose.
18. No person may sit, stand, walk or climb on or over any grave, memorial, gate, wall, fence or building in a cemetery, except in the case of graves furnished with a berm.
19. No person may bring any animal or animal-drawn vehicle into a cemetery without the permission of the Senior Administrative Officer. Any animal found in a cemetery may be impounded or removed by the Senior Administrative Officer without rendering the Municipality liable to pay any compensation.
20. No person may -
  - (1) wantonly destroy or damage or cause to be destroyed or damaged any grave, memorial, wall, building, fence, railing, path or other construction in a cemetery;
  - (2) place, draw or erect any advertisement, poster or placard on any grave, memorial, wall, building, fence, railing, path or other construction in a cemetery; or
  - (3) in any other way deface any grave, memorial, wall, building, fence, railing, path or other construction in a cemetery.
21. No person may, unless expressly permitted to do so by these by-laws or unless the consent of the SEO or his nominated representative has been obtained -

- (1) disturb the soil in a cemetery;
- (2) plant or uproot any plant, shrub or flower in a cemetery; or
- (3) in any way interfere with any grave or construction in a cemetery.

22. No person may -

- (1) play any game or sport in a cemetery;
- (2) discharge any firearms in a cemetery (except as a salute at a military funeral);
- (3) discharge any air gun or catapult in a cemetery;
- (4) disturb or annoy any person in a cemetery; or
- (5) do anything which might disturb the peace or undermine propriety in a cemetery.

23. No person may -

- (1) obstruct, resist or oppose the SEO or his nominated representative and/or the Senior Administrative Officer or any other official of the Municipality in the course of the performance of his or her duties; or
- (2) refuse to comply with any order or request that the SEO or his nominated representative and/or the Senior Administrative Officer may issue under these by-laws.

### **RESERVATION OF GRAVE PLOTS**

24. A grave plot in respect of which a burial is authorised in terms of these by-laws must be reserved in the name of the next of kin and, if there is no known next of kin, in the name of the person who applied for the grave. Where a burial is authorised at the request of an organisation, association, institution or a government, the grave plot allotted for the burial must be reserved in the name of that organisation, association, institution or government.

25. Grave plots may only be reserved when they are needed for a burial, except where a grave plot has been reserved in advance through an application submitted to and approved by the Senior Administrative Officer, provided that -

- (1) only one grave plot within the monumental section of the cemetery is reserved;

- (2) the reservation is valid for a period of 25 years only and is renewed every five years thereafter, by application;
  - (3) the grave plot reserved is adjacent to that of the deceased; and
  - (4) the reservation certificate holder pays the tariff as prescribed by the Municipality from time to time.
26. Reservation certificates must be issued by the SEO or his nominated representative for grave plots reserved in terms of section 24.
27. No reservation is necessary if a person wishes to bury ashes only.
28. The Municipality may -
  - (1) on application by a religious denomination, and in the manner the Municipality deems fit, allocate in a cemetery a piece of ground that the Municipality deems necessary for the interment of the corpses of people who belonged to that denomination or for a purpose that is, at the discretion of the Municipality, incidental to the purposes of a cemetery; and
  - (2) after a period of 25 years, and at its own discretion, use for other purposes the ground that has been allocated in terms of subsection (1).
29. No person may acquire any title, ownership or dominium in respect of any reserved ground. The reservation certificate holder acquires only the right to bury a corpse in the reserved grave and the right to erect a memorial on the reserved grave.
30. Reservation certificates that have been issued may only be transferred, assigned or alienated if the written permission of the SEO or his nominated representative and of the reservation certificate holder or the duly authorised representative of the reservation certificate holder has been obtained.
31. Reservation certificates may, with the special permission of the SEO or his nominated representative, be transferred from one cemetery to another cemetery, when needed for a burial. The reservation certificate holder is required to pay the difference should the cemetery to which he or she intends to transfer the reservation levies higher fees.

## **ORDERS FOR BURIAL**

32. The notice of a burial, together with the relevant burial order, must be submitted to the office of the Senior Administrative Officer not later than eight working hours before the burial is to take place, except by written permission of the SEO or his nominated representative.
33. A person applying for the reopening of a grave for a second interment must sign a reopening document granting permission for the opening of the grave at the cemetery. The funeral director may only reserve the funeral formally once the reopening document has been signed.
34. If a memorial or any other structure has to be removed for the purpose of a burial, the person applying for the burial or his or her duly authorised representative must remove the memorial or structure not less than 12 working hours before the burial is to take place. If the memorial or structure has not been removed within eight working hours before the burial is to take place, the burial must be postponed to give the cemetery staff sufficient time to prepare the grave.
35. If a grave needs to be made bigger, wider or deeper, the funeral director must notify the Senior Administrative Officer in writing of this and of the proposed measurements not less than 18 working hours before the burial is to take place.
36. No person may bury a corpse in any grave other than in that allotted by the Senior Administrative Officer.

#### **DIMENSIONS OF GRAVE PLOTS AND GRAVES**

37. The dimensions of a grave plot for a deceased person of the age of nine years or older must be 2 500 mm x 1 500 mm, and the excavation for a single grave must be not less than 2 000 mm deep, 2 200 mm long and 750 mm wide.
38. The dimensions of a grave plot for a deceased person under the age of nine years must be 1 500 mm x 1 000 mm, and the excavation for a single grave must be not less than 1 500 mm deep, 1 200 mm long and 750 mm wide.
39. The Senior Administrative Officer must have all graves prepared, with the exception of brick-lined or concrete-lined graves in respect of which the brickwork or concrete work must be carried out by the funeral director in accordance with the specifications applicable to ordinary graves.

#### **BURIAL OF HUMAN REMAINS**

40. The SEO or his nominated representative may in special circumstances grant permission for the burial of two or three corpses in one grave, provided that the



lid of the last coffin placed in the grave is at least 1 000 mm below the natural surface of the ground.

41. No person may, without first obtaining permission in writing from the SEO or his nominated representative, conduct a religious ceremony or service according to the rites of a religious denomination in a portion of a cemetery which is reserved by the Municipality for use by another religious denomination.
42. No person may cause any vehicle, including a hearse, to leave the roads while inside the cemetery. A hearse must leave the cemetery as soon as possible after the funeral for which it was engaged.
43. Any person taking part in a funeral procession or ceremony must comply with the directions of the SEO or his nominated representative in respect of the route to be taken inside the cemetery.
44. Only a memorial may be placed on a grave plot. The Municipality may remove any other object placed on such a grave plot. No boulders and no stacked stones will be allowed, unless the desired permission and authorisation is sought from the SEO or his nominated representative.

### **FUNERALS FOR DESTITUTE PEOPLE**

45. The removal and burial of the corpse of a destitute person who has died within the area of jurisdiction of the Municipality is the responsibility of -
  - (1) the Municipality if -
    - (a) the destitute person's corpse has not been claimed by a competent person; or
    - (b) a competent person has undertaken to bury the corpse of the destitute person but has not done so; or
  - (2) a State hospital or other institution in terms of the provisions of section 48(2) of the Health Act, 1977 (Act 63 of 1977), if the destitute person died in that State hospital or other institution.
46. In terms of section 48(2A)(a) of the Health Act, 1977, the Municipality may, as it deems fit, cremate the corpse of a destitute person instead of burying the corpse.

47. Permission for the burial or cremation of the corpse of a destitute person must be obtained from the SEO or his nominated representative.
48. The corpses of more than one destitute person may, at the discretion of the SEO or his nominated representative, be buried in one grave.
49. In the case of the burial of the corpse of a destitute person, the Municipality remains the reservation certificate holder.
50. In the case of the cremation of the corpse of a destitute person, the Municipality must bury the ashes in an area specifically set aside for that purpose.
51. A person applying for the burial or cremation of the corpse of a destitute person must -
  - (1) make an affidavit or have a letter from the relevant ward councillor to the effect that -
    - (a) the applicant cannot afford to pay for the burial or cremation; and
    - (b) the deceased destitute person left no money or policy to pay for the funeral or cremation; and
  - (2) submit the affidavit or signed letter from the relevant ward councillor, which must be to the satisfaction of the SEO or his nominated representative: Cemetery Services, to the Municipality.
52. The SEO or his nominated representative reserves the right to refuse to bury or cremate the corpse of a destitute person if the requirements set out in section 51 are not met.

### **EXHUMATION OF HUMAN REMAINS**

53. Human remains may be exhumed only if -
  - (1) the Premier of Gauteng, the Attorney-General or a magistrate and the reservation certificate holder authorise the exhumation in writing;
  - (2) the authorisation contemplated in subsection (1) is handed to the SEO or his nominated representative in advance;
  - (3) the family of the deceased person or the funeral director notifies the SEO or his nominated representative or the General Manager not less

than three working days in advance of the date and time proposed for the exhumation;

- (4) the Senior Administrative Officer is present at the exhumation; and
  - (5) at least one member of the South African Police Service, who must be notified by the family of the deceased person or the funeral director, is present at the exhumation.
54. The Senior Administrative Officer may require that a screen be erected around the area where the exhumation is to take place so that members of the public cannot view the exhumation.
  55. The Municipality or the Municipality's contractor may open a grave up to the coffin, being the reopening level, but may not remove the remains.
  56. Only members of the family of a deceased person are permitted at the exhumation of the remains of that deceased person. If members of an organisation wish to attend an exhumation, the organisation must obtain permission from the Senior Administrative Officer in writing at least three working days before the proposed exhumation, failing which the members may be refused access to the exhumation.
  57. All exhumations must, if possible, start before 09:00 or as soon as possible after 09:00 at a time that the SEO or his nominated representative may at his or her discretion allow.
  58. All persons present at an exhumation must obey the instructions of the Senior Administrative Officer and any member of the South African Police Service.
  59. If an exhumation takes place to remove a corpse from a grave, the reservation certificate holder retains his or her rights in respect of the grave if the corpse is to be returned to that grave. If the corpse is not to be returned to the same grave, the reservation certificate holder relinquishes his or her rights in respect of that grave, and the grave may be used again as the SEO or his nominated representative deems fit.

### **WORK IN CONNECTION WITH MEMORIALS**

60. No person may bring any materials or cause any materials to be brought into a cemetery for the purpose of carrying out work in connection with memorials or for the purpose of carrying out any brickwork or stonework in any grave, and no person may erect any memorial, or carry out any construction of any kind on any grave unless and until the following requirements have been met:

- (1) The person who applies for the work or construction must in every respect accept full liability for the memorial.
  - (2) The proposed work or construction must be approved by SEO or his nominated representative. The following documentation in respect of the proposed work or construction must be handed to the SEO or his nominated representative in duplicate not less than three working days before it is proposed that the materials be brought into the cemetery:
    - (a) A plan indicating the dimensions and the position of the proposed work;
    - (b) a specification of the materials to be used; and
    - (c) a document setting out the proposed inscription or ornamentation.
  - (3) Only an original of the plan referred to in subsection (2) is acceptable. A photocopy or faxed copy of a plan may be accepted in the interim period, but the original must be submitted when the memorial is erected.
  - (4) The written approval of the SEO or his nominated representative must be handed to the person who applied for the work or construction or his or her duly authorised representative.
61. The graves of people who fell in conflict, which graves are cared for or maintained by the Commonwealth War Graves Commission in terms of the Commonwealth War Graves Act, 1992 (Act 8 of 1992), or the South African Heritage Resources Agency in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999), or by any other recognised body, or by any foreign government, may, on application being made to the Municipality, be exempted from the requirements of section 60, but exemption from the payment of the grave fees determined by the Municipality from time to time is not granted.
62. The SEO or his nominated representative may refuse to grant permission for proposed work in respect of a memorial if the documentation referred to in section 60 reveals that -
- (1) the work or the memorial will be of such an inferior quality that the work or the memorial is likely to cause damage, pose a danger, or in some way disfigure the cemetery; or
  - (2) the memorial will bear an inscription that is likely to cause offence to users of the cemetery or visitors to the cemetery.

63. No person may convey stones, bricks or monuments or any part of any stone, brick or monument in any cemetery on a vehicle or truck which -
- (1) is not fitted with wheels that have pneumatic tyres; and
  - (2) is of a kind that is likely to cause damage to the paths and grounds of the cemetery.
64. No person who is carrying out any work in respect of a memorial may -
- (1) at any time disturb an adjacent grave plot; or
  - (2) on completing the work, leave the grave plot until it is in a clean and tidy condition.
65. All work in connection with memorials that is carried out in a cemetery must be completed in accordance with the plan and specification, as approved by the Senior Administrative Officer under section 60.
66. The monumental mason and monumental constructor must report to the cemetery office to verify that all the information with regard to the number and location of the grave is correct. Only information given in writing by the cemetery staff will be accepted for this purpose.
67. Memorials in the monumental section of a cemetery must meet the following requirements:
- (1) Full kerbing must be constructed at the grave plot. A grave plot may not have a headstone on its own.
  - (2) All separate parts of a memorial, apart from the brickwork, must be affixed with copper or galvanised iron pins that are of a length and thickness sufficient to ensure the permanent stability of the work.
  - (3) Any part of a memorial that rests on a stone or other foundation must be completely squared and jointed.
  - (4) The undersides and the base of a memorial or headstone must be set at least 50 mm below the natural level of the ground.
  - (5) All headstones must be securely attached to the base.
  - (6) On every grave plot, the memorial in its entirety must be made of granite, marble or another material that bears an SABS certificate which specifies that the material will not erode or become discoloured for at

least 30 years. The SABS certificate must be submitted to the SEO or his nominated representative before the memorial is erected.

- (7) All memorials on all grave plots must be erected on concrete foundations that are at least 610 mm wide and 205 mm deep across the full width.
  - (8) All memorials on grave plots larger than single grave plots must be made of granite or marble and must be fixed to solid concrete mats at the four corners and where joints occur.
  - (9) The width of a memorial on a grave plot must be at least 100 mm.
  - (10) The Senior Administrative Officer may require that a concrete foundation on a grave plot be reinforced if, in the interests of safety, reinforcement is necessary owing to the weight of the memorial.
68. No person may erect a memorial in a cemetery unless the number and section letters of the grave plot on which the memorial is to be erected are indelibly engraved on the memorial. The number and section letters must be engraved in such a position that the number and letters are legible at all times from the pathway. With the consent of the person who has applied for the memorial to be erected, only the name of the maker of the memorial may be placed on the foot stone. The figures and letters may not exceed a height of 50 mm.
69. No person may do any work in connection with the erection of a memorial in a cemetery from 14:00 on a Friday until 07:30 on the following Monday. The Manager: Cemetery Services may, in consultation with the Senior Administrative Officer, in exceptional cases allow such work to be carried out on a Saturday.
70. While in the cemetery, vehicles of monumental masons may under no circumstances leave the roads of a cemetery.
71. Even after approval for the erection of a memorial has been granted to a particular firm, the person who applied for the erection of the memorial may use any other firm of his or her choice for the erection of the memorial as approved.
72. Any person carrying out work in a cemetery must comply in every respect with the instruction or instructions of the Senior Administrative Officer.
73. Every monumental mason must, when erecting a memorial, put up land surveyor lines in line with the other memorials, from north to south and from east to west, so as to ensure that the memorials are erected in straight lines.

74. A monumental mason must remove all excess soil and waste from the cemetery and leave the grave plot in a clean and tidy condition.
75. A memorial in a cemetery may not be higher than 1 200 mm. If a special request is made to and the written permission of the SEO or his nominated representative is obtained, a memorial may be higher than 1 200 mm, but not higher than 1 800 mm. When a special request is acceded to, a fee as determined from time to time by the Municipality is payable.
76. When permission is granted for a memorial to be higher than 1 500 mm, the person applying for the memorial must submit to the Municipality an engineer's report and an indemnity letter, as prescribed by the Municipality.
77. Section 75 and section 76 do not apply to the berm section of a cemetery. In the berm section, memorials may not be higher than 1 200 mm.
78. Once a memorial has been erected, the monumental mason must inform the Senior Administrative Officer that the erection has been completed.

#### **GRAVE PLOTS FURNISHED WITH A BERM**

79. A grave plot furnished with a berm is, notwithstanding anything to the contrary contained in these by-laws, subject to the following conditions:
  - (1) No kerbing may be constructed on the grave plot.
  - (2) Only grass may be planted in the areas between the memorials.
  - (3) The dimensions of the base of a memorial for a deceased person of the age of nine years or older must be from 800 mm x 200 mm x 200 mm to 1 000 mm x 200 mm x 200 mm.
  - (4) The dimensions of the base of a memorial for a deceased person younger than nine years of age must be from 600 mm x 150 mm x 150 mm to 750 mm x 150 mm x 150 mm.
  - (5) A memorial may have more than one vase for flowers, provided that one of the vases stands on the right-hand side on the base of the memorial.
  - (6) A memorial may not extend over the foot and must be at least 50 mm from the front edge of the berm.

#### **MAINTENANCE OF GRAVES**

80. Any memorial erected on a grave must at all times be maintained in good order and condition by the family of the deceased person. If a memorial is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the Municipality may, by means of a written notice to the reservation certificate holder, require the reservation certificate holder to have the required repairs carried out. The written notice must be sent by registered mail to the reservation certificate holder at the address given in the register or at any other address that the reservation certificate holder may have given the Senior Administrative Officer in writing. If the reservation certificate holder fails to have the required repairs carried out within one month of the date of the notice, the reservation certificate holder is guilty of contravening these by-laws, in which case the Municipality may -
- (1) have the memorial removed as it deems fit; and
  - (2) recover from the reservation certificate holder or his or her successor the expenses incurred in removing a memorial.
81. A memorial that has been dismantled for the purpose of a further interment must be re-erected or removed by the reservation certificate holder within two weeks of the date of the dismantling. If the reservation certificate holder fails to do so, he or she is guilty of contravening these by-laws, in which case the Municipality is entitled to -
- (1) remove the dismantled memorial from the cemetery without further notice to the reservation certificate holder; and
  - (2) recover from the reservation certificate holder the expenses incurred in removing the dismantled memorial.
82. The Municipality is not liable for -
- (1) any loss of or damage to a memorial or an article placed on a grave plot, irrespective of the time or cause of the loss or damage; and
  - (2) any compensation in respect of any memorial that has been repaired or removed.
83. No person may -
- (1) without first obtaining the written permission of the SEO or his nominated representative, plant any tree, shrub, bush or any other plant in the area of a grave plot; and



- (2) plant any tree, shrub, bush or plant on any portion of a grave plot other than that indicated by the SEO or his nominated representative.
- 84. No reservation certificate holder may allow any shrub, bush or plant to hang over or extend beyond the limits of a grave plot.
- 85. The Municipality has the right to remove, trim or prune any plants which extend beyond the limits of the grave plot on which they are planted or any plants that are untidy.

## CHAPTER III

### CREMATIONS

86. A cremation in the area of jurisdiction of the Municipality may only take place -
- (1) under the supervision of the SEO or his nominated representative or the Senior Administrative Officer or officials appointed for that purpose by the Municipality;
  - (2) on payment of the fees determined from time to time in the tariff structure of the Municipality; and
  - (3) in a registered crematorium.
87. A cremation must be reserved with the Senior Administrative Officer not later than 13:00 on the day before the day on which the cremation is to take place.
88. The Senior Administrative Officer may at his or her discretion refuse to allow a cremation if the requirements of these by-laws are not complied with.
89. In connection with any cremation, a member of a religious denomination may conduct a funeral service in the crematorium chapel, provided that the duration of the funeral service does not exceed 30 minutes. If the organ is used during the funeral service, it may only be played by an organist.
90. Services in the crematorium chapel may only be held from Mondays to Thursdays between 09:00 and 14:30 and on Fridays between 09:00 and 13:30. With the special permission of the Senior Administrative Officer, services may be held on Saturdays and on Sundays.
91. In the case of private cremations without a service in the crematorium chapel, the corpses must be delivered to the crematorium from Mondays to Fridays between 08:00 and 10:00.
92. A container for receiving the ashes must be supplied with each corpse presented for cremation.
93. If a cremation service is reserved but the required documents prescribed in sections 94 and 96 cannot be presented on time, the hearse may park in front of the crematorium chapel without the corpse being removed from the hearse. After the funeral service, the undertaker must take the corpse back and present it for a private cremation at a later stage.

94. Where a cremation is desired, one of the following persons must give notice of the cremation by completing the prescribed form, having the form affirmed or sworn to and submitting the form, together with the other prescribed documents, to the office of the Senior Administrative Officer:
- (1) The nearest surviving relative of the deceased person; or
  - (2) the executor of the estate of the deceased person, if there is no surviving relative, or another person who can provide a satisfactory reason for completing the form and documents and handing them in.
95. No person may -
- (1) wilfully conceal the fact that a deceased person has left directions that he or she not be cremated;
  - (2) wilfully conceal any other material fact; or
  - (3) wilfully make any false statement.
96. Every notice submitted to the Senior Administrative Officer in terms of section 94 must be accompanied by -
- (1) the following documents in the case of a natural death:
    - (a) Schedule A - Application for cremation;
    - (b) Schedule B - Certificate of Medical Attendant;
    - (c) Schedule C - Confirmatory medical certificate;
    - (d) Schedule E - Authority to cremate; and
    - (e) burial order;
  - (2) the following documents in the case of an unnatural death:
    - (a) Schedule A - Application for cremation;
    - (b) Schedule D - Certificate after post-mortem examination;
    - (c) Schedule E - Authority to cremate; and
    - (d) burial order; or
  - (3) the following documents if the corpse of the deceased person was handed over in terms of the Human Tissue Act, 1983 (Act 65 of 1983), to an authorised person or institution:
    - (a) Schedule A - Application for cremation;
    - (b) burial order; and
    - (c) a covering letter from the medical referee.

97. All cremations are subject to approval by a medical referee appointed by the Premier of Gauteng.
98. The coffin in which a corpse is presented for cremation must -
- (1) be made of natural, combustible material (such as wood);
  - (2) contain no metal nails;
  - (3) have a bottom with no projections;
  - (4) be perfectly smooth; and
  - (5) contain no pitch, sawdust or glass.
99. If a coffin is fitted with handles that are made of synthetic material, the handles and the breastplate must be removed from the coffin and handed to the next of kin of the deceased person. If the handles and breastplate are not claimed by the next of kin, the Municipality may dispose of the handles and breastplate as it deems fit.
100. Where a metal case is necessary in a coffin, only a thin zinc lining may be used.
101. If a service in the crematorium chapel is desired, the authorised representative of the deceased person must provide bearers to carry the coffin into the chapel and deposit it on the catafalque.
102. The viewing of a corpse may under no circumstances be permitted on the cemetery premises or on the crematorium premises.
103. All persons present in a crematorium are subject to the orders and control of the SEO or the representative nominated by him/her. The SEO or his nominated representative has the authority to -
- (1) exclude any person from the crematorium if that person's presence, in the opinion of the SEO or his nominated representative, is likely to cause pain or annoyance to other persons attending the cremation; and
  - (2) have any person removed from the crematorium if that person refuses to comply with any order or instruction given by the SEO or his nominated representative in the course of the performance of his or her duties.

104. A corpse may not be removed from a coffin for the purpose of incineration. No coffin may be opened in the crematorium, except if the SEO or his nominated representative has authorised its opening.
105. No person except authorised officials may be in the furnace chamber at any time without the special permission of the SEO or his nominated representative.
106. The ashes of a cremated corpse must be handed over to the next of kin of the deceased person or to the authorised representative of the next of kin on the first working day after the cremation took place.
107. No ashes may be scattered on any premises of the Municipality.

### **DUTIES OF THE SENIOR ADMINISTRATIVE OFFICER**

108. The Senior Administrative Officer must -
  - (1) keep a register which reflects the information in respect of every interment by cremation performed in each cemetery under his or her control; and
  - (2) make the entries for all cremations immediately after the cremations, with the exception of those entries which cannot be made immediately and can only be made after the ashes of the deceased persons have been -
    - (a) handed to the person who signed the required notice or to his or her duly authorised representative; and
    - (b) otherwise disposed of.
109. In the case of the cremation of a corpse in the Hindu Crematorium, the SEO or his nominated representative must give permission for -
  - (1) the cremation to take place on a Sunday or public holiday if necessary; and
  - (2) the corpse to be removed from the coffin.

### **POST-CREMATATION SERVICES**

110. The conditions in respect of burials and exhumations apply *mutatis mutandis* to the burial and exhumation of ashes.

111. For the purpose of the burial of ashes in the ground, a garden of remembrance for ashes is laid out and is furnished with a berm with grave plots of 600 mm x 600 mm.
112. The ashes of no more than two deceased persons may be buried in a grave plot referred to in section 113.
113. The ashes of a deceased person may, on payment of the prescribed fees -
- (1) be placed in the wall of the columbarium;
  - (2) be buried in a grave in the cemetery; or
  - (3) be buried in the garden of remembrance for ashes.
114. If a person applies for the reservation of a niche in the columbarium or a plot in the garden of remembrance for ashes, the applicant must be in possession of ashes which must be placed in the niche or plot within three months of the date of the reservation. If the applicant fails to comply with this section, the niche or ash plot may be forfeited.
115. In the case of niches in the columbarium and plots in the garden of remembrance, the erection of a memorial must take place at the same time as the placing of the ashes.
116. A funeral urn which has to be placed in a niche in the columbarium or in a plot in the garden of remembrance must be made of terracotta or another approved material. The size and design of a funeral urn are subject to the approval of the SEO or his nominated representative.
117. If a funeral urn, as contemplated in section 116, is removed from a niche in the columbarium or plot in the garden of remembrance, the person in whose name the niche or plot is reserved forfeits all rights in respect of the niche or plot, and the SEO or his nominated representative may re-use the niche or plot as he or she deems fit.

### **MEMORIAL WORK**

118. A memorial plaque placed on the wall of the columbarium must be made of granite or marble and must have a recess of 7 mm on the front edge.
119. The dimensions of memorial plaques contemplated in section 118 must be as follows:

- (1) For half a space on the wall, the dimensions of the memorial plaque must be 240 mm x 170 mm.
  - (2) For three-quarters of a space on the wall, the dimensions of the memorial plaque must be 240 mm x 260 mm.
  - (3) For a full space on the wall, the dimensions of the memorial plaque must be 240 mm x 330 mm.
120. A memorial in a garden of remembrance must be erected during the placing of the ashes in the garden of remembrance. Memorials in a garden of remembrance must -
- (1) be manufactured from granite or marble;
  - (2) be uniform;
  - (3) have a base of 550 mm x 150 mm x 150 mm and a headstone of 350 mm x 350 mm with a thickness from 80 mm to 100 mm; and
  - (4) have an opening in the base in which a vase for flowers can be placed.
121. A memorial must be erected at least 50 mm from the front edge of the berm.
122. A small vase for flowers may be mounted on the right-hand side of the memorial plaque on the memorial wall of the columbarium. Vases for flowers must be uniform and are subject to the approval of the SEO or his nominated representative.

## CHAPTER IV

### GENERAL PROVISIONS

#### PERSONS WHO HAVE DIED OUTSIDE THE AREA OF JURISDICTION OF THE MUNICIPALITY

123. The provisions of these by-laws apply *mutatis mutandis* to any interment, whether by burial or cremation, within the area of jurisdiction of the Municipality of the human remains of any person who has died outside the area of jurisdiction of the Municipality, subject to the condition that a burial order in terms of section 20(3) of the Births and Deaths Registration Act, 1992 (Act 51 of 1992), is handed to the SEO or his nominated representative.

#### GENERAL

124. Every application and every document relating to any interment, whether by burial or cremation, must be -
- (1) furnished with a number from the register;
  - (2) filed in sequence; and
  - (3) preserved by the Municipality for a period of at least ten years.
125. All fees in respect of interments, whether by burial or cremation, must be set out in the Municipality's tariff structure.
126. Any person contravening the provisions of these by-laws is guilty of an offence and is liable on conviction to -
- (1) a fine not exceeding R5 000,00 or, in default of payment of the fine, to imprisonment for a period not exceeding 12 months; and
  - (2) in the case of a continuing offence, a further fine not exceeding R3 000,00 or, in default of payment of the fine, to imprisonment for a period not exceeding six months for each day that the offence continued.
127. The Municipality is indemnified against any loss, damage or claim of whatever nature, including legal costs, owing to a negligent act or omission of the Municipality, its officials or agents.