Johannesburg, South Africa

Cemeteries and Crematoria

Legislation as at 21 May 2004

FRBR URI: /akn/za-jhb/act/by-law/2004/cemeteries-and-crematoria/eng@2004-05-21

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Johannesburg
South Africa

Cemeteries and Crematoria By-law, 2004

Published in Gauteng Provincial Gazette 179 on 21 May 2004

Commenced on 21 May 2004

[This is the version of this document from 21 May 2004 and includes any amendments published up to 4 April 2024.]

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 for the City of Johannesburg Metropolitan Municipality as approved by its Council, as set out hereunder.

Chapter 1
Interpretation

1. Definitions

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

"**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.

"**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 of 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 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 burial 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;

"**columbarium**" means the place set aside in the basement of the 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);

"**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 subdelegated, 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 process of disposing of a human body by fire;

"**crematorium**" means a crematorium as defined in section 1 of the Ordinance and 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 , 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 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 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 organization 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;

"**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 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, and includes a person authorized by the Council to be in control of any cemetery;

"**ordinance**" means the Crematorium Ordinance, 1965 (Ordinance No. 18 0f 1965);

"**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;

"**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 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). (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, 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 authorized 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 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 Registration Act;

(b) the prescribed fee has been paid; and

(c) an application in terms of subsection (1) has been submitted.

Deaths

(3) The officer-in-charge must, where necessary, take into account the customs of the deceased, and the people responsible for the burial.

4. Reservation of a grave

(1) An application to reserve a grave must be made to the officer-in-charge.

(2) A surviving spouse of the deceased may apply for an adjoining grave to be reserved.

(3) The officer-in-charge must allocate another grave within the cemetery to the applicant, where persons other than the applicant mistakenly utilized a reserved grave.

(4) A grave will be reserved only upon payment of the prescribed fee.

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.

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) (i) two people who have lived together as partners; or

(ii) unrelated deceased persons, whose families have no objection; or

(d) 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 days notice; and

(ii) at his or her own cost remove, and, subsequent to the burial, replace all memorial work on such a grave.

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 prescribedburial 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 section 7 and 10 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 2000 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.

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 adultgrave, 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.

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.

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. 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.

15. 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.

16. 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.

17. 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-incharge.

18. 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, without the permission of the officer-in-charge and payment of the prescribed fee.

19. 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

20. Conditions of exhumations

(1) No person may exhume or cause to be exhumed a body without the written consent of the –

(a) Premier of the Gauteng Provincial Government;

(b) the Council;

(c) the provincial Department of Health;

(d) the Administrator of cemeteries; and

(e) the Council's Medical Officer of Health.

(2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.

(3) A member of the South African Police Services must always 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 supervision of the officer-in-charge.

(5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;

(6) (a) 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, and

(b) The authority referred to in paragraph (1)(d) and the prescribed fee must accompany such notice.

(7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.

(8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.

(9) 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.

(10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.

(11) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

21. 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.

22. 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

23. 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) 30 days after publishing a general notice remove all objects of decoration, for the purpose of beautification of the area.

(6) The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is a result of the negligence of any employee of the Council.

Chapter 6
Memorial section

24. 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 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.

(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.

25. 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.

26. 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.

27. 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 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.

28. 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 galvanized 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 galvanized 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 curbstones.

29. 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) (i) no object other than a headstone which may incorporate more than two sockets for receptacles for flowers may be placed on any grave; and

(ii) 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) a kerb demarcating any grave and a slab covering are not permitted.

30. 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 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.

31. 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 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 horizontal at 30 mm below grass level.

Chapter 7
Cremations

32. 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, a 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) The cremation may only take place in a crematorium.

(4) 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.

33. Cremation times

(1) Cremation may take place from Monday to Friday between 09:00 and 14:00. (2) No cremation may take place on Saturdays, Sundays, and 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 the prescribed fee.

34. 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.

35. 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 prescribed 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.

36. 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.

(3) An ash grave in a crematorium section or wall of remembrance must measure 610 mm in length and 610 mm in width.

37. 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 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-incharge.

38. 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 32; 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 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, 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 1,2 m 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.

39. 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-incharge 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.

40. 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

41. Burial of indigent persons

(1) A person making an application for an indigent person's burial must make a declaration to that effect.

(2) An indigent person may be buried or cremated according to conditions determined by the Council.

(3) If an indigent person is cremated the ashes must be retained by the Council for a period of not less than 12 months.

(4) If ashes are not claimed within the period of 12 months be buried in an ash grave.

Chapter 9
General

42. 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;

(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 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 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 therefore 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 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 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; and

(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.

43. Penalty clause

Any person who-

(a) Contravenes or fails to comply with any provision of these By-laws;

(b) fails to comply with any notice issued in terms of these By-laws;

(c) fails or fails to comply with any lawful instruction given in terms of these By-laws; or

(d) obstructs or hinders an authorized official or employee of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment of such a fine to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.

44. Repeal of by-laws

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

45. Short title

These By-laws are called the Cemeteries and Crematoria By-laws, 2003.

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