



EKURHULENI METROPOLITAN MUNICIPALITY

CEMETERY AND CREMATORIUM BY-LAWS

[COUNCIL RESOLUTION: A-SR (8a-2003) dated 31 July 2003]
[Date of Commencement: 12 November 2003]

as amended by

Council Resolution A-SR(05-2006) dated 30 November 2006
[Date of commencement: 28 February 2007]
Council Resolution A-ET (18-2006) dated 25 January 2007
[Date of commencement: 25 April 2007]

By-law

To provide for the use and regulation of Cemeteries and Crematoriums within the municipal area of the municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Ekurhuleni Metropolitan Municipality, as follows:-

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CHAPTER 1: DEFINITIONS.

Definitions

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

“Adult” means any deceased person, the dimensions of whose coffin cannot be accommodated in an excavation for the grave of a child;

“Anatomy Subject” means part/s of a cadaver.

“Ashes” means the cremated remains of a human body;

“Berm” means a concrete base for the erection of a memorial work at the head of a grave in an aesthetic section;

“Berm section” means a section of a cemetery which the Council has set aside as such, in which berms are permitted, and in terms of which different fees may be charged from fees charged in other sections;

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

“Body Bag” means a protective wrapping in which a cadaver is buried

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

“Burial” means burial / inhumation into earth or any other form of interment and shall include mausoleum and any other mode of disposal of a body;

“Cadaver” means a dead human body;

“Cemetery” means land within the area of jurisdiction of the Council, which the Council has set aside as a cemetery or crematorium;

“Cemetery officer” means the person appointed or recognized by the Council to be in charge of a particular cemetery or crematorium;

“Child” means a deceased person, the dimensions of whose coffin can be accommodated in an excavation for the grave of a child;

“Coffin” means a long box in which a dead body is buried or cremated.

“Columbarium” means a memorial wall or a wall of remembrance or a public container of ashes with identity plaques affixed and visible;

“Contractor” means a person responsible for the erection of, or any other work on memorial works on behalf of the “Holder”;

“Council” means the Ekurhuleni Metro, and includes an officer of the Metro duly empowered by the Metro to exercise or perform the powers, functions and duties of the Metro under these by-laws;

“Council cemetery” or **“Council crematorium”** means a cemetery or Crematorium, as the case may be, under control of the Council, and excludes a private cemetery or crematorium;

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

“Crematorium” means a place for incinerating human bodies, but does not mean places for disposing of ashes;

“Crematorium section” means a section of a cemetery or crematorium set aside by the Council for the interment of ashes;

“Crematory” means the room in the crematorium which houses the cremation refractory;

“Cremated remains” means all recoverable human remains after the cremation process;

“Emergency Burials” means burials where the body is in an advanced state of decomposition or, for medically verified reason/s. and needs to be buried as soon possible.

“Exhumation” means with the consent of Legislature, Health and Council or by Court order the removal of a cadaver from its interment site;

“Exceptional permit” means a permit to authorize burial in an area not zoned as Municipal Cemetery but zoned with such rights for inhumation

“Garden of remembrance” means a section of a cemetery or crematorium set aside for the memorial work to commemorate a deceased person whose body was cremated and for the placing or strewn of ashes, but does not include a columbarium.

“Grave” means any grave in which any person has the right of having a body interred;

“Hero” means a person who performed a heroic act on behalf of the Country and is recognized therefore by Council;

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

“Holder” means the person who has been granted the right to bury a human body in a grave or who has been granted the right to cremate a human body;

“Indigent” means: (a) any member of a household registered as indigent under the Council policy for indigent support and who can submit valid proof of such registration. (b) Any non-registered person applying through his/her ward councillor whose application is approved by the Municipal Manager

“Interment” means any placement of a body in a grave;

“Landscape section” means a section of a cemetery which the Council has set aside as such as being aesthetically more pleasing than another section and in terms of which different fees may be charged from fees charged in other sections;

“Lawn section” means a section of a cemetery which the Council has set aside as such being flat and covered by lawn, in which berms and monumental work are permitted and in terms of which different fees may be charged from fees charged in other sections;

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

“Mausoleum” means an above ground burial vault;

“Medical referee” shall mean the officer/s or deputy thereto appointed by Council with the approval of Legislature in terms of the Crematorium Ordinance 1965;

“Memorial wall” means as wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased Person/s;

“Memorial work/s” means any headstone, plaque or other similar work erected or intended to be erected in a cemetery commemorating deceased persons, and includes a kerb demarcating a grave and a slab covering a grave;

“Monumental section” means a section of a cemetery which the Council has set aside as such in which memorial work is allowed and in terms of which different fees may be charged from fees charged in other sections;

“Metro” means the Ekurhuleni Metropolitan Municipality.

“m” means meter or meters;

“mm” means millimeter or millimeters;

“Name” shall be the name of the deceased and include any identifying description of a deceased human being who possessed no name or whose name is unknown at the time of death;

“Next of kin” means the deceased’s relative;

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

“Non resident” means a person who, at the time of death, did not qualify as a resident as stipulated in the definition for **“Resident”**;

“Normal operational hours” means Monday to Friday 09:00 to 15:00 excluding Saturdays, Sundays and Public holidays;

“Office hours” means Monday to Friday 8:00 to 15:00 excluding Saturdays, Sundays and Public holidays

“Ordinance” means the Crematorium Ordinance, 1965 (Ordinance 18 of 1965);

“Pauper” means a deceased unknown person without any known address or relatives subject to the Health Act, Act 61 of 2003;

“Permission” means the permission or consent of the superintendent*;

“Person” means any person excluding an employee of the Council acting in the course and scope of his/her duties in the cemetery;

“Plot” means a demarcated area within which the excavation of a grave must be made and on which memorial work (if allowed according to the type of section) should be erected;

“Private grave” means a single grave within any cemetery, with the exclusive right of interment, subject to the provisions of the relevant section of these bylaws;

“Province” means the province of Gauteng;

“Registrar of Deaths” means any person appointed by the Government to register the death;

“Resident” means a person who, at the time of death or at the time of the purchase of a grave, ordinarily resided within the geographical area of the jurisdiction of the Metro or any person who, at the time of death, shall, have been the owner of fixed property within the Metro for a period of at least six months immediately prior to death. Provided that unless otherwise qualified, the term does not include inmates of hospitals, institutions or other persons temporarily resident within Metro;

“Regulation” means a regulation published in terms of the ordinance;

“Stone mason” means a person or company registered as a stone mason and authorized to operate within the cemeteries and crematoria of the Ekurhuleni Metropolitan Municipality for the erection / dismantle of Memorial work;

“Superintendent” shall mean Cemetery Officer;

“Tombstone” means any’ headstone, plaque or other similar work erected or intended to be erected in a cemetery commemorating a deceased person,

“Undertaker” means a person registered to undertake the dignified preparation of a human body for burial or cremation and is in possession of the Councils and Legislatures certificate of competence;

“Working day” means any day that is not a Saturday, Sunday or public holiday;

“Working hours” means between 7:00 and 16:00 on working days;

Note: In these by-laws singular shall include the plural and masculine shall include feminine

CHAPTER 2: INTRODUCTORY MATTERS.

Establishment of cemeteries.

2. (1) The Council may set aside geotechnical suitable land within its area of jurisdiction for use as cemeteries or crematoria, or a combination of the two
- (2) The Council may reserve any cemetery or part thereof for exclusive use by the members of a particular religion or denomination, or for the burial of adults or children, or for the burial of ashes, or for a specific type of a grave

Disposal of bodies.

3. No one may dispose of a body within the geographical area of jurisdiction of the Council, other than by burial in a cemetery or cremation in a crematorium recognized by Council, unless such disposal is otherwise authorized by any law.

Chapter 3: BURIALS

Permission to bury.

4. (1) No burial may take place in a cemetery unless permission has been granted by the Council after application in terms of Section 5, and a date and time has been allocated by the Council.
- (2) In allocating a date and time for burial the Council must have regard for the beliefs and customs of the deceased or relative's religion, church affiliation or nationality.
- (3) Rights to particular graves may be acquired in terms of Section 11 of Chapter 3.

Application procedure for burial in a Council cemetery.

5. (1) Application for burial in a Council cemetery must be made to the Council on the prescribed form and must be accompanied by-
 - (a) The fee prescribed by Section 53 and
 - (b) A burial order issued in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992)
- (2) Applications for a burial shall be made at the applicable office where the intended burial will take place or at a cemetery office as indicated by a cemetery officer.
- (3) A written application for a burial must be submitted at least 2 working days before burial, failing which the Council may refuse the application except in exceptional cases.
- (4) In the case of Muslim burials where the body must be interred on the same day as the death of the deceased, the application for the interment shall be submitted on the first working day after the interment.
- (5) In the case of Jewish burials where the body must be interred on the same day as the death of the deceased the application for the interment shall be submitted on the first working day after the interment.
- (6) In the case of an Emergency Burial where the body must be interred a day after the submission of the written application for a burial, the application for the interment shall be submitted at least one (1) working day BEFORE the interment.
- (7) No burials will take place in cemeteries in the Ekurhuleni Metropolitan Municipality on any of the following statutory public holidays, Good Friday; Christmas Day; Boxing Day and New Years day.
- (8) Application for enlargement of a grave, excluding exceptional cases, must also be submitted at least 2 working days before burial.

- (9) Where enlargement of a grave is requested, the responsibility shall be on the applicant to ensure that it is done in time, and the Council will accept no responsibility for inconvenience, loss or damages in this regard.
- (10) Notice of cancellation or postponement of burial must be given at least four (4) working hours before the burial, failing which the applicant shall pay an additional fee of fifty percent (50%) of the prescribed fee
- (11) In the case of burials taking place over the weekends and on public holidays, Council will be responsible for filling of graves, subject to the payment of the prescribed after-hour tariff as in Section 53
- (12) In the case of a still born or infant burials where the family, due to family value systems want the body to be interred the same day as the death of the deceased, the application for interment shall be submitted on the first working day after the interment.

Burial in council cemetery only in allotted grave.

- 6. (1) Burial in a council cemetery may take place only in a grave allotted by the Council.
- (2) Where practical, the Council must allow the applicant access to a plan of the cemetery, showing section, and allow the applicant, on payment of the fee prescribed by *Clause 53**, to choose the section, but not the individual grave.

Coffins

- 7. (1) Coffins to be placed in a grave must be made of natural wood or other perishable material.
- (2) Coffins intended for cremations must be constructed mainly of timber or wood derivatives.

Number of bodies in a coffin

- 8. (1) Only one body in a coffin may be usually allowed for burial or cremation.
- (2) Burial of more than one body in a coffin is allowed if the application is made and approved by the cemetery officer, and the prescribed fee has been paid.
- (3) Such application may be made in respect of:
 - (a) Family members who either died together or the other died before the burial of the other member;
 - (b) A mother and child who died during child birth;
 - (c) Remains of an anatomy subject.

Body Bags

- 9. (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, except if it is contrary to the traditions, customs or religious beliefs of the deceased person or the applicant.

Numbering of graves

- 10. (1) The Council must number all graves and show them on a plan that is kept available in the Cemetery Officer's office during office hours.

Reservation of graves in a Council Cemetery

- 11. (1) The grave used for an interment shall be deemed reserved for a second interment.
- (2) A third burial may be allowed only if:

- (a) An application has been made to the Cemetery officer and written permission has been granted
 - (b) The grave has been deepened, and
 - (c) A prescribed fee has been paid.
- (3) Graves can only be purchased as and when required for immediate use. No additional graves sites may be reserved for future use.
- (4) With regard to existing reserved graves: The reservation of a grave will not confer any ownership (dominium) of, or title to that grave, but only the right to bury a body therein.
- (5) The applicable tariff for a second / third interment shall be paid when the reservation is taken up.
- (6) The Council shall demarcate religious sections in cemeteries, if requested to do so, where the religious beliefs and customs differ radically from the norms applicable in the cemetery.

Transfer rights in Council Cemetery

12. (1) The Council will not allow the transferring of rights in respect of existing reserved graves.
- (2) Where the rights to reserve graves have been paid for, the Council may buy back the rights. The amount payable will be based on the interment fee in the grass section applicable at the time of application to transfer the rights to Council.

Number of burials

13. (1) Not more than two bodies will be allowed per grave unless provision has been made for the deepening of the grave
- (2) The Cemetery Officer, at his or her discretion, may grant permission to allow coffins to be placed directly on top of each other when buried simultaneously as a first burial.
- (3) If the soil is found to be undesirable in the opinion of the Cemetery Officer, the latter may disallow the reopening of the grave.
- (4) A maximum of three bodies will be allowed per grave in the case of paupers buried simultaneously.
- (5) A person who has been given permission for either a second or third burial must:
- (a) Give at least two days notice, and
 - (b) At his or her own cost remove and subsequent to the burial replace all memorial work on such grave.

Burial of ashes

14. (1) Ashes may be buried in a special grave, the dimensions of which may be smaller than those prescribed for the graves, as determined by the Cemetery Officer, or in an ordinary adult grave as a second grave.
- (2) The provisions of these by-laws regarding burial of bodies shall apply, with the necessary changes, to the burial of ashes.

Burial of indigent

15. (1) The relative of a person who qualifies as an indigent may apply for an indigent burial at the prescribed indigent burial tariff (See Section 53)
- (2) Indigent burials will be restricted to the lawn section of cemeteries and all conditions applicable for such a section as described in Section 42 will apply.
- (3) Applications for indigent burials shall be recommended by the Ward Councillor and Manager Indigents/Social Services and have to be approved by the City Manager or a delegated

official in charge of the applicable cemetery. The family of the deceased shall accept the conditions applicable to indigent burials.

Burial or cremation of paupers.

16. (1) The Council may bury the bodies of paupers in any grave chosen by the Council.
- (2) A total of three (3) pauper bodies may be interred in a single grave simultaneously.
- (3) Pauper burials shall take place in the lawn section of a cemetery if such a section is available. (See Section 42).
- (4) No tombstone or memorial works shall be erected on pauper grave.
- (5) In the case of paupers being cremated, the contractor / Municipality will be responsible for the safe keeping of ashes for the period of one year, thereafter the ashes shall be interred in an ash grave if no claim has been made.
- (6) The burial or cremation of paupers will only occur during normal working hours and not on Saturday, Sunday nor public holidays.

Recording of burials

17. (1) The Cemetery Officer must keep a register in duplicate of graves and burials, which must be completed within the first working day after burials.
- (2) One copy of the register (which might be in the format of a computer printout) must be kept in the Cemetery Officer's office, and the other copy at a separate safe place to be determined by the Council.
- (3) Each holder in respect of a grave must be allotted a number corresponding with the register number.
- (4) In the case of crematoria within the area of jurisdiction of the Council, the Cemetery Officer must keep a register of cremations, to which subsections (1) & (2) shall apply with the necessary changes.
- (5) All burial registers must be kept indefinitely in a fireproof safe.
- (6) Upon written application members of the public may consult the burial registers for a particular section of a cemetery at a convenient time under conditions determined by the Head: Cemeteries.
- (7) Members of the cemetery industry for example stone masons, funeral undertakers, etc. may not use the burial registers in order to solicit business. All applications to consult the registers must be addressed in writing to the Head: Cemeteries

Military graves and heroes acres

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

Burial registers

19. (1) The Cemetery Officer of each cemetery and crematorium must keep a burial register in which the following is recorded in respect of each burial or cremation, where applicable;

- (a) The section of the cemetery in which the burial took place;
 - (b) The reference number of the burial order;
 - (c) The following information relating to the deceased
 - (i) surname/and Christian or given name(s);
 - (ii) identity number and gender
 - (iii) maiden name;
 - (iv) last known residential address;
 - (v) dates of birth and death;
 - (vi) cause of death;
 - (vii) place of death
 - (d) The date of burial or; in the case of ashes buried, the date of cremation
 - (e) The grave location number
 - (f) In the case of an exhumation, the name of the following cemetery, if applicable;
 - (g) The name of the previous cemetery, if exhumed elsewhere;
 - (h) The date of exhumation
 - (i) The date of reburial;
 - (j) A statement whether the grave lot is reserved or not (**Only applicable to existing reserved graves**)
 - (k) Whether the grave-lot is double or triple (**Only applicable to existing reserved graves**)
 - (l) Particulars of reselling of grave (**Only applicable to existing reserved graves**)
 - (m) The account or receipt number and amount;
 - (n) The date the amount is paid;
 - (o) The name of the undertaker;
 - (p) The provider of a memorial and the date raised;
 - (q) The date of entry of data
- (2) In the case of a cemetery having a landscape section, a special landscape register, in addition to the burial register, must be maintained for the convenience of the public.

CHAPTER 4: GRAVE EXCAVATIONS AND PLOTS.

Dimension of grave excavations and plots.

20. (1) Footpaths must be set out separately in the case of monumental graves, but grave plot dimensions and monument dimensions must allow for foot space for maintenance purposes.
- (2) The Council may set out only a few designated footpaths in berm and lawn type cemeteries.
- (3) Grave lot dimensions must provide for 0,7m width of foot space in the case of memorial graves and 0,4 m in case of berms.
- (4) Excavations of single graves must be as follows, in millimetres:

	Bottom of grave	Top of ground level
Adult: Length	2,400	2,500
Width	0,900	1,000
Depth	2,000	
Cover on top of coffin		1,200
Child: Length	1,500	1,600
Width	0,600	0,700
Child Depth	1,500	
Cover on top of coffin		0,900

- (5) The Council must not allow grave excavations in generally sandy soil
- (6) Soil depth between coffins must not less than 300 mm except for simultaneous burials.
- (7) The height of the coffin may not exceed 0,600 m in the case of an adult and 0,500 in the case of a child.

- (8) Additional depth per coffin may not exceed 0,900 m in the case of an adult and 0,800m in the case of a child.
- (9) Existing grave dimensions shall apply for sections of a cemetery laid out prior to the promulgation of these By-laws. The dimensions contained in these By-laws shall pertain to all new sections of a cemetery laid out after the promulgation of these By-laws.

Enlargement of excavations

21. (1) If a grave has to be enlarged because the coffin is too large, notice must be given in writing to the Cemetery Officer not less than 2 working days before burial
- (2) If a grave must be deepened to accommodate a third burial, notice must be given to the Cemetery officer not less than two (2) working days before burial

Covering of coffins

22. (1) There shall be at least 1200 mm of soil between any adult coffin and the surface of the ground and at least 900 mm of soil in the case of a child's coffin.
- (2) At least 300 mm of soil shall be placed over any coffin immediately after the burial.
- (3) The provisions of section 22(1) and (2) do not apply to the burial in a tomb / mausoleum.

Levelling of soil on grave

23. (1) The Council shall reserve the right to level all grave mounds and remove any surplus soil near a grave within six (6) months after interment
- (2) Grave mounds in the Muslim section shall not be levelled.
- (3) Grave mounds in old inactive cemeteries shall not be levelled

CHAPTER 5: FUNERALS.

Religious ceremonies, memorial services and processions.

24. (1) Religious ceremonies, memorial services and processions may be conducted or held in a cemetery or crematorium, subject to the control and supervision of the Cemetery Officer.
- (2) A religious ceremony, memorial service or procession may not be held in a portion of the cemetery or crematorium that has been reserved for members of a different religious group, denomination or nationality, unless the consent of the Cemetery Officer has been obtained.
- (3) The holder shall be responsible for providing pallbearers to transport bodies and coffins to the chapel, gravesite or crematorium, as the case may be.
- (4) The person arranging a ceremony other than an ordinary funeral must obtain permission from the Cemetery Officer by applying one working day before the ceremony.
- (5) The Cemetery Officer may limit the time allotted to such a ceremony to a maximum of thirty (30) minutes.

Control of hearses and other vehicles.

25. (1) The driving and parking of hearses and other vehicles in the grounds of cemeteries and crematoria is subject to the control of the Cemetery Officer.
- (2) No one may drive or park any vehicle in a cemetery or crematorium ground except on the roadways or parking spaces provided or at a speed exceeding 20 km/h, or contrary to any road sign erected by the Council.

Conveyance of bodies.

26. (1) No body may be conveyed except in a suitable, purpose made coffin / casket*.
- (2) No body may be conveyed in an unseemly manner.
- (3) No body or part thereof may be exposed during conveyance.
- (4) Where religion or tradition necessitates a different way of conveyance of body's prior permission should be obtained from the Cemetery Officer.

Conveyance of coffins.

27. The holder shall be responsible to convey the coffin and body to the grave for burial or crematorium for cremation.

Chapels in Council cemeteries and crematoria.

28. (1) Anyone desiring to use the chapel at a council cemetery or crematorium must apply to the Cemetery Officer at least 2 working days in advance to reserve it, stating the desired date and time, and no one may use such chapel without consent and having paid the fee prescribed in *Section 53**
- (2) The chapel in a cemetery or crematorium shall be allocated on a first- come first-served basis, and may not be occupied for longer than sixty (60) minutes without the consent of the Cemetery Officer.
- (3) No grave side funeral services may take place for longer than 30 minutes without the consent of the Cemetery Officer.

Funeral, cemetery and crematorium hours

- 29 (1) Subject to subsection (2) and (3), funerals may take place only between the hours of 8:00 and 15:00 on any day of the week. **(All burial activities should be completed by 15:00)**
- (2) Where the particular religious groups, denominations or nationalities prefer to bury bodies outside the hours mentioned in subsection (1), or in the case of special circumstances, the Cemetery Office may allow such burial on application.
- (3) Cemeteries and public areas in crematoria will be open to the public seven days a week between the hours of 8:00 to 18:00 during the period 1 September to 30 April 8:00 to 17:00 during the period 1 May to 31 August. These hours shall be indicated on notice boards at the entrances to the cemetery, but the Council may close off any cemetery or crematorium, or part thereof, to the public at any time.
- (4) Cemetery offices will be open to the public between the hours 8:00 to 15:00 on working days.

Large number of people at funerals

30. Where a person who applies for burial suspects that more than 500 persons or more than 100 vehicles may be present at a funeral or in a procession, he or she must give notice of this fact on the application form (Application for an interment form) except in exceptional circumstances where the funeral takes place after hours.

CHAPTER 6:- EXHUMATION AND REBURIAL.

Exhumation

31. (1) No person shall exhume or cause to be exhumed any body without the prior written consent of the Council and approval of the Premier (Gauteng) and Provincial Health Department in

terms of the Removal of Graves and Dead Bodies Ordinance, 1925 [Ordinance 7 of 1925] or in the case of graves of conflict and graves older than 60 years with approval from South African Heritage Resources Agency.

- (2) Authority for an exhumation must be:
 - (a) Firstly obtained from the Premier of Gauteng
 - (b) Secondly obtained from the Provincial Health Department.
 - (c) Thirdly obtained from the Council's Executive Director: Health and Social Development
 - (d) Fourthly obtained from the Council's Cemeteries Administrators
- (3) No person shall exhume or cause to be exhumed any body without a member of the South African Police Services being present
- (4) An application for exhumation must be made on the form prescribed by the Council and on payment of the fee prescribed by *section 53*.
- (5) If a grave is to be excavated for exhumation, the Cemetery Officer must be given 48 hours written notice before the time of exhumation.
- (6) A person who wishes to exhume the remains of a pauper or indigent person must pay the costs incurred by the council at the time of burial, to the Cemetery Officer.
The vacated grave will revert to the Council.
- (7) The person who applied for the exhumation must provide a receptacle for the remains and removal thereof.
- (8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (9) A Commonwealth War Grave must be exhumed according to section 3 of the Commonwealth War Graves Act, 1992 (Act No 8 of 1992)

Re-burial by Council

32. (1) Where a body has been buried contrary to these by-laws or any other law, or where the Council considers re-burial to be necessary for good reason, it may apply to the Premier of the Province (Gauteng) to remove and re-bury remains in accordance with the Dead Bodies and Graves Ordinance, 1925
- (2) The Council must notify the relatives of the deceased or the person who applied for the grave by letter, if their whereabouts are known, or otherwise by advertising in a newspaper circulating in the area.
- (3) If the Premier consents, to the reburial the Council may re-bury the remains in the grave and manner of its choice, subject to directions, if any, from the Premier, any and the religious rites of the deceased.

Exhumation of ashes

33. (1) The provisions of these by-laws regarding exhumation of bodies shall apply, with the necessary changes, to the exhumation of ashes.
- (2) No person may exhume ashes from the grave or disturb them without the written consent of the Council, which may, in granting such consent impose conditions.
- (3) Application for exhumation of ashes must be made to the Council not less than two working days in advance and be accompanied by the fee prescribed in Section 53.

CHAPTER 7: CARE OF GRAVES, AND MEMORIAL WORK

Gardening and care of graves.

- 34 (1) Unless otherwise provided in these by-laws, the Council shall be responsible for keeping cemeteries in a neat and tidy condition.
- (2) The upkeep of graves is subject to the directions and control of the Cemetery Officer, provided that:
 - (a) No gardening is allowed in the berm and grass section;
 - (b) No person shall erect, place or leave upon a grave any object or decoration, except during the first 30 days following the interment therein;
 - (c) No trees or shrubs may be planted on graves in any section;
 - (d) The Cemetery Officer or any member of his /her staff may remove natural or artificial flowers and any receptacle placed on a grave, when they become withered, faded or damaged;
 - (e) No person shall at the time of the Council levelling/grassing any section of a cemetery, hinder the Cemetery Officer in the execution of his/her duties;
 - (f) No soil may be removed from the grave without the consent of the Cemetery Officer.
- (3) The holder may maintain the grave subject to conditions prescribed by Council, but the Council retains the right to maintain any grave at its own cost.
- (4) No person, company or organization may contract to maintain the graves for a third party in a Council cemetery without first having submitted a written application to do so and Council having granted permission Council may determine certain conditions if it approves the application.

Erection or re-erection of memorial work

- 35. (1) No memorial may be erected on a grave in a pauper section.
- (2) No memorial work may be carried out or altered in a cemetery unless:
 - (a) An application is made to the Council on the form prescribed by the Council, accompanied by a plan of the proposed work, showing all dimensions, specifications and positioning of the work, as well as inscriptions;
 - (b) The application is submitted not later than two days before the work commences;
 - (c) The work is approved by the Council.
- (3) Application to carry out memorial work may be made by the holder of a grave or by a contractor on behalf of the holder where the holder has authorized the contractor to submit the application.
- (4) Consent to carry out the memorial work may be refused where, in the opinion of the Council, the work or the proposed inscription will be inferior, offensive or in poor taste.
- (5) Except where provided otherwise, memorial work shall be at the cost of the person applying to carry out the memorial work.
- (6) All memorial works shall be strictly in accordance with the plan approved in terms of subsection(2) and shall comply with the following dimension applicable to all new cemeteries and new sections within existing cemeteries while the status quo will remain at all existing sections on the date of approval of these by- laws.

(a) Adult Berm Section (Single grave)	
Base	900x250x250 mm
Thickness of stone to be erected on the base	80- 100 mm
Total height (Excluding base)	120 mm
(b) Adult Berm Section (Double grave)	
Base	2200x250x250 mm

Thickness of stone to be erected on the base	80-100 mm
Total height (Excluding base)	1200 mm
(c) Child Berm Section	
Base	600x250x250 mm
Thickness of stone to be erected on the base	80 mm
Total height (excluding base)	900 mm
(d) Adult Monumental Section (Double grave)	
Base	2140x920 mm
Total headstone height	1800 mm
(e) Adult Memorial Section (Double grave)	
Base	2140x2100 mm
Total head stone height	1800 mm
(f) Child Monumental Section	
Base	1375x760 mm
Total headstone height	1000 mm

- (7) Except for the berm section where Council will be responsible for the construction of berms, the following base construction specifications will apply for the erection of all memorial work;
- The existing ground shall be excavated to a depth of 250 mm and compacted with a plate compactor in layers of 75 mm to 95% MOD AASHTO
 - 250 mm 25 mpa in situ concrete shall be cured for 72 hours by covering with plastic sheeting
 - The in site concrete base shall be finished off with a metal float
- (8) Subsections (1), (2), (3), (4) and (5) shall also apply, with the necessary changes, to the removal or alteration of memorial work
- (9) Where memorial work is to be removed or altered for a second or subsequent burial, this must be done not less than (2) two working days before the burial, and the removal or alteration must be completed within three (3) months after the second or subsequent burial. The removal of memorial work is not the responsibility of the Council, as it remains the property of the holder.
- (10) No work on any memorial shall be performed on Saturday, Sunday or public holiday or at any time between 16:00 and 07:00 on workdays.
- (11) All memorial work must be carried out subject to the directions and approval of the Cemetery Officer and may not be carried out while the soil conditions are unsuitable in the opinion of the Cemetery Officer.
- (12) Persons carrying out memorial work must;
- Leave the work in a neat and tidy condition.
 - Remove all rubble within one (1) working day of completion of the work;
 - Not disturb other neighbouring graves;
- (13) The council shall not be held liable for damage to or theft of memorial work;
- (14) In deciding whether to approve or reject proposed memorial work in terms of section 35 (2), the Cemetery Officer must have regard to the following;
- The work must have an adequate foundation to support its weight;
 - Where any part of any memorial work is to be joined to any other part, copper or galvanized iron dowels or pins of approved thickness and of sufficient length shall be used for such purpose. The holes, into which such dowels or pins must fit, shall not be less than 50 mm deep;
 - The work must fit aesthetically into its surroundings;
 - Construction must sturdy enough *so as not*** to pose a present or future danger.
 - Materials to be used must be non-combustible and of a solid nature.
 - Memorial works manufactured with materials other than marble and granite should be of a SABS approved standard and have a life expectancy of 25 years.
 - Memorial work may be done in brickwork, should be of a SABS approved standard and have a life expectancy of 25 years. All work needs to comply with Chapter 7 of these by-laws

- (15) The cemetery Officer must ensure that the work complies with the minimum specifications set by these by-laws and may impose reasonable conditions before approving any memorial work.
- (16) Memorial work must be completed before being brought into the cemetery, unless the Cemetery Officer agrees otherwise.

Requirements for memorial work berm section.

36. The following shall apply to memorial work and graves in any berm section;
 - (1) Only vertical headstones erected on top of the berm section are allowed,
 - (2) No memorial work may be constructed on the grave;
 - (3) Headstones shall be erected on the concrete berms provided by the Council save in the case of a temporary erection where the applicant shall indemnify Council against any loss and provide a foundation suitable to support the contemplated headstone until Council undertakes the installation of such berm.
 - (4) All other stipulations applicable to memorial work, as set out in this section and *Sections 36, 37, 38, 39, 40 and 41* * apply equally to the headstones erected in a berm section.

Requirements for memorial work in lawn or landscape (aesthetic) sections.

37.
 - (1) Any memorial work erected on a grave in a landscape section shall not exceed 500 mm in length, 500 mm in width and a minimum of 30 mm thick, or made of ferrous material. **The memorial work shall be laid horizontal embedded to ground level on a suitable foundation.**
 - (2) An additional book (to the burial register) must be maintained for the lawn section that is;
 - Available to the public.
 - Contains limited particulars of deceased person who are buried in the lawn section.

Indecent, inferior offensive or objectionable memorial work.

38. The Council in compliance with *Section 40 (1) to (8)* * **of the by-laws, may** remove memorial work that in its opinion is indecent, inferior, offensive or objectionable, without paying compensation to the owner or any other person.

Inscriptions on memorial work.

39.
 - (1) Any memorial work on a grave must display the number assigned to the grave by Council in permanent and visible markings on the front left, bottom of the memorial work.
 - (2) The name of the maker, designer or erector of the memorial work, but no other particulars, may appear on the right, bottom of the memorial work, with a maximum size of 50 mm.

Dismantling of memorial work.

40.
 - (1) Where in the opinion of the Council memorial work has become dangerous or unsightly, or has been erected or modified contrary to the provisions of these by-laws, the Council may give the holder 14 days notice, either to the holder's last known address or in a newspaper circulating in the area, to alter or remove the work at the holder's expense, failing which the Council may alter or remove the work and claim the costs thereof from the holder, if possible.
 - (2) Where memorial work has become so dangerous that immediate removal or alteration is required, the Council may do so without notice to the holder and claim the costs from the holder. The holder must be notified as soon as possible if the holder's whereabouts are known.

- (3) Where the Council alters or removes memorial work in terms of subsection (1) or (2), it shall not be liable for compensation to the holder or any other person.
- (4) The Council shall store any old or derelict memorials, which it removes within the cemetery at a site allocated for this purpose.
- (5) Subject to the provisions of this section, no person, other than the holder of the rights or a person authorized in writing by such holder shall dismantle, alter or disturb any memorial work on a grave, and then only if the consent of the Council has been obtained in terms of Section 35.
- (6) Dismantled memorial work may be left only on the grave concerned or in such other place indicated by the superintendent, and must be removed from the cemetery within seven (7) days, but in the case of a second or subsequent burial, it may be left for no longer than 30 days.
- (7) Any surplus material, rubbish, rubble concrete etc. resulting from the dismantling of any memorial work, shall be removed from the cemetery forthwith by the person responsible for such dismantling, immediately on completion of the work.
- (8) If a holder or person referred to in subsection (1), fails to re-erect dismantled memorial work within 30 days after it has been dismantled or if such memorial work is left within the cemetery in contravention of subsection (5), the Council may give 30 days notice to such holder or person on requiring him/her at his/or her own expenses to re-erect such memorial work or to remove such memorial work from the cemetery together with all rubble connected therewith.

Landscape section.

41. The Council may set aside the whole or a section of a cemetery as a Landscape section in which:
 - (1) Memorial works as described in *Section 37* * will apply;
 - (2) Graves may have lawns on them;

Lawn section

42. The Council may set aside the whole or a section of a cemetery as a lawn Section in which:
 - (1) No mounds or headstones will be permitted;
 - (2) Spaces between graves may be smaller than otherwise prescribed;
 - (3) Graves may have lawns on them.

Placing of memorial work.

43. (1) The Council may, after giving not less than 30 days' notice to the holder, at anytime change or alter the position of any memorial work in any cemetery.
- (2) Where any memorial work has originally been placed in a certain position with the express consent of the Council or the Cemetery Officer, any alterations of such position in terms of this section shall be executed at the expense of the Council.
- (3) No one may fix or replace any memorial work during inclement weather or where the soil is in an unsuitable condition.
- (4) All activities by the contractor within a 50 - meter radius from a grave side funeral shall be terminated for the duration of such a funeral.

CHAPTER 8: CREMATION, CREMATORIA AND RELATED MATTERS.

Cremations.

44. (1) Cremation may take place on every working day between 09:00 and 14:00 except on a Saturday, Sunday or public holiday.
- (2) Application for authority to cremate a body in terms of Regulation 10 Ordinance 18 of 1965 shall be made to the Cemetery Officer by no later than 15:00 on the day preceding the intended date of cremation and shall be accompanied by a receipt indicating that the appropriate tariff as prescribed in Section 53 has been paid, provided that no application shall be made on a Saturday, Sunday or on public holiday.
- (3) On application to cremate the form prescribed by the council must be handed in and should include the following documentation:
- (a) A burial or removal order issued and endorse in terms of the Births and Deaths Registration Act, 1992;
 - (b) A certificate by a medical practitioner;
 - (c) A confirmatory medical certificate;
 - (d) An authorization to cremate certificate.
- (4) In the case of unnatural death, an application for cremation must be accompanied by the order and certificates mentioned in (a), (b) and (d) of subsection (3), together with the certificate issued by the magistrate after the relevant inquest.
- (5) The applicant for cremation must state on the application form:
- (e) How the ashes must be disposed of;
 - (f) Whether the deceased had a communicable disease, pacemaker or other radioactive implants or treatment.
- (6) Coffins used for cremation shall not:
- (g) Exceed in its outside extreme dimensions a length of 2,14 m, width of 760 mm and depth of 610 mm;
 - (h) Contain pitch or saw-dust in any form;
 - (i) Be constructed with external cross-pieces or projections of any kind under the sole or on the bottom thereof;
 - (j) Contain any metal safe, where necessary an interior lining of thin zinc sheeting.
 - (k) Be embellished with handles, name plates or other decorations, which are not made of readily combustible material unless such embellishment can be easily detached without removing the cover of the coffin. Such removed embellishments shall be handed over to the responsible undertaker but the local authority shall not be liable for any loss of or damage to such embellishments.
- (7) No body shall be removed from any coffin of the purpose of cremation, and a coffin shall not be opened in the crematorium except when directed by the Cemetery Officer.
- (8) No body shall be cremated unless it is contained in a coffin.
- (9) A container for receiving the ashes and having the full names of the deceased thereon shall be provided by the person applying in terms of these by-laws to have the deceased cremated, unless such ashes are to be interred by the Council.
- (10) All waste generated from the cremation process or as well as ash not advised for collection, shall be disposed of by the Council by interment in a grave registered for this purpose.

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

45. (1) Ashes may be deposited in a niche in the columbarium or garden of a remembrance if application is made to the Cemetery Officer and the fee prescribed by *section 53* * is paid.
- (2) Identity plaques must be made of material approved by the Cemetery Officer.
- (3) Identity plaques must be affixed simultaneously with the placing of the ashes.
- (4) Ashes must be placed within niches and identity plaques must be affixed within 60 days of the application, failing which the reservation of the niche or space shall lapse.
- (5) The reservation of niches is not permitted other than as contemplated in sub-section(4).
- (6) Ashes and plaques may be removed only with the consent of the Cremation Officer and the vacant niche will revert back to the Council.
- (7) Flower holders may only be affixed to the plaque and will be subject to approval of the Cemetery Officer.
- (8) Identity plaques must be made according to specifications related to the various walls of remembrance at the different cemeteries.

CHAPTER 9: FUNERAL UNDERTAKERS

Funeral undertakers.

46. (1) Subject to the Health Act [Act 61 of 2003] no Undertaker shall contract to bury or cremate any body in any cemetery or crematorium under the control the Ekurhuleni Metropolitan Municipality unless:
 - (a) The Funeral Undertaker is in possession of a certificate of competence issued by the Department Health and Social Development of the Metro and registered at the Council's Head Office as a Funeral Undertaker;
 - (b) The premise from which the Funeral Undertaker operates is zoned in accordance with the Town Planning Scheme for such businesses.
 - (c) The requirements relating to a Funeral Undertaker's premises are in accordance with Act. 61 of 2003.
 - (d) The premises be subject to inspection.
- (2) All documentation requirements pertaining to burial, cremation including booking and payment are concluded in accordance with the provision of this by-law.
- (3) The Council reserves the right to refuse permission to any Funeral Undertaker to undertake business in any cemetery or crematorium under its jurisdiction if such undertaker is not in compliance with these by-laws and if the Funeral Undertaker is in default of any payment.

Duties of Funeral Undertakers.

47. (1) Undertakers must abide by these bylaws and not obstruct Cemetery Officer in carrying out their duties.
- (2) At a funeral, the undertaker must supply, erect, operate and remove all lowering equipment, under the control of the Cemetery Officer.

CHAPTER 10: GENERAL MATTERS

Prohibited acts.

48. (1) No one may enter or leave a cemetery or crematorium except by the gateways provided for this purpose.

- (2) No one may in a cemetery or crematorium carry on, or solicit business, leave tracts, hold any demonstration, play any sport or ball game or perform or allow to be performed any other act or activity which is not normally associated with a cemetery or crematorium, unless the consent of the Council has been obtained.
- (3) No one may damage, deface or remove any memorial work, grave, plant, building, fence or any other fixture or object in a cemetery or crematorium.
- (4) No one may sit, stand, walk on, draw on or write on any grave or memorial work in the cemetery.
- (5) No one may commit a nuisance or any other offensive act in a cemetery or crematorium, which will be out of keeping with the dignity thereof.
- (6) No animal shall be allowed in a cemetery or crematorium, without the consent of the Cemetery Officer, and any animal found therein without consent may be removed or destroyed by the Council without the need to pay compensation to any person
- (7) Every person in a cemetery or crematorium shall be subject to the reasonable instructions or directions of the Cemetery Officer, and may not disturb or obstruct any employee of the Council in the execution of their duties.
- (8) No musical instrument may be played in a cemetery or crematorium without the consent of the Cemetery Officer. No music may be played that is unseemly or unsuitable to a funeral.
- (9) No firearms will be allowed in any cemetery or cremation, except in the case of military funerals, in which case prior written consent of the Cemetery Officer will be required. Only blank ammunition may be fired at the authorized military funerals.
- (10) No one may without the consent of the Cemetery Officer enter any area in a cemetery or crematorium that has been closed to the public by notice.
- (11) No one shall make a false statement or conceal any relevant fact in a form or other document required by these bylaws.
- (12) No burial information may be communicated for business use.
- (13) No one shall bribe or offer any gratuity to any officer or servant of the Council employed in or about any cemetery, and no such servant shall accept any bribe or gratuity.
- (14) No one shall interrupt or take away from his duties any workman, agent, contractor or labourer employed by the Council in any cemetery.
- (15) No one shall obstruct, resist or oppose the Cemetery Officer in the course of his/her duty or refuse to comply with any order or request, which the officer is entitled to make under these by-laws.
- (16) No person or organization may conduct business for financial gain in any cemetery without the written permission of the Council.
- (17) No vehicle may be driven in a cemetery or crematorium property, in a reckless manner.

Offences and penalties.

49. (1) A person contravening a provision of these by-laws shall be guilty of an offence and be punishable on conviction by imprisonment for a period not exceeding 6 months, or to a fine not exceeding R 2000, or to both such fine and imprisonment, and in the case of continuing offences, be liable to such fine or imprisonment for each such offence, or to both such fine and imprisonment.

- (2) In addition to the fines mentioned in subsection (1), a person convicted of a contravention of these by-laws must compensate the Council for any loss or damage it may have incurred as a result of the contravention. The Council may institute a claim in the appropriate court for the amount of such loss or damage.

Liability of Council.

50. (1) The Council shall not be liable for any injury to death of a person or damage to theft of property and memorial work in a cemetery or crematorium.
- (2) Persons entering cemeteries, do so at their own risk.

Complaints.

51. Complaints regarding cemeteries or crematorium must be addressed to the Head: Cemeteries of the applicable region in writing. The Council must give due regard to such complaints and take the necessary action, where appropriate.

Directions by Cemetery Officer

52. The Cemetery Officer may give directions, which must be heeded, as to:
- (1) The execution or quality of any work undertaken in a cemetery;
- (2) The parking of vehicles in or at cemeteries or crematoria;
- (3) The conduct of a ceremony or procession in a cemetery or at crematorium;
- (4) The placing of structures, chairs, voice amplification equipment and other equipment used for ceremonies or processions in cemeteries or crematoria;
- (5) The volume and type of music that may be played during ceremonies or procession in cemeteries or at crematoria.

Tariffs and charges.

53. (1) The fees payable for activities prescribed by these by-laws shall be as approved by the Ekurhuleni Metropolitan Council from time to time in terms of section 75A of the Local Government: Municipal Systems Act, Act 32 of 2000;
- (2) In the event of a burial after hours because of religious beliefs or customs, the same tariff shall apply for funerals taking place during normal business hours.

For Office Use

File:	1/4/1/1/8
Council Resolution:	A-SR (8a-2003) dated 31 July 2003
Gauteng Provincial Gazette Number	479 DATED 12 November 2003
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