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Gazethe dza *Nyingo***

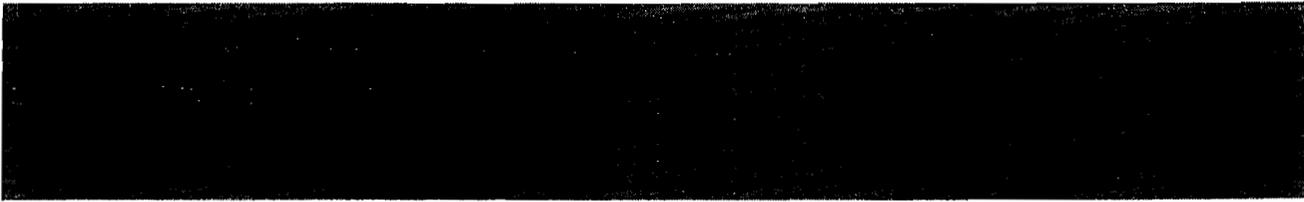
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GREATER TUBATSE MUNICIPALITY



The Municipal Manager of the Greater Tubatse Municipality acting in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Cemeteries and Crematoria By-law for the Greater Tubatse Municipality, as approved by its Council, as set out hereunder.

1. Application and purpose of this By-Law

This by-law shall apply to all public cemeteries under the control of the municipality and to private cemeteries, crematoria and funeral undertakers' premises located within the municipal area. This by-law is intended *inter alia*:

- To provide for cemeteries for the burial and cremation of deceased persons;
- To provide for procedures, methods and practices to regulate funeral undertakers' premises, the burial, cremation and exhumation of deceased persons, the provision of grave plots and the maintenance thereof.

2. Definitions

In this By-law, unless the context otherwise indicates, words used in the masculine gender include the feminine, the singular includes the plural and vice versa:

“Active Cemetery” means a public, in use, cemetery situated within the area of jurisdiction of the municipality, and includes the buildings and fixtures within that cemetery;

“Administrator of Cemeteries” means the head of the section or department of the Municipality

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which has the responsibility for the administration of the cemeteries of the Municipality, and any person acting in his or her stead or any person duly authorized by the Municipality to act on his or her behalf;

“**Adult**” means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person the dimension of whose coffin cannot be accommodated in an excavation of 1,4 m in length and 400 mm in width;

“**Aesthetic Section**” means a section of a cemetery, set aside by the municipality, wherein only a headstone may be erected on a berm and on which the municipality must provide and maintain a strip of lawn;

“**After-Hours Fee**” means a fee over and above the prescribed norm of tariff for interment cremations or burials outside normal 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 authorized school of anatomy in terms of the anatomy Act, 1959 (Act, No. 20 of 1959);

“**Approved**” means approved by the Municipality;

“**Ashes**” means the cremated remains of a corpse;

“**Berm**” means a concrete base laid at the head of a grave on which a memorial stone, if any, is to be erected;

“**Body**” shall mean any dead human body, including the body of any stillborn child;

“**Burial**” means burial in the earth or some other form of interment and shall include any other mode of disposal of a body, including a tomb;

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

“Burial Place” means any burial-ground whether public or private, or any place whatsoever in which one or more bodies is/are buried, interred, cremated or otherwise disposed of, or where it is intended to bury, inter, cremate or otherwise dispose of a body;

“Caretaker” means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery;

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

“Cemetery Services” means services relating to the management, administration, operation and maintenance of an active cemetery;

“Child” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children and includes the corpse of a stillborn child;

“Code of Practice” means the obligations and responsibilities of the authorities to the dignified handling and disposal of the deceased;

“Corpse” means the remains of a deceased person and includes a stillborn child;

“Council” means-

(a) the Greater Tubatse Municipal Council; or

(b) a structure or person exercising a delegated power or carrying out an instruction, where any power in this by-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or

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(c) 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 whereby the corpse is disposed of by fire;

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

“Crematorium” means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965) and includes the building in which the ceremony is conducted and the cremation is carried out and any structure which in any special circumstance the MEC for health may approve as a crematorium;

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

“Cremator” means the refractory in which the process of cremation of the coffined body is carried out;

“Crematorium Section” means a section of a cemetery or crematorium set aside by the Municipality for the burial of ashes;

“Exhumation” means the removal of a body from its grave;

“Existing Funeral Undertaker’s Premises” means existing funeral undertaker’s premises which are legally used as such on the date of commencement of this by-law;

“Funeral Undertaker’s Premises” means premises that are used or will be used for the preparation of corpses;

“Full Capacity” means that all existing space for interment has been used so that it is no longer reasonably practicable, whether for economic, aesthetic, physical or any other good reason for the municipality to set out any more sites for graves;

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“Garden of Remembrance” means a section of a cemetery or crematorium set aside for the erection of memorial work;

“Grave” means a piece of land excavated for the burial of a corpse within a cemetery or heritage site and includes the, headstone, number or marker of and a structure on or associated with such place;

“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;

“Holder Of Reservation Certificate” means a person to whom a certificate has been issued in terms of section 10 or transferred to in terms of section 11;

“Indigent Person” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organization 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 an indigent person who has received assistance for burial or cremation from another person, welfare organization or non governmental organization;

“Inhumation” means the burial of human remains;

“Interment” means to inter/commit the human remains into its final place (see burial);

“Landscape Section” means a cemetery or section therein set aside by the municipality where memorial work is restricted to a plaque or memorial slab [500mm] provided that such plaque or

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memorial slab is placed horizontal at 30mm below grass level;

“Lawn Section” means a cemetery or section therein set aside by the municipality where memorial work is restricted to a headstone only;

“Medical Officer of Health” means the medical officer of health of the municipality or of any other Government department appointed in terms of section 22 of the Health Act, or any person appointed to assist him/her in terms of section 24 of the Health Act, who is authorized by the medical officer of health and who acts under his/her supervision;

“Memorial Section” means a section of a cemetery set aside for erection of memorials;

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

“Memorial Work” means any headstone, monument, plaque, or other 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 of jurisdiction of the Greater Tubatse Municipality;

“Municipal Manager” means the municipal manager as defined in section 82 (1) (a) of the Structures Act;

“Municipality” means the Greater Tubatse Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee thereof acting in connection with these

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by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

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

“New Cemetery” means a public cemetery which is developed, or set aside for development, by the municipality and which is or may become an active cemetery as contemplated in section 2B of this by-law;

“New Funeral Undertaker’s Premises” means funeral undertaker’s premises that are put into use as such after the date of commencement of this by-law;

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

“Normal Operational Hours” means Monday to Sunday 07h00 to 17h00;

“Office Hours” means Monday to Friday 07h30 to 16h00 excluding Saturdays, Sundays and Public holidays;

“Officer-in-Charge” means the registrar of a crematorium or a person authorized by the municipality to be in control of any cemetery appointed in terms of Regulation 21 of the Regulations relating to crematorium and cremations;

“Passive Cemetery” means a public cemetery owned, regulated, established, maintained, or controlled by the municipality, that is certified as a “passive cemetery” in terms of section 5 (1) of this by-law;

“Pauper” means a person who has died as an unknown person or if no other relative or other person, welfare organization or non governmental organization can be found to bear the burial or

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cremation costs of such deceased person;

“Plot” means any area laid out in a cemetery for not less than 2 and not more than 3 graves adjoining each other in any direction, in respect of which the exclusive right to inter has been acquired in terms of this by-law;

“Preparation” means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and includes the embalming of such corpse for the said purpose, and “prepare” and any word derived there from has a corresponding meaning; preparation shall not include the embalming of or incisions into a corpse;

“Prescribed” means prescribed by the Council;

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

“Private Cemetery” means any cemetery which is not a public cemetery;

“Private Grave” means any piece of ground that has been laid out for a grave within any cemetery and in respect of which an exclusive right of use has been reserved in terms of section 23 of this by-law;

“Public Cemetery” means any cemetery which is owned, regulated, established by, or the control of which is legally vested in the municipality;

“Refugee” means any person given refugee status;

“Registered Description” means the description of the land as set out in the title deed registered at the deeds office in terms of the Deeds Registry Act, 1937 (Act 47 of 1937);

“Registrar of Deaths” means a person duly appointed to register deaths in terms of the Births and

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Deaths Registration Act, 1992 (Act 51 of 1992);

“Resident” means a person who, at the time of death, ordinarily resides within the boundaries of the municipality;

“SANS” means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993);

“Service Area” means the area of jurisdiction of the municipality;

“Service Delivery Agreement” means an agreement between the municipality and a service provider in terms of which the service provider is required to provide cemetery services;

“Service Provider” means any person who has entered into a service delivery agreement with the municipality in terms of section 81 (2) of the Systems Act;

“Still-Born Child” means a human foetus that has had at least 26 weeks of intra-uterine existence but who was born dead in the sense of showing no sign of life after a complete birth;

“Strewn” means the dignified scattering of ash in the garden of remembrance;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Supervisor” means a person appointed from time to time by the municipality to supervise any cemetery in accordance with section 3 (1) of this by-law;

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Tariff” means the charge levied for rendering cemetery services, determined and promulgated by the municipality in terms of the municipality’s tariff policy by-law adopted under section 75 of the

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Systems Act;

“Tomb” means an above ground burial vault;

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

Principles and objectives

The municipality, acting under the powers granted to it by National and Provincial legislation, including the Regulations relating to funeral undertakers’ premises, made by the Minister of Health and Welfare in terms of section 33 and 39 of the Health Act, 1977 (Act No. 63 of 1977), and published as Government Notice No. 237 of 8 February 1985, and aware of the dignity of its residents and the need to preserve that dignity, and aware that a corpse is to be granted respect, and that all its residents have the right to inter a corpse in a cemetery or to cremate a corpse in a crematorium, hereby adopts this by-law to control funeral undertakers’ premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain new, existing and passive cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

CHAPTER 2: ESTABLISHMENT OF PUBLIC CEMETERIES

2. Establishment of Cemeteries

- (1) The municipality may from time to time, set aside, acquire or develop any ground for the purpose of establishing a cemetery.
- (2) The municipality must at all times ensure that sufficient burial space is available for the burial of bodies within the service area.
- (3) The municipality is responsible for the maintenance and repairs of damage to all cemeteries

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under its control, other than the maintenance and repair of memorial work.

- (4) The cemetery service may be suspended by the municipality for maintenance or repair but only after reasonable notice has been given by it of its intention to do so in a newspaper, published in an official language, circulating in the municipal area and specifying that an objection to the suspension may be made in writing to the municipal manager within 30 days of the publication of the notice in the newspaper. Suspension may not be made unless there is another active cemetery in the same category that is available to the public in the service area as an adequate temporary substitute.

3. Caretakers/ Supervisors

- (1) The municipality or service provider must appoint a caretaker to every cemetery to control the day to day management of the cemetery.
- (2) The caretaker may supervise more than one cemetery.

4. Classification of cemeteries

- (1) The municipality or service provider may classify cemeteries into different categories for the purposes of establishing different levels of service.
- (2) The classification must be undertaken in such a manner that the cemeteries are classified for the purposes of tariff or fee differentiation in order to ensure affordability but must not amount to unfair discrimination.

5. Passive cemeteries

- (1) Once a cemetery is full and can no longer be used as an active cemetery, the municipality must issue a certificate declaring that cemetery to be a passive cemetery.
- (2) The municipality or service provider may close any section or the cemetery on the grounds

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of it being full and it may continue to use the rest of the cemetery as an active one until the whole cemetery is full and, when that happens, it must be declared a passive cemetery in accordance with subsection (1).

- (3) The municipality is responsible for the maintenance of all passive cemeteries.

CHAPTER 3: PRIVATE CEMETRIES**6. Registration of existing graves**

Any owner, other than the municipality, of land in which any grave exist, must, if he is aware of its existence inform the municipality about it on a form prescribed by the municipality.

7. Establishment and continued use of private cemeteries

No person shall establish a private cemetery within the service area, and no owner of any private cemetery already in existence shall, if the use of such cemetery was not previously authorized by the municipality, continue to use it for burial purposes without the municipality's authority having been obtained in terms of section 8.

8. Application for a private cemetery

- (1) An application to establish a private cemetery, or for the municipality to approve the continued use of a private cemetery must be made in writing to the municipal manager. The application must include-
- (a) a locality plan to a scale of not less than 1:10 000, showing the position of a proposed or existing cemetery in relation to the boundaries of the land on which it is either proposed to be established or upon which it is already situated, and a registered description of the site showing all streets, public places and privately owned property within a distance of 100m of the site.

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- (b) A block plan to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and paths, subdivisions, gravesides, drainage and any buildings existing or proposed to be erected.
 - (c) A plan and sections to a scale of at least 1 in 100 of any building existing or proposed to be erected, which shall in the latter case conform with the building and sewage by-laws of the municipality.
 - (d) A list of registers or records kept, or proposed to be kept for the identification of graves, the scale or the transfer of grave sites and interments.
 - (e) The full names and addresses of the owner and the caretaker.
 - (f) The nature of the title under which the owner of the private cemetery holds or will hold the land on which the cemetery is or will be used as a cemetery, and whether the land is encumbered in any way.
 - (g) Proof to the satisfaction of the municipality that the owner has adequate financial measures and insurance to be able to discharge the obligation of maintaining the private cemetery and all existing and future graves; and
 - (h) A schedule of burial fees proposed to be charged or currently being charged.
- (2) On receipt of the application referred to in subsection (1), the municipal manager must place a notice in at least one newspaper, in an official provincial language, circulating within the municipality stating the nature of the application and specifying a date, being not less than 14 days, by which objections to the granting of the application must be lodged with the municipal manager.
- (3) Within seven days of the closing date for the lodging of objections, the municipal manager must submit the application to the municipality for consideration by the municipality.

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- (4) The municipality must consider the application and any objections to it that may have been lodged within 30 days. If, after consideration of the application and any objection to it, the municipality is satisfied that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise, the municipality may authorize, in writing, the establishment or continued use of the proposed private cemetery, in accordance with the written application submitted to the municipality in terms of subsection (1).
- (5) If approval is granted for the establishment or continued use of a private cemetery or for the continued use of a private cemetery in terms of subsection (4), no departure from the plans submitted in terms of subsection (1) may be made without the approval of the municipality in writing.

9. Duties of the owner of a private cemetery

Every owner of a private cemetery which has been authorized in terms of section 8(4) to establish or continue the use of a private cemetery shall-

- (a) maintain a burial register in accordance with section 21 of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
- (b) maintain a duplicate copy of the burial register referred to in subsection (a) above at a place other than the place where the burial register referred to in subsection (a) is kept;
- (c) keep a record or records showing-
- (i) the number of each grave site and the ownership of the ground in which the grave is situated; and
 - (ii) the number of interments in each and every grave site and the name, age, sex, race, last known address, date and cause of death of each person interred in it;

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- (d) comply with the provisions of Chapter 3 and any other relevant provisions of the Births and Deaths Registration Act;
- (e) maintain all grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (f) provide for the identification of grave sites by subdividing the cemetery into blocks containing a number of graves or grave sites and demarcated by means of signs showing the number and situation of each block;
- (g) separately number every grave site in each block by means of a durable number plate;
- (h) maintain all signs and number plates in a neat and legible condition;
- (i) allow the municipality or its duly authorized officers to enter and inspect the cemetery, the burial register and all records kept in connection therewith;
- (j) render a monthly report on all burials to the municipal manager on a date to be determined by the municipal manager, detailing the name, last known address, age, sex, race, date and cause of death of every deceased person who has been interred, and the name of the medical practitioner who issued the certificate of death, a copy of the burial order, the authority that issued the burial order, the block and grave site number and the date of interment;
- (k) render an annual return to the municipal manager on a date to be determined by the municipal manager, detailing the names and addresses of all trustees, committee members and persons controlling the private cemetery, if there be any;
- (l) appoint a caretaker/supervisor to manage the cemetery and keep the requisite records;
- (m) the appointment and any subsequent appointment of a caretaker/supervisor must be

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reported to the municipal manager in an appropriate monthly report submitted to the municipal manager in terms of subsection (j); and

(n) comply with any other conditions prescribed by the municipality.

CHAPTER 4: SERVICE PROVIDERS**10. Agreements, Delegation and Customer-Care Charter**

- (1) The municipality may discharge all or any of its obligations under this by-law for the rendering of cemetery services by entering into a service delivery agreement with a service provider or service providers in terms of section 81(2) of the Systems Act: Provided that it shall not be discharged from its obligation to enforce this by-law or to monitor whether it has been complied with by the service provider or any other person.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any power enjoyed by it under this by-law but may do so only if the assignment is necessary to enable the service provider to discharge an obligation under the service delivery agreement.
- (3) Any reference in this by-law to “municipality or service provider” must be read as applying only to the municipality if there is no relevant service delivery agreement and, if there be a service delivery agreement it must be read as applying to the service provider.
- (4) Without derogating from the generality of the provisions of subsection (1), the municipality may not discharge an obligation to monitor and enforce the provisions of this by-law by entering into an agreement with a service provider to do so.
- (5) A service provider employed in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.

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11. Tariffs

- (1) Notwithstanding the provisions of section 10(1), the municipality retains the responsibility of establishing maximum tariffs for cemetery services.
- (2) The municipality must evaluate and promulgate maximum tariffs annually.

CHAPTER 5: DISPOSAL OF A BODY**12. Disposal of a body**

- (1) No person shall save with the prior written consent of the municipality, 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;
 - (b) arranging a date and time of such burial with such officer-in-charge; and
 - (c) such permission shall not be given without a burial order authorising such burial, and payment of the fees determined by the municipality. If the grave plot has been reserved in terms of section 11, the certificate concerned shall be produced in *lieu* of payment of the relevant fees.
- (3) The municipality may at its discretion, in such manner as it may deem fit; allow the burial of any body without any charge in that portion of a cemetery set aside for such purpose.

13. Funeral Undertakers

- (1) Subject to the provisions of sections 20, 33, 34 and 39 of the Health Act, no funeral undertaker shall enter into a contract to bury or cremate any body in any cemetery or

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crematorium under the control of the municipality unless-

- (a) the funeral undertaker is in possession of a certificate of competence issued by the municipality in terms of the Health Act;
 - (b) the premises from which the funeral undertaker operates is zoned in accordance with any law relating to where such business may be carried out; and
 - (c) all the requirements of a funeral undertaker and a funeral undertaker's premises in terms of the Health Act have been complied with.
- (2) The municipality may, after giving reasonable notice to an undertaker of its intention to conduct an inspection, enter and inspect the funeral undertaker's premises to enable it to determine whether subsection (1) (b) and (c) have been complied with.
- (3) Funeral undertakers must keep records of all the bodies which they receive and of the burial orders for these bodies.
- (4) Any supervisor may refuse to bury a body presented for burial by an undertaker who has not complied with this by-law.
- (4) Where a supervisor refuses such a burial, the refusal must be reported in writing to the municipality with the reasons for such refusal within 7 days of the refusal.

14. Register of burials

- (1) The caretaker must keep and maintain a record of all burials and graves in accordance with section 21 of Birth and Death Registration Act, 1992 (Act 51 of 1992), and such record must contain:
- (a) the particulars of the person who requested the burial;
 - (b) the particulars of the corpse to be buried, such as the name, address, and

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identification number;

(c) the date of the burial;

(d) the grave number in which the corpse is buried.

- (2) Such register shall be completed as far as possible immediately after a burial has taken place.

CHAPTER 6: FUNERALS

15. Exposure of Corpses

No person shall convey a corpse which is not covered or expose any corpse or any part of it in any street, part of the cemetery which the public has access to or public place.

16. Instructions of the Caretaker

Every person taking part in any funeral procession or ceremony shall comply with the directions of the municipality as to the route to be taken within the cemetery.

17. Music and Singing

No music or singing will be allowed in a cemetery, except for sacred singing, and except in the case of a police or military funeral, without the caretaker's permission.

18. Hours of burial

- (a) Subject to paragraph (b) below, burial may take place only between 07h00 and 17h00.
- (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.

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- (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 municipality to provide the service outside the stipulated hours, the municipality may provide such service on payment of the prescribed after hours fee, subject to such conditions as the officer-in-charge may determine.

19. Burial orders: Numbering of graves

- (1) A notice of every burial in the form prescribed in the Third Schedule of this by-law shall, together with the burial order concerned, be delivered at the office of the municipality not less than three working hours before any burial is to take place; provided that where a grave is to be re-opened for a second burial or where a new grave is to be dug, the said notice shall be delivered not less than 24 hours before such burial is to take place unless, in the opinion of the municipality, the burial of the body is a matter of urgency, in which case the time limit specified in this subsection shall not apply.
- (2) Every such notice shall be accompanied by the fees determined by the municipality and, in the case of the prior reservation of a grave plot, also by the certificate of reservation or transfer concerned, as the case may be.
- (3) The municipality shall, as soon as possible, issue the necessary authority for such burial.
- (4) Until such time as a memorial has been erected on a grave, the caretaker shall fix and maintain an identification plate on every grave in the cemetery.
- (5) No person shall inter a body in any grave which has not been allotted by the municipality.
- (6) In every case where a burial has been authorised under this by-law, the municipality shall number the plot allotted for such burial and no person shall bury any body in any grave other than that allotted by the municipality for such purpose.

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CHAPTER 7: INTERMENTS**20. Application for use of a grave**

- (1) No person shall inter or cause to be interred, any body within any cemetery without the permission of the caretaker, which may only be granted on the submission to him/her of the original burial order authorizing interment, together with the notice referred to in subsection (2).
- (2) A person wishing to have a body interred must notify the caretaker on a form prescribed by the municipality not less than eight hours before the desired time for the interment.
- (3) The application must be signed by the nearest surviving relative of the person whose body is to be interred in the grave, or by someone whom the nearest surviving relative has authorised to sign the application on his/her behalf.
- (4) If the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained promptly, he may, grant permission to inter a body on an application signed by any other interested person.
- (5) Not more than one interment may be made in a grave, except with the written permission of the caretaker.
- (6) Where there has been an interment in a grave, and where a deeper grave is subsequently required for the interment of another body in the same grave, application to inter the other body must be made to the caretaker when notice of the first interment is given to the caretaker.
- (7) A second interment in the same grave will not be allowed within one year of the date of the first interment.
- (8) Not more than three bodies may be interred in the same grave.

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- (9) The municipality may, upon application and in its sole discretion, inter any body without any charge in whatever place and manner as it considers fit.
10. No body shall be interred unless it is placed in a coffin as described in section 30, unless there is an objection thereto on religious grounds.

21. Reservation of burial rights

- (1) The municipality or service provider may reserve the right to use any piece of ground for a grave to any person.
- (2) Any person wishing to reserve the right to use a piece of ground for a grave must apply to the municipality.
- (3) The piece of land in respect of which a right of use is reserved must be allotted by the municipality and the holding and exercising of the right shall be subject to payment by the holder of such right of a tariff prescribed by the municipality.
- (4) Upon the death of a person the nearest relative shall have the right, on payment of the charges determined from time to time by the municipality, to reserve one adjoining grave, if it be available for future use.

22. Rights not transferable

- (1) No person shall, without the consent of the municipality or service provider, sell or transfer to any other person any right relating to a grave or niche which he/she has obtained or may obtain in terms of the provisions of this by-law.
- (2) Every acquisition of the right to use a piece of land as grave or to make use of a niche shall be registered by the municipality and the charge determined from time to time by the municipality shall be paid to the municipality by the new user.
- (3) The municipality or service provider may purchase the right to an unused grave or niche if

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this is necessary either for the efficient administration of the cemetery or because of any reasonable environmental considerations.

- (4) Where the municipality purchases a right to use land for a grave, it must provide just compensation to the user which shall not be less than the initial amount paid by the holder for reservation of the grave and which shall make an allowance for inflation.
- (5) The right to a niche shall accrue to the municipality without any compensation when the ashes of a deceased are removed or when the commemorative plate is removed from a niche.

23. Reservation of grave plots

- (1)
 - (a) Except in the case of grave plots reserved in terms of subsection (2), every grave plot in respect of which a burial has been authorised in terms of this by-law shall be reserved in the name of the next of kin, and, in the event of there being no known next of kin, in the name of the person applying for the grave.
 - (b) Where a burial has been authorised upon application received from a body or an association or institution or the government, the plot allotted for such burial shall be reserved in the name of such body, association or institution or the Government, as the case may be.
- (2) A grave plot for a person of the age of nine years or over may in the discretion of the municipality be reserved in advance upon application submitted to the municipality and upon payment of the respective grave plot charges as determined by the municipality, provided that no reservation effected in terms of this subsection shall confer the right for the body of a person who at the time of his death was liable for the payment of the additional charges, as determined by the municipality, to be buried in the grave plot in respect of which such reservation was effected, unless such additional charges shall have been paid.
- (3) A certificate of reservation in the form prescribed in the First Schedule to this by-law shall be

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issued in respect of every grave plot reserved in terms of this by-law.

24. Provisions relating to the transfer of certificates of reservation

- (1) A certificate of reservation in respect of any grave plot may be transferred, assigned or alienated with the written consent of the municipality in the form prescribed in the Second Schedule to this by-law.
- (2) All particulars in regard to every reservation and transfer in terms of section 23 and subsection (1) of this section shall be entered and shown in the register of burial and At the request of any religious denomination, the municipality may in such manner as the municipality may deem fit, set aside within a cemetery such area of land as the municipality may deem necessary for the burial of the bodies of persons belonging to such denomination and for the use of persons belonging to such denomination for such other purpose as may in the discretion of the municipality be incidental to the purpose of the cemetery; provided that the municipality may at its discretion utilise the land so set aside for other purposes.
- (3) No persons shall acquire any title to or ownership of any grave plot reserved in terms of section 23 or any land set aside in terms of subsection (2), and no person shall acquire any right to or interest in any such grave plot or land in any cemetery other than such rights or interest as may be permitted under this by-law.

25. Dimensions of graves

- (1) Graves for adults shall have at least the following dimensions:
 - (a) a length of 2 200mm
 - (b) a width at the position of the shoulders of 900mm;
 - (c) a width at the position of the head of 600mm;

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- (d) a width at the position of the feet of 500mm; and
 - (e) a depth of 1 900mm
- (2) Graves for children shall have the following dimensions:
- (a) a length of 1 400mm;
 - (b) a width at the position of the shoulders of 500mm;
 - (c) a width at the position of the head of 450mm;
 - (d) a width at the position of the feet of 330mm; and
 - (e) a depth of 1 500mm.
- (3) Where the interment of any body requires an aperture in excess of the standard dimensions, the notice of interment must specify the dimensions of the coffin and its fittings.
- (4) Should a child's coffin be too large for the dimensions of a child's grave, it will be placed in an adult's grave and the prescribed charge for an adult's grave shall be paid.

26. Provisions relating to grave plots

- (1) The extent of a grave plot for a deceased person of the age of nine years or over shall be 2 500mm long and 1 500mm wide; provided that in the case of a grave plot which is supplied with a berm, the width shall be reduced by 300mm.
- (2) The extent of a grave plot for a deceased person under the age of nine years shall be 1 500mm long and 1 000mm wide.
- (3) The width of a kerb on any grave plot shall be 150mm.

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- (4). The extent of any double grave plot shall be double the extent of any single grave plot.
- (5). Where a grave of a greater depth, length or width than that specified is required, application in respect thereof, together with payment of an extra fee, as determined by the municipality, shall be made when notice of burial is given.
- (6). All graves shall be prepared by the municipality with the exception of bricklined or concretelined graves, in which case the brick work or concrete work shall be carried out by the undertaker under the supervision of the municipality and in conformity with the specifications applicable to ordinary graves.

27. Preparation of graves, and coffins

- (1) All graves shall be prepared under the supervision of the municipality.
- (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 of the applicant.
- (3) A coffin not constructed of perishable material shall not be placed or caused to be placed in a grave without the written consent of the caretaker but any attachments that normally form part of a coffin need not be made of perishable material.
- (4) Only one body in a coffin is allowed for burial or cremation.
- (5) 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.
- (6) If there is more than one body in a coffin each body must be contained in a separate body bag.
- (7) Such application may include-

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- (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 child birth;
 - (c) two people who lived together as partners, or unrelated deceased persons whose families have no objection; or
 - (d) remains of an anatomy subject
- (8) Where more than one body is buried, the user will be liable to pay the tariff prescribed for each of the bodies.
- 28. Burial of deceased persons resident outside the municipality**
- (1) Subject to subsection (2), the municipality may at its discretion permit the burial of a deceased person who was resident outside the municipal area.
 - (2) Where a person has been granted a right in terms of sections 21 and 23, the municipality must permit the burial of that person even if he was resident outside the municipal area at the time of death.

29. Pauper and Indigent burials

The body of a pauper or an indigent person must be buried at the cost of the municipality at a cemetery to be determined by the municipality.

CHAPTER 8: EXHUMATION OF BODIES AND RE-OPENING OF GRAVES

30. Disturbance of human remains

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Subject to this by-law, the provisions of an exhumation order given in terms of the Inquest Act, 1959 (Act 58 of 1959), section 46 of the Health Act, or any other provision of any law relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding them in any cemetery.

31. Opening of graves

- (1) Subject to the provisions of any law relating to the exhumation of a corpse, no grave may be opened without the written consent of the following authorities:
 - (a) the Department of Health for the province in which the municipality is situated; and
 - (b) the municipality.
- (2) In addition to the consent required in subsection (1), where a grave is older than 60 years and is situated outside a cemetery administered by the municipality, or constitutes a grave of a victim of conflict, the approval of the South African Heritage Resources Authority or the Provincial Heritage Resources Authority established for the province (if any), is required through the issuing of a permit in terms of section 36(3) of the National Heritage Resources Act, 1999 (Act 25 of 1999).
- (3) No person may remove, re-inter or cremate a body buried in a Commonwealth war grave, or otherwise interfere with a Commonwealth war grave or a Commonwealth war burial other than in accordance with the Commonwealth War Graves Act, 1992 (Act 8 of 1992)

32. Exhumations

- (1) Subject to the provisions of sections 31 and 35, no person shall exhume or cause any corpse to be exhumed or removed without the written consent of the municipality and the medical officer of health.
- (2) Any person duly authorised to exhume a body in terms of subsection (1) shall hand the order

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in respect thereof to the caretaker and shall give him not less than 24 working hours' notice of the date and time proposed for the exhumation of such body and shall at the same time pay the fees determined by the municipality.

33. Screening of activities

An undertaker must effectively screen the grave, from which any corpse is to be removed, from public view during the exhumation.

34. Persons to be present during exhumation

No exhumation or removal of any body or human remains shall take place unless the medical officer of health and a member of the South African Police Service are present.

35. Transfer of buried corpse

Should the transfer of a corpse be considered expedient by the municipality at any time, or should any provision of this by-law be contravened during the interment of a corpse in any grave, the municipality may, after having complied with any applicable provincial or national legislation and this by-law, transfer the corpse to another grave and where it is reasonably possible to do so, a relative of the deceased person must be notified of the transfer.

CHAPTER 9: CARE OF GRAVES**36. Care of graves**

- (1) The municipality or service provider shall keep the graves clear of weeds and in a proper condition.
- (2) No person, other than the caretaker, may plant any shrub, tree, plant or flower upon any grave in the cemetery.

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- (3) No shrub, tree, plant or flower in the cemetery may be cut or removed by any person without the consent of the caretaker.
- (4) The caretaker shall have the right to prune, cut down, dig up or remove any shrub, tree, plant or flower in the cemetery at any time without the necessity of obtaining permission of any person or court to do so.

CHAPTER 10: ERECTION AND MAINTENANCE OF MEMORIAL WORK**37. Provisions relating to memorial stones or monuments**

- (1) No person shall bring or cause to be brought any material into any cemetery for the purpose of carrying out any work in connection with a memorial stone or brickwork or stonework upon any grave, and no person shall erect or place in position any tombstone, kerbing, or monument or any structure whatsoever on any grave, unless and until -
 - (a) the grave plot shall have been reserved in terms of this by-law in the name of the person authorising such work;
 - (b) a drawing with dimensions and figures thereon showing the position of the proposed work together with a specification of the material to be used, and a copy of any proposed epitaph or ornamentation have been handed to the municipality not less than three working days before it is intended to bring such material into the cemetery;
 - (c) all fees, determined by the municipality, which are due in respect of such work shall have been paid;
 - (d) the municipality's written approval of the proposed work shall have been given to the holder of the certificate of reservation or his authorised representative.
- (2) The municipality may refuse to approve any proposed work with regard to a memorial stone or monument, the plan and specification of which reveals that it will disfigure any cemetery,

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or which bears any epitaph which may cause offence to users of the cemetery or visitors to it.

- (3). No person shall convey any stonework or brickwork or monuments or any portion thereof within any cemetery upon any vehicle or truck which is not fitted with wheels having pneumatic tires and which is of a kind likely to cause damage to the roads and grounds of such cemetery.
- (4). No person engaged in work in connection with any memorial stone or monument shall at any time disturb any adjacent grave plot or, on completion of the work, leave the grave plot before it is in a clean and tidy condition.
- (5). All work in connection with a monument which is carried out within any cemetery shall be completed in accordance with the drawing and specification approved in terms of subsection (1).
- (6). Any person carrying out any work in connection with any memorial stones or monuments shall comply with the following provisions:
 - (a) The various parts of any memorial stone or monument, other than masonry, shall be affixed by copper or galvanized iron dowel pins of a length and thickness sufficient to ensure the permanent stability of the work;
 - (b) any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;
 - (c) the underside of every flat memorial stone made of stone and the base or foundation of every monument or headstone shall be set at least 50mm below the natural level of the ground;
 - (d) every headstone shall be securely attached to the base;
 - (e) the base shall consist of one solid piece in the case of a single grave plot;

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- (f) all kerbing or monuments on single grave plots shall be erected on concrete foundation at least 610mm wide and 205mm deep over the full width;
 - (g) all kerbing on plots larger than single grave plots shall be fixed to a solid concrete surface at the four corners and wherever joints occur;
 - (h) the municipality may require any concrete foundation on any grave plot to be reinforced where, owing to the mass of the monument or headstone, it is necessary in the interests of safety.
- (7) (a) No person shall erect any memorial stone within any cemetery unless the number and section letter of the plot upon which such work is to be placed are indelibly engraved thereon in such a position as to be legible at all times from a pathway.
- (b) With the consent of the registered certificate holder, the name only of the maker of such memorial stone may appear on the base.
- (8) No person shall, without municipality's permission, bring any memorial stone or material into a cemetery nor do any work in connection with any memorial stones or monuments within any cemetery from twelve noon on a Saturday until the opening hour on the following Monday.
- (9) Any person carrying out work within any cemetery shall in all matters comply with the directions of the municipality.

38. Grave plots supplied with a berm

- (1) Notwithstanding anything to the contrary contained in this by-law, a grave plot which is supplied with a berm shall be subject to the following conditions:
- (a) No kerbing shall be erected on such a plot.

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- (b) The base of a memorial stone shall not be larger than 610mm by 260mm; provided that the base of a memorial stone which is erected over two adjoining grave plots may be 1220mm by 260mm.
- (c) A memorial stone which is erected shall not protrude beyond the base and shall be at least 120mm from the front edge of the berm.

39. Approval and removal of memorial work by the caretaker

- (1) Subject to the right of an affected person to appeal to the municipality or service provider against any rejection by the caretaker, the caretaker may reject any proposed design or material for a memorial, which he/she considers to be unsuitable.
- (2) In exercising his/her powers under subsection (1), the caretaker must not consider the inscription as part of the design of the memorial work.
- (3) Any memorial work which is not erected to the satisfaction of the caretaker must either be rectified by the user within one month after having been notified in writing by the caretaker to do so, or be removed by him/her at his/her expense.
- (4) No person shall remove or disturb any memorial work within any cemetery without the permission of the caretaker.

40. Rubbish and damage to cemetery

No person shall at any time leave any rubbish, soil, stone or other debris within any cemetery or in any way damage or deface any part of any cemetery or anything contained in it.

41. Production of written permission

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Any person who undertakes any work within any cemetery shall, upon demand y the caretaker, produce the written consent issued to him/her under this chapter.

42. Maintenance and repairs of memorial work

- (1)
 - (a) Any memorial stone or monument erected upon any grave shall at all times be maintained in good order and condition by the holder of the reservation certificate in respect of such grave.
 - (b) If any such memorial stone or monument is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the municipality may, by written notice sent by registered post to the holder of the reservation certificate at his last-known postal address, require him to effect such repairs as may be necessary.
 - (c) Failure on the part of the holder of the reservation certificate to effect the required repairs within three months of the date of such notice shall be a breach of this by-law and the municipality may have the repairs effected or may have the memorial stone or monument removed, as it deems fit, and may recover the expense of such repairs or removal from the holder of the reservation certificate.
- (2)
 - (a) Any memorial stone or monument dismantled for the purpose of a further burial shall be either re-erected or removed from the cemetery by the holder of the reservation certificate within two months of date of such dismantling.
 - (b) Failure to do so shall constitute a breach of this by-law.
 - (c) In the event of such failure, the municipality shall be entitled to remove any such dismantled memorial stone or monument from the cemetery without further notice to the holder of the reservation certificate and recover from him the cost of such removal.
- (3) Save in the case of intentional or negligent conduct of the municipality or service provider,

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the municipality or service provider shall not be liable for any loss of or damage to any memorial stone, monument or any article placed upon any grave which may occur at any time from any cause whatsoever, nor for any compensation in respect of any memorial stone or monument repaired or removed in terms of subsections (1) and (2).

CHAPTER 11: ALL SECTIONS**43. Adornment of graves**

- (1) No person shall, except with the consent of the caretaker, erect, place or leave upon or around a grave any railings, wire-work, flowers stand, ornament, wreath, embellishment or other object of any kind, other than a vase, and any flowers and foliage in it.
- (2) No person shall erect, place or leave upon or around a grave any railings, wire-work, flower stand, ornament, wreath, embellishment or other object of any kind in the aesthetic section.
- (3) When the caretaker considers whether to grant consent for the adornment of any grave in terms of subsection (1), he must take into consideration the cultural and religious values of the local community as well as the cultural and religious values of the deceased who has been interred in it.
- (4) Fresh flowers and foliage placed on a grave with the consent of the caretaker in terms of subsection (1) may be removed by him/her when in his/her opinion they have faded.
- (5) A memorial may incorporate not more than two vases or other receptacles for flowers or foliage.

44. Monumental section

- (1) The following provisions shall apply to the monumental section of a cemetery:

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- (a) no memorial which is erected, shall exceed a height of 1 500mm unless an adequate foundation for a memorial in excess of that height has been incorporated in the design; and
- (b) no planting of any kind, except with the permission of the caretaker, shall be allowed on a grave.

45. Aesthetic section

(1) The following provisions shall apply to the aesthetic section:

- (a) no kerbing or any form of base shall be erected;
- (b) the headstone memorial shall be erected only on the concrete strip provided by the municipality;
- (c) the pedestal of the memorial work shall not exceed 800mm by 260mm unless the memorial work is to be erected on two adjoining grave plots, in which case the measurements may be 1 220mm by 260mm;
- (d) no memorial work shall overhang the pedestal at any point and it shall be erected on the berm with the edge nearest to the grave being at least 120mm from the edge of the berm;
- (e) the height of the memorial work shall not exceed 1 000mm, including the bar;
- (f) the municipality retains the right to flatten any remains of soil or fill any subsidence of a grave to the level of the adjoining undisturbed ground;
- (g) except for a memorial work or vase for flowers or foliage which may be placed in the space provided on the berm, no object may be placed or kept on any ground after six months of the date of interment;

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- (h) the caretaker may remove any object, which has been placed on a grave; and
- (i) excluding the vase for flowers or foliage in the berm, no memorial work may contain more than one additional container for flowers or foliage.

CHAPTER 12: CREMATORIA**46. Cremation: 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 16h00 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;
 - (c) a death certificate; and
 - (d) cremation forms.
- (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;
 - (b) in whom at any time a pace maker or radioactive material was inserted,

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

47. Provision of Receptacles and Ash collection

- (1) Unless the ashes are to be buried by the municipality, the person who applied for the cremation must provide a receptacle, on which the full names of the deceased person, is indicated, for receiving the ashes.
- (2) The quantity of ashes to be kept as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him/her, and should he/she fail to collect the ashes, the caretaker or owner of the crematorium must keep the ashes.
- (3) Where a receptacle is intended to be placed in a niche in the columbarium-
 - (a) it must be of wood or stone and be of a size and design as to fit into the niche; and
 - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

48. Burial and Exhumation of Ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 28 (1) regarding the ashes, the caretaker or owner of the crematorium may bury or scatter the ashes in a garden of remembrance.
- (2) A person may deposit ashes in a-
 - (a) grave; or

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- (b) niche in a-
 - (i) columbarium;
 - (ii) wall of remembrance;
 - (iii) memorial work; or
 - (iv) garden of remembrance

(3) A person must obtain the consent of the caretaker if he/she wishes to-

- (a) bury ashes in a grave;
- (b) exhume ashes from a grave; or
- (c) scatter ashes.

and the caretaker must, on receiving payment of the prescribed fee-

- (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
- (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.

(4) A grave for the burial of ashes or a niche in a columbarium must measure 610mm in length and 610mm in width.

49. Cremation Certificate

(1) On completion of a cremation, the caretaker must supply a cremation certificate to the

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person who applied for the cremation.

- (2) The caretaker may, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person other than the one who applied for the cremation.

CHAPTER 13: FUNERAL UNDERTAKER'S PREMISES**50. Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued-**

- (1) subject to the provisions of this by-law, no person may prepare any corpse except on funeral undertaker's premises in respect of which a certificate of competence has been issued and in effect;
- (2) the municipality may, if there is a nuisance present on funeral undertaker's premises situated in its area of jurisdiction, issue a written order to the enterprise in question to stop all activities connected with the preparation of corpses until such time as the nuisance referred to in the order has been eliminated.

51. Exemptions

- (1) The municipality may in writing exempt any person from compliance with all or any of the provisions of this by-law where non-compliance does not or will not create a nuisance.
- (2) Such exemption is subject to such conditions and valid for such period as the municipality may lay down and stipulate in the certificate of exemption.

52. Application for the issue or transfer of a certificate of competence

- (1)
 - (a) A person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises must, not less than 21 days before submitting his/her

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application to the municipality, cause a notice to be published in two of the official languages in newspapers that appear mainly in those languages, where each of the newspapers circulate in the area in which such premises are situated, or must, where separate newspapers in an official language do not so circulate, cause such notice to be published in two official languages in a newspaper that so circulate.

- (b) Such notice must contain information to the effect that an application for the issue of a certificate of competence in terms of this by-law is to be submitted to the municipality as mentioned in the notice and that any person who will be affected by the use of such funeral undertaker's premises and wishes to object to such use may lodge his/her objection, together with substantiated representations, with the municipality in writing within 21 days of the date of publication of such notice.

(2)

- (a) An application for the issue or transfer of a certificate of competence must be made in writing by the applicant or his/her authorized representative to the municipality on such form as the municipality may require.
- (b) An application for the issue of a certificate of competence must be accompanied by-
 - (i) a description of the premises and the location thereof;
 - (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100
 - (iii) a block plan of the premises on which north is shown indicating which adjacent premises are already occupied by the applicant or other persons and for what purpose such premises are being utilized or are to be utilized; and
 - (iv) particulars of any person other than the holder or any of his/her employees who prepares or will prepare corpses on the premises.

- (3) The municipality, when considering issuing or transferring a certificate of competence, may

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request from the applicant or any other person any such further information as it may deem necessary to enable it to consider the application concerned.

- (4) The municipality shall not consider any application for the issue or transfer of a certificate of competence unless a complete inspection of the premises concerned has been carried out by the medical officer of health or a health inspector and his/her report on such inspection, including his/her recommendation on such issue or transfer, is in the possession of the municipality.

53. Issue or transfer of certificate of competence

Where the municipality, after consideration of an application for the issue or transfer of a certificate of competence, the report concerned by the medical officer of health or health inspector, including his/her recommendation, and any objections to use of funeral undertaker's premises, is satisfied that the premises concerned-

- (a) comply with all the requirements laid down in this by-law;
- (b) are in all respects suitable for the preparation of corpses; and
- (c) will not be offensive to any occupant of premises in the immediate vicinity of such premises,

The municipality shall, such as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the holder in such form as it may determine or shall by endorsement transfer an existing certificate of competence to a new holder, as the case may be.

54. Validity and transfer of certificate of competence

A certificate of competence, excluding a provisional certificate of competence, is, on endorsement by the issuing authority, be transferable from one holder to a new holder and

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such certificate is valid from the date on which it was issued until it is revoked or suspended in terms of this by-law.

55. Issue of provisional certificate of competence

Notwithstanding the fact that the municipality is not satisfied as contemplated in section 0 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, it-

- (a) shall, in the case of existing funeral undertaker's premises; and
- (b) may, in all other cases,

Subject to such conditions as the municipality may determine in general or in each specific case, issue a provisional certificate of competence in respect of such premises for a maximum period of 36 months to enable the applicant to alter such premises to comply with the provisions of this by-law, however, the municipality must satisfy itself that the use of such funeral undertaker's premises does not and will not create a nuisance.

56. Duties of holder

The holder must immediately inform the municipality in writing if there are any changes in the particulars supplied to the municipality in the application for the certificate of competence concerned.

57. Suspension or revocation of certificate of competence or provisional certificate of competence

- (1) If the municipality is of the opinion, on the strength of an inspection report and recommendation by the medical officer of health or health inspector that the funeral undertaker's premises are conducted:-

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- (a) in a manner that is hazardous to health, or that conditions entailing a hazard to health have been or are being created on such premises; or
 - (b) in contravention of the provisions of this by-law or the conditions on which such provisional certificate of competence is subject, the municipality may, subject to the provisions of subsection (2), serve a written notice on the holder or the person in charge of such premises in which the holder is instructed to furnish reasons, at a place and time specified in such notice, why such certificate should not be dealt with in terms of subsection (12).
- (2) Notwithstanding the provisions of subsection (1), the municipality may, pending an inquiry contemplated in subsection (1), suspend a certificate of competence or provisional certificate of competence immediately on the strength of a report by the medical officer of health or a health inspector, stating that the hazard referred to in subsection (1) (a) constitutes a nuisance and recommending such suspension.
- (3) A notice referred to in subsection (1) must set out such particulars as are reasonably adequate to inform the holder concerned why the revocation or suspension of the certificate is contemplated and must be served by the municipality not less than 21 days prior to the date specified in the notice for the holding of an inquiry.
- (4) The holder may appear personally at such inquiry or be represented thereat by any of his/her employees specially authorized by him/her for such purpose in writing, or by his/her legal representative, or may submit written statements or arguments to be considered by the municipality.
- (5)
- (a) If the holder appears at the inquiry, or if the holder does not appear at the inquiry but the municipality is satisfied that the notice referred to in subsection (1) has been properly served on the holder, the municipality shall inquire into the matter mentioned in the notice.

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- (b) For the purpose of the inquiry the municipality may call and question any person present at the inquiry and must hear such evidence as may be adduced by or on behalf of the holder and may cross examine any person giving evidence at the inquiry.
- (6) The holder, his/her authorized employee or his/her legal representative may question any witnesses called by the municipality or any other witness testifying at the inquiry.
- (7) Any person appearing at the inquiry to give evidence or to produce a book, document or object shall be required to take an oath or affirmation.
- (8) In regard to the giving of evidence or the production of a book, document or object at the inquiry, the rules of evidence relating to privilege shall apply.
- (9) The municipality may, in its discretion, postpone or adjourn the inquiry for such period(s) as it may deem necessary, however, where a suspension has been instituted in terms of subsection (2), such postponement or adjournment may be for not more than 14 days.
- (10)
- (a) The municipality must cause a record of the proceedings at such inquiry to be kept in such a format as it may determine.
- (b) Such record must be accessible to and copies thereof may be made by the holder or his/her legal representative on such conditions regarding time and place as the municipality may determine.
- (c) The record of such inquiry must be kept for a period of not less than 2 years.
- (11) If it appears to the municipality after conclusion of the inquiry that-
- (a) the funeral undertaker's premises concerned are being used in a manner that creates a nuisance or that conditions constituting a nuisance have been or are being

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created on the funeral undertaker's premises concerned; or

(b) the premises concerned are being used in contravention of the provisions of this by-law or any conditions to which the certificate of competence or provisional certificate of competence concerned is subject, the municipality may, in order to put an end to the matter about which a complaint has been received, make such order as it may deem fit, including-

(i) in relation to conditions referred to in subsection (1) (a)-

(aa) where in its opinion the health hazard in question is a real hazard, an order revoking the certificate of competence or provisional certificate of competence concerned; and

(bb) in other cases, an order requiring the future use of the premises to be so regulated so as to correct without delay the matter complained of; or

(ii) in relation to an irregularity referred to in subsection 1 (b)-

(aa) an order suspending the certificate of competence or provisional certificate of competence concerned for such period as the municipality may determine, and informing the holder that, if the conditions complained of as mentioned in the order are not corrected to the municipality's satisfaction within the period of suspension, the certificate concerned will be revoked without further notice; or

(bb) an order requiring the future use of the premises to be so regulated so as to correct without delay the matter complained of.

(12) An order made in terms of subsection (11) must be issued in writing, signed by the Municipal Manager and then served on the holder. Failure to comply with the order constitutes an

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offence in terms of this by-law.

- (13) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this section has the effect that, from the date of coming into operation of the order of suspension or revocation-
- (a) no preparation of any corpse may be performed on the premises concerned;
 - (b) no corpse may be received for preparation on the premises concerned; and
 - (c) no corpse may be preserved on the premises concerned and every corpse must forthwith be removed to a mortuary under the control of the State, a provincial administration or the municipality or any other funeral undertaker's premises designated by the municipality after consultation with the holder: Provided that, where refrigeration facilities for corpses on the premises concerned are suitable for such preservation, the municipality may permit the continued preservation of such corpses that were preserved at the premises on the date of the order: Provided further that the permission to preserve corpses under this subsection shall not entitle the holder to prepare and receive new corpses.
- (14)
- (a) Should the holder whose certificate of competence or provisional certificate of competence comply with the conditions of suspension, the municipality may on application made by or on behalf of the holder lift the suspension by endorsement on the certificate concerned.
 - (b) In the case of a holder whose certificate has been revoked and such holder has subsequently corrected the complaint giving rise to the revocation, the municipality may on application grant and issue to such holder a new certificate of competence on such terms as the municipality may determine.

58. Requirements relating to funeral undertaker's premises

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- (1) All funeral undertakers' premises must at least make provision for the following:-
 - (a) A preparation room for the preparation of corpses;
 - (b) Change-rooms for employees at such premises;
 - (c) Refrigeration facilities for preservation of corpses;
 - (d) Facilities for washing and cleansing utensils and equipment;
 - (e) facilities for cleansing vehicles;
 - (f) facilities for loading and unloading corpses.

- (2) No room on the funeral undertaker's premises may be used for any purpose other than the purpose for which it is intended.

- (3) The preparation room must-
 - (a) be so designed as to-
 - (i) be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom, however, where a preparation room on the existing funeral undertaker's premises so communicates, the entrance thereto must be so concealed that the interior thereof is completely out of sight of any person in such office or salesroom;
 - (ii) enable obnoxious odours and vapours to be adequately treated; and
 - (iii) be sufficiently ventilated and lit;

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- (b) have a floor-
 - (i) covering an area of not less than sixteen square metres for the first table of the kind referred to in paragraph (e) and eight square metres for each additional table;
 - (ii) constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into an approved disposal system; and
 - (iii) which, if it is replaced or laid after the date of commencement of this by-law, must be provided with half-round filling where it meets the walls;

- (c) have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other approved, suitable, smooth, waterproof, light-coloured and washable material;

- (d) be provided with a ceiling not less than 2,4 m above the floor level, which ceiling must be dust-proof and painted with a light-coloured washable paint;

- (e) contain not less than one table of stainless steel or glazed earthenware or other approved material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;

- (f) contain not less than one wash-basin for each table, made of stainless steel or other approved material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;

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- (g) have not less than one tap with running water to which a flexible pipe, long enough to reach all corners the room, can be connected for cleaning the interior surfaces;
 - (h) have door openings that are not less than 0,82m in width and 2,00m in height so that corpses can be taken in and out of the room without any difficulty.
- (4) Each change room must contain at least one hand basin with hot and cold running water and disposable towels, soap, nailbrushes and disinfectant.
- (5) Refrigeration facilities such as refrigerators or cold chambers must be installed in or within easy reach of the preparation room for the preservation of corpses, and-
- (a) where refrigerators are provided, they must be-
 - (i) made of a material that does not absorb moisture;
 - (ii) provided with removal trays; and
 - (iii) so designed as to drain properly and be easy to clean.
 - (b) the surface temperature of any corpse may be no higher than 5 degrees Celsius within three hours of its being received on the premises and no higher than 15 degree Celsius during preparation; and
 - (c) where cold chambers are provided, they must comply with subsection (3) (a) (ii), (b) (ii), (c), (d) and (h) and must be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean.
- (6) The cleansing and loading/ unloading facilities must consist of a paved area, screened from public view, with a drainage system into a gully connected to an approved disposal system.
- (7) The loading/ unloading of corpses and the cleansing of vehicles may not take place

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anywhere except in the area referred to in subsection (6).

- (8) The funeral undertaker's premises must be rodent-proof.

59. Hygiene

- (1) All solid refuse on the funeral undertaker's premises must be kept in corrosion-resistant containers with tight-fitting lids and must be dealt with in accordance with the Waste Management By-Law, 2007.
- (2) Every holder of a certificate of competence relating to funeral undertaker's premises must-
- (a) provide or cause to be provided clean protective over-clothes consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and linen overcoats to all employees and all other persons involved in post mortems, and each employee or other person must, at all times when so involved, wear such clothing;
 - (b) keep the premises free of insects or cause them to be so kept;
 - (c) cause all working areas or surfaces at the premises where corpses are prepared to be cleaned immediately after the preparation of any corpse;
 - (d) cause all equipment all equipment used for the preparation of corpses to be washed and disinfected immediately after use;
 - (e) cause all protective over-clothes that have been used to be washed, cleansed and disinfected on the premises on a daily basis; and
 - (f) if a corpse has been transported without without a moisture-proof cover, cause the loading space of the vehicle concerned to be washed and disinfected after such corpse has been removed.

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CHAPTER 14: ADMISSION TO CEMETERIES AND PROHIBITED CONDUCT**60. Admission of visitors**

- (1) Every cemetery shall be open to the public during the normal operational hours.
- (2) Notwithstanding the provisions of subsection (1) the municipality shall have the right to close any cemetery or part of it to the public for such period as it may consider fit if it is, in the opinion of the municipality, in the interest of the public to do so.
- (3) No person shall without the consent of the caretaker enter or remain in any cemetery, or part thereof, before or after the normal operational hours or during any period when it is closed to the public.
- (4) No person under the age of 12 may enter any cemetery unless he/she is in the care of an adult.

61. Dress code

The municipality may prescribe the apparel that it considers appropriate for entry into a cemetery but, in doing so, must not unfairly discriminate between persons on the basis of race, religion or gender.

62. Prohibited conduct within cemeteries

- (1) No person shall-
 - (a) solicit any business, order or exhibit, distribute or leave any tracts, business cards or advertisements within any cemetery other than as provided for in this by-law;
 - (b) sit, stand or climb upon or over any memorial work, gate, wall, fence or building in any cemetery;

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- (c) cause any nuisance within any cemetery;
 - (d) ride any animal or motorcycle within any cemetery, and no other vehicle may exceed a speed of 30 km/h;
 - (e) intentionally bring any animal, other than a guide dog, or bird, into a cemetery or allow an animal to wander in it;
 - (f) plant, cut, pick or remove any plant, shrub or flower without the permission of the caretaker;
 - (g) hold or take part in any demonstration in any cemetery;
 - (h) hinder any officer, workman or labourer employed by the municipality in any cemetery during the performance of his/her duties;
 - (i) obstruct, resist or oppose the caretaker in the course of his/her duty or refuse to comply with any order or request which the caretaker is entitled to make;
 - (j) use or cause any cemetery to be used for any immoral purpose; or
 - (k) mark, draw, scribble, erect advertisements or objects on any wall, building, fence, gate, memorial work or other structure within any cemetery or in any other way deface them;
- (2) Where it is appropriate to do so, the assessment of what constitutes a prohibited act in terms of subsection (1) (c) and (1) (j) the social and cultural values of the local community should be taken into account.
- (3) The caretaker must place a notice in the cemetery setting out the prohibited conduct.

63. Offences

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- (1) Subject to subsection (2), any person who-
- (a) contravenes or fails to comply with any of the provisions of this by-law, other than a provision relating to payment for cemetery services;
 - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of this by-law;
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of this by-law; or
 - (d) who obstructs or hinders any authorized representative or employee of the municipality in the execution of his/her duties under this y-law;

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50, 00 or in default of payment, to imprisonment for a period exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.

- (2) No person shall be liable to imprisonment if he/she is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of this by-law shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.
- (4) The caretaker may at any time order any person who does not comply with this by-law in the cemetery or disturbs the sacred atmosphere in the cemetery in any manner, to leave the cemetery immediately in which event, that person must forthwith comply with the

GREATER TUBATSE MUNICIPALITY

order.

CHAPTER 15: GENERAL**64. Fees payable**

All fees payable in respect of burials shall be determined by the municipality from time to time.

65. Service of notices

- (1) Any notice, order or other document that is served on any person in terms of this by-law must, subject to the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977 as amended), be served personally, failing which it may be regarded as having been duly served-
- (a) when it has been left at that person's place of residence or business, or, where his/her household is situated in the Republic, when it has been left with a person who is apparently in charge of the premises and who is 16 years or older;
 - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by subsection (1) (a), (c) or (d); or
 - (c) if that person's address and identity or the address of his agent or representative in the Republic is unknown, when it has been published in an official language in any daily newspaper circulating within the municipal area; or
 - (d) if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be

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proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- (2) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

66. Short title and commencement

This by-law shall be known as the Cemeteries and Crematoria By-Law 2007 and comes into operation on the date of publication in the Provincial Gazette.

SCHEDULE 1

GREATER TUBATSE MUNICIPALITY

CEMETERIES

Certificate of Reservation no.....

(Issued in terms of section 11)

This serves to certify that ofhaving paid the prescribed fees of R, is entitled to use the site(s) described below for the purposes of burial:

Grave plot no. Section

GREATER TUBATSE MUNICIPALITY

Measuring

Cemetery

Dated atthis.....day of 20.....

.....
_____ Municipality

SCHEDULE 2

GREATER TUBATSE MUNICIPALITY

CEMETERIES

Transfer of Certificate of Reservation no.....

(Issued in terms of section 11)

This serves to certify that Certificate of reservation No.....in respect of grave plot no..... has been transferred from.....

Address.....

To.....

GREATER TUBATSE MUNICIPALITY

Address.....

Transferor

Confirmed on behalf of the Municipality on this day of20.....

.....
_____ Municipality

SCHEDULE 3

GREATER TUBATSE MUNICIPALITY

Application for burial no.

To the Municipality of Cemeteries

.....20.....

Please supply grave in

.....

Denomination

.....

Size of coffin lid

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Time at gate

For the late (state name and surname in full)

.....

Nationality.....

Sex.....

Age

(1) Address where death occurred

.....

(2) Residential address

.....

Date of death

Cause of death

Name of next of kin

Name of applicant

.....

Undertaker

GREATER TUBATSE MUNICIPALITY
