

The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Cemetery Bylaws.

CEMETERY BYLAWS

CHAPTER 1

DEFINITIONS

1 Unless the context otherwise indicates –

"adult" means any deceased person over the age of 12 years, whose coffin will fit into the grave opening prescribed for adults in section 40(2).

"ashes" means the physical remains of a body after it has been cremated;

"berm" means a concrete strip laid by the Council along a row of graves;

"caretaker" means the person holding the position of caretaker or superintendent of any cemetery or acting in such capacity in the service of the Council;

"cemetery" means any piece of land duly set aside by the Council within the Municipal area for the purpose of a public cemetery;

"child" means any deceased person of the age of 12 years or younger whose coffin will fit into the grave opening prescribed for children in section 40(2);

"Chief Executive Officer/CEO" means the Chief Executive Officer of the Council or any other person acting by virtue of any power delegated to him/her;

"contractor" means the person who has paid any of the tariffs contained in the tariff of charges, or who has obtained the right to have any memorial work erected or constructed or who has obtained any other rights or interests referred to in these bylaws;

"Council" means the Umzimkhulu Municipality and its successor in law and includes the Council of that Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;

"cremation" means the incineration of any human body or remains to ashes;

"foot kerb" means the construction on which a memorial works or headstone is attached;

"funerary urn" means an urn containing the cremated remains with size 175 mm x 185 mm x 110 mm;

"garden of remembrance" means a section of a cemetery, which has been set aside for the interment or scattering of ashes;

"grave" means any grave in a cemetery in respect of which any person has obtained the right of having a single body interred therein;

"medical officer of health" means the Medical Officer of Health for the Council or any other person acting in such capacity of by virtue of any power delegated to him/her;

"memorial plate" means a plate of 305 mm x 210 mm x 15 mm manufactured in granite or marble attached to the memorial wall over niche;

"memorial wall" means a wall with Niches set out to preserve the funerary urns against which only memorial plats can be attached;

"memorial work" means tombstone, railing, fence, monument, memorial inscription or other work erected on any grave;

"Municipality" means the Municipality of Umzimkhulu;

"niche" means shallow recess in memorial wall to contain an urn of 385 mm x 185 mm;

"Registrar of Deaths" means any person appointed by the Government of the Republic of South Africa to register deaths;

"resident" means a person who, at the time of death, was ordinarily a resident within the area of jurisdiction of the Municipality, excluding inmates in hospitals, institutions, or other persons temporarily resident within the area of jurisdiction of the Municipality; and

"tariff" means fees payable as determined by the Council from time to time.

CHAPTER 2 GENERAL

2 Establishment of cemeteries

The Council may set aside any land for the purpose of a cemetery and no person shall be permitted to inter a body in any other place.

3 Hours of admission for visitors

Every cemetery shall be open to the public during the following hours: Mondays to Saturdays: 6:30 to 17:00; and Sundays and Public Holidays: 7:00 to 16:00. The Council shall have the power to close to the public any cemetery or part thereof for such period as it may deem fit.

4 Reserving of graves

- (1) no person shall, without the written consent to the Council, sell or transfer to any other person any right relating to a grave that has been obtained in terms of these bylaws. Should the Council consent to such transfer, it will be subject to the conditions that every transfer of the rights relating to a reserved grave be registered by the caretaker and the registration fee as determined by the Council be paid to the City Treasurer by the new contractor.
- (2) Any person having reserved a grave and failing to use the grave within a period of 50 years from the date of reservation, or omitting to notify the Council that he/she does not intend to use the grave, thus gives the Council the right to sell the grave. The applicable charges as determined by the Council shall be payable in respect of grave sold.
- (3) The Council shall not be obliged to refund any charges paid in respect of a grave sold in terms of subsection (2).

5 Religious ceremonies

Subject to the provisions of these Bylaws, the members of any religious denomination may conduct religious ceremonies in connection with any interment or memorial service subject to the written consent of the Council.

6 Plans of graves, plots and niches

Plans indicating different graves and niches available are kept at the Council's offices for inspection free of charge.

7 Complaints

Any person wishing to lodge a complaint concerning the conditions in or the management of the cemetery shall lodge the complaint in writing to the Chief Executive Officer.

8 Charges/Tariffs

The tariff of charges as determined by the Council, shall be payable to the Council for the services rendered in terms of these bylaws.

9 Consent notice order

Any written consent, notice or order issued by the Council in terms of these bylaws, shall be signed by the Chief Executive Officer or his authorised representative and shall be *prima facie* evidence thereof.

10 Instructions of caretaker

Every person taking part in any funeral procession or ceremony in the Cemetery shall obey the instruction/s of the caretaker/officer in charge.

11 Flowers

The caretaker may remove flowers and foliage placed on graves when, in his opinion, they have wilted.

**CHAPTER 3
PROHIBITION ORDERS**

12 Children

No person under the age of 12 years may enter any cemetery unless under the supervision of an adult.

13 Keeping to paths/walkways

Except for the purpose permitted by these Bylaws, all persons shall only use roads, paved walkways and demarcated turf walkways provided in the cemetery.

14 Entrances and exits of cemeteries

No person shall enter or leave a cemetery except through the official entrances provided.

15 Performance of activities

No person shall use any road, path or grass route within the cemetery for the purpose of transporting goods, parcels or any other material except if it is intended for use within cemetery.

16 Prohibited actions within cemeteries

(1) No person shall –

- (a) commit any nuisance within any cemetery;
- (b) ride on any animal, cycle, skateboard or roller skates within the cemetery;
- (c) allow any animal to wander inside any cemetery;
- (d) plant, cut, pick or remove any plant, shrub or flower without permission of the caretaker;
- (e) hold or take part in any demonstration in any cemetery;
- (f) obstruct, resist or oppose the caretaker or any official employed by the Council in the performance of his/her duties, or refuse to comply with any order or request which the caretaker is entitled to make in terms of these bylaws;

- (g) mark, draw, or scribble objects on walls or erect advertisements on buildings, fences, gates and memorial work or on anything within any cemetery/or section or deface it in anyway,
- (h) sit, stand or climb on or over any memorial work, gate, wall, fence or building in any cemetery;
- (i) be in or remain in any cemetery or part thereof before or after the hours mentioned in section 3 or during any period when it closed to the public; and
- (j) without the written permission of the Council, tout or operate any business, order, exhibit or distribute any tracts, business cards or advertisements within or at the entrance of the cemetery.

17 Miscellaneous

- (1) No person shall dispose of a body in any other manner than by interring it in a cemetery or having it cremated in a crematorium approved in terms of the provisions of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).
- (2) No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interests as may be obtainable in terms of these bylaws.

18 Exposure of bodies

no person shall convey a dead body that is not covered, or expose any such body or any part thereof or remove the lid or cover of the coffin wherein such dead body or corpse is placed, in any street, cemetery or public place.

19 Music inside cemetery

No loud music shall be played in any cemetery without consent of the Council, except in case of the State, Police or military funerals.

20 Occupation of chapel or shelter

No person shall for the purpose of a funeral, occupy any chapel or shelter in a cemetery for more than 45 minutes.

21 Hours of interments

No interment shall be held before 9:00 or after 16:00 on any day without the prior consent of the Council.

22 Number of graves

No person shall fix a peg on any grave not properly allocated by the Council and no person shall intern a body in any grave on which a peg-marked number has not been lawfully fixed.

23 Rubble and damage to cemetery

No person shall at any time leave any refuse, soil, stone or any other debris within the cemetery or in any way damage or deface any part of any cemetery or anything therein.

24 Inclement weather

No person shall fix or place any memorial work during inclement weather or while the soil is, in the opinion of the Council, in an unsuitable condition.

25 Disturbance of human remains

Subject to the provisions of an exhumation order given in terms of the Inquest Act, 1959; or section 20 of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996); or any other provision of any other act relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding it in any cemetery.

**CHAPTER 4
INTERMENTS**

26 Application for an acquisition of the use of a grave

- (1) Any person desiring to have a body or human remains interred in a grave shall submit the appropriate form to the caretaker before the time of interment. The next of kin or the closest surviving relative or a person of interest shall sign the application of interment.
- (2) The Council, may on payment of the applicable fees, allocate the use of any grave appropriated for an interment to any person who applied for it in terms of subsection (1).
- (3) No body or human remains shall be interred within any cemetery without the permission of the caretaker. This permission will only be granted on submission of a written burial order, signed by the Registrar of Deaths authorising the interment, and on presentation and submission of such a notice of interment. In all cases where a postmortem has been held, the order of the magistrate shall also be submitted to the caretaker.
- (4) The Council may, upon request, inter any body free of charge, or in terms of the provisions of any applicable legislation.

27 Alteration of date of interment

Should any changes to the date, day or time previously fixed for an interment be made, notice of such changes shall be given to the caretaker at least 24 hours before such interment. For the purpose of this section, 48 hours notice should be given if the aforesaid 24 hours includes a Sunday or part thereof.

28 Dimensions of graves and grave apertures

- (1) The standard dimensions of an adult gravesite shall be 2 500 mm x 1 500 mm and that of a child 1 500 mm x 1 000 mm.
- (2) The standard dimensions of the aperture of an adult's grave shall be 2 200 mm in length and 900 mm in width and that of a child's grave 1 200 mm in length and 700 mm in width.
- (3) Anybody requiring a grave for the interment of an adult with an aperture larger than the standard size, shall, when applying for the interment, specify the measurements of the coffin and the mountings. The appropriate fee for the enlargement of the aperture will be payable to the Council as prescribed in the tariff of charges.

29 When a child's coffin is too large

Should a child's coffin be too large for the aperture of a child's grave, it shall be placed in an adult grave and fees payable for an adult's interment shall apply.

30 Dept of grave

No adult grave shall be less than 1 800 mm and that of a child less than 1500 mm in depth.

31 Covering of earth

There shall be at least 1 m of earth between the coffin and the surface of the ground. In the instance of successive burials, at least 300 mm of earth shall be left between the coffins.

32 Coffins in graves

No person shall place any coffin constructed from any material other than soft wood or other perishable materials approved by the Council, unless otherwise stipulated in other legislation.

33 Number of bodies in one grave

No more than two bodies shall be buried in the same grave at the same time.

34 Reservation of graves

Any person wishing to reserve a grave or upon the death of a person to reserve an adjoining grave, if available, shall obtain the right, on payment of the fees prescribed in the tariffs of charges, to use such grave for future burial purposes.

35 Second interments

- (1) Any person who wishes to apply for a second interment in the same grave may do so only after a period of two years has lapsed since the date of the first interment on condition that the grave was deepened prior or during the preparation of the grave for the first interment.
- (2) The applicant who wishes to have a body interred for the purpose of a second interment shall –
 - (a) apply on the prescribe from at lest 24 hours before the interment shall take place; and
 - (b) remove any memorial work on such grave at his own cost and comply with any requirements made by the caretaker in this regard.

**CHAPTER 5
ASHES**

36 Acquiring of niches

Subject to the provisions of these bylaws, a person may acquire a niche in the cemetery, if available, and by paying the prescribed fees.

37 Burial of ashes

- (1) Subject to the provisions of these bylaws, ashes may be buried in a grave in the cemetery and all prescriptions, provisions and fees applicable in terms of these bylaws pertaining to the burial of a body in a grave are *mutatis mutandis* applicable in this instance. The grave aperture may be smaller than the aperture prescribed for the burial of a body.
- (2) No ashes shall be buried in a grave without it being proved to the satisfaction of the Council as being the cremated remains of a human body and the required documentation is submitted to this effect.
- (3) Ashes buried in a grave shall be placed in a funeral effect.
- (4) There shall be at least 100 mm of earth between the urn containing in the ashes, and the surface of the ground.
- (5) Subject to the provisions of these bylaws, the burial of ashes in a grave being used already for a first interment, may take place free of charge.

38 Placing of ashes in Memorial Wall, Memorial Garden or Garden of Remembrance

- (1) Any person who desires to place a funerary urn containing cremated remains in the niche in the Memorial Wall, Memorial Garden or Garden of Remembrance shall submit an application, accompanied by the Cremation Certificate, in writing or on the prescribed form, to the caretaker. If the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, he may, in his discretion, grant an application signed by any other person.
- (2) Any person applying in terms of subsection (1) shall pay the prescribed fees as determined by the Council.

39 Exhumation of ashes

- (1) No person shall exhume ashes from any grave without the prior written consent or complying with any conditions determined by the Council.
- (2) Applications for the exhumation of ashes shall be submitted to the Council at least 8 working hours prior to the exhumation.

40 Scattering of ashes

The scattering of ashes in the Landscape Area or Garden of Remembrance is permitted with prior written consent of the Council.

**CHAPTER 6
EXHUMATION OF BODIES AND RE-OPENING OF GRAVES**

41 Exhumation

- (1) Subject to the provisions of these bylaws and any other legislation, no grave shall be re-opened without a written consent of the Council.
- (2) Subject to the provision of these bylaws, no person shall exhume or cause any body to be exhumed without a written consent of the Medical Officer of Health and the charges for exhumation as determined by the Council shall be paid before the exhumation takes place. Such consent shall be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of the body.

42 Closure due to exhumation

At the time of an exhumation of a body, the cemetery shall be closed to the public.

43 Screening of activities

The grave from which a body is to be removed shall be effectively screened from view during the exhumation and a suitable container shall be supplied for the remains.

44 Medical officers of health shall be present

No exhumation shall take place unless the Medical Officer of Health or his/her authorised representative is present.

45 Transfer of body from one grave to another by the Council

Subject to the provisions of these bylaws and any applicable legislation, the Council may move a body from one grave to another.

CHAPTER 7 CARE OF GRAVES

46 General

- (1) No shrub, tree or any other plant material may be planted on graves without the consent of the Council and the Council may use its discretion to prune, cut down, dig up or remove any shrub, plant or flower at any time.
- (2) No person shall bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise provided for in these bylaws

47 Position of memorial work

No person shall erect any memorials on any grave except in such a position as indicated by the caretaker or as otherwise provided for in these bylaws.

48 Repairs to memorial work

If the contractor allows the memorial work to fall or cause danger to deface the cemetery in any way, the Council may order him to repair the damage. Should the required repairs not be done within one month of receiving such notice, the Council may carry out these or remove the memorial work without paying any compensation and recover the cost incurred from the contractor.

49 Supervision of work

Any person engaged in any work in any cemetery shall affect such work under the supervision and to the satisfaction of the caretaker.

50 Damaging of memorial works

The Council shall not accept responsibility for any damages caused or may occur which is not due to the negligence of the Council's employees.

51 Moving of memorial work

The Council may, after due notice, at any time, change or alter the position of any memorial work in any cemetery.

52 Bringing material into cemetery

- (1) No person shall bring any material into the cemetery for the purpose of constructing any memorial work on any grave unless –
 - (a) a sketch plan indicating the dimensions of the memorial work, the inscription and position thereof has been submitted and approved by the caretaker;
 - (b) all charges due in respect of such grave have been paid; and
 - (c) the Council's written approval has been given to this effect.

53 Removal of memorial works by the Council

Any memorial work placed, built, altered, decorated, painted, in contravention of these bylaws or which, in the opinion of the Council, contravenes the good ethics and morals of society, may be removed by the Council after due notice, without payment of any compensation.

54 Requirements for erection of memorial works

- (1) Any person erecting memorial work shall conform to the following requirements:

- (a) where any part of any memorial work is to be joined to any other part, copper or galvanised iron clamps, pins or dowels of approved thickness and of sufficient length, shall be used for such purposes. The holes into which such clamps, pins or dowels must fit shall not be less than 50 mm deep.
- (b) Any part such work, which rests upon the ground or stone or other foundation, shall be squared and added.
- (c) The stones referred to in subsection (1) will not be of uneven thickness nor have uneven corners.
- (d) The underside of all memorial work shall be set at least 50 mm below the natural level of the ground.
- (e) No kerbstones shall be used which protrude more than 230 mm above the surface on the ground or are more than 200 mm thick.
- (f) All head and kerbstones shall be properly secured from the inside with round copper or galvanised iron pins.
- (g) All headstones up to 15 mm in thickness shall be securely attached to the base in an approved manner.
- (h) All memorial work shall be completed as far as possible before is brought into cemetery.
- (i) No soft stone shall be used for memorial work and memorial work shall be constructed or made of marble or granite or any other approved hard stone.
- (j) In the case of single graves, foot kerbs shall consist of one solid piece.
- (k) No person shall do any stonework, chiselling etc. in the cemetery which is not connected with the erection of memorial work, except if the work is expressly permitted for in the bylaw.
- (l) All memorial work shall have an adequate concrete foundation chiasitic with the headstone and where joints occur in the kerbstone, all joints shall be fitted with good cement mortar.
- (m) Where memorial work has a base on ground level, such base shall not be less than 900 mm wide by not less than 300 mm x 300 mm.
- (n) All letters on memorial work shall be engraved thereon and shall not protrude above the surface of the memorial work.
- (o) With the consent of the contractor, the name of the maker may be affixed to any memorial work; provided that no address or other particulars be added thereto.

55 Vehicles and tools

Any person engaged in any work on any grave shall provide such vehicles, tools and other appliances of his own as he may require.

CHAPTER 8 OFFENCES AND PENALTIES

56 Penalties

Any person contravening any provision of these bylaws or failing to comply therewith or failing to comply with the conditions of any notice served on him by the Council in terms of these bylaw shall be guilty of an offence and liable, upon conviction, to a fine or imprisonment not exceeding a period of six months, or to both the fine and the imprisonment.

**CHAPTER 9
CONFLICT OF LAWS**

57 Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.