



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

BURIAL PARKS / CEMETERIES BY-LAWS

Approved by Council on 2007...
(Item

BURIAL PARKS/CEMETERIES BY-LAW

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1. Definitions

In this By-Law, unless inconsistent with the context "**anatomy subject**" means human remains from schools of anatomy.

"**Burial Park/Cemetery** " means land on which the Council has established a Burial Park/Cemetery and which has been set aside as such by resolution of Council;

"**Burial order**" means an order issued in terms of the Births, Marriages and Deaths Registration Act, 51 of 1992, as amended (see 2.7(d));

"**coffin**" means any form of opaque shell, which completely encloses the body, is of sufficient strength to bear the mass of the body without collapsing and is of readily combustible, decomposable material;

"**authorized official**" means the person appointed by the Council as its official and includes any person lawfully acting in his stead;

"**burial**" includes cremation or any other lawful mode of disposal of a dead human body or anatomy subject, and "**bury**" shall have a corresponding meaning;

"**competent authority**" means any person authorized By-law to perform the functions contemplated by Section 3;

"**Council**" means the Council of Stellenbosch Municipality;

"**exclusive right**" means a right of burial issued in terms of Section 2 hereof;

"**memorial work**" means any headstone, monument, inscription thereon whether permanent or temporary;

"**plot**" or "**grave**" means one unit measuring-

(a) in respect of adults, 2 500mm in length, 1 200mm in width and 1 800mm in depth; and

(b) in respect of children under 12 years, 1 500mm in length, 700mm in width; and 1 500mm in depth;

"**public holiday**" has the same meaning as in the Public Holidays Act, 36 of 1994, as amended;

"**Special resolution**" means a resolution as defined in the Municipal Ordinance, 20 of 1974, as amended;

"**superintendent**" means the duly appointed person in charge of the Burial Park/Cemetery .

2. Interments

- (1) The Council may set aside any part of the Burial Park/Cemetery for the burial of the dead of any religious denomination or other body or community; provided that such setting aside shall not vest in any person the right to be buried in any particular place in any cemetery.
- (2) All interment fees relating to the Burial Park/Cemetery are paid in advance and are fixed by Council by special resolution.
- (3) The Council may sell or dispose of the right of burial in a grave or a plot subject to the conditions and fees as it may determine by special resolution and shall issue to a person acquiring an exclusive right the conditions attaching to such acquisition and a certificate of acquisition.
- (4) Should a holder of a right of burial wish to relinquish such right, he may return such right to the Council upon such terms and conditions as the Council may determine.
- (5) No vaults or brick-lined graves shall be permitted in the Burial Park/Cemetery.
- (6) No person shall bury or cause to be buried any body within the Burial Park/Cemetery without the prior permission of the authorized official and no such permission shall be given unless the burial order and the completed notice of interment have been first submitted to the authorized official together with any other forms as may be required.
- (7)
 - (i) Interments shall only commence between the hours of 09:00 and 16:00 and must be completed no later than 17:00. No interments shall take place on Sundays and public holidays with the following exceptions:
 - (a) where the public holiday falls on a Saturday;
 - (b) Muslim Religious groups where the body must be buried before sun set;
 - (c) Any other religious group where the Sabbath day is on a Saturday;
 - (d) Christian denominations where it is tradition in the community to bury church members on a Sunday; and
 - (e) In cases of extreme urgency.
 - (ii) Application shall be made to the Municipal Manager for approval for all exceptions. The application must state the reasons for having the burial on a Sunday or Public Holiday. The Municipal Manager may approve it subject to a tariff applicable on Sundays and Public Holidays and any other conditions that he/she deems fit.
 - (iii) That a tariff of R1 200 be applicable for any part of the first 4 hours, calculated from half an hour before the ceremony until completion of the interment.

- (iv) That an additional R1 200 be levied for any period longer than 4 hours to a maximum of eight hours.
 - (v) Notice of an interment shall be given to the caretaker not less than 24 hours previous to the time fixed for such interment, provided that 48 hours notice shall be given for an interment on a Saturday, Sunday or public holiday.
 - (vi) No burial of the body of the deceased person shall be performed unless a burial order, issued in accordance with the provisions of the Births, Marriages and Death Registration Act, No 51 of 1992, is submitted to the caretaker;
 - (vii) Any service rendered by the Council on Saturdays, Sundays and Public Holidays, shall be at such times and on such conditions as determined by the Council from time to time.
 - (viii) The Municipal Manager or his/her delegeetee will have the discretion to allow the community/family members to prepare the grave and execute the burial without the presence/assistance of Municipal employees subject to the grave being prepared and inspected during normal working hours. In such a case the relevant municipal tariffs will not be charged.
- (8) Applications for interments in the Burial Park/Cemetery must be made at the Council's offices.
- (9) No person shall –
- (a) bury a body unless the top of the body or of the coffin, if the body is contained in a coffin, is after being covered up, at least 1 000mm from the surface of the ground;
 - (b) bury another body unless the soil on top of the last body interred is left undisturbed for a space of at least 300mm when the further interment is made; or
 - (c) bury a body in a grave unless the person whose body is to be buried had a right to be buried in that grave.
- (10) The Council reserves the right to lower any mound on any grave.
- (11) A coffin shall be used for interments except when religious beliefs prohibit its use. The Council may request written proof of believed prohibitions.

3. Exhumation

- (1) No person shall exhume or cause to be exhumed a body from a grave –
- (a) unless he shall first have obtained the authority of the Premier and the Council; and
 - (b) otherwise than in accordance with the conditions specified in such authorities.

- (2) Whenever the authorised official deems it advisable that a body be removed from the grave, he may, after consultation, if possible, with any near relative of such deceased person and with the approval of the Premier and the Council, remove such body to another grave.
- (3) Subject to the provisions of subsection (1) and (2), no body shall be exhumed less than two years after burial except when so decided by a competent authority or unless the coffin was hermetically sealed prior to interment.

4. Memorial work

- (1) No memorial work other than a headstone shall be permitted in the Burial Park/Cemetery.
- (2) No person shall commence any memorial work, whether erection or removal;
 - (a) except under authority of a written permit issued by the authorized official;
 - (b) otherwise than in accordance with the conditions attached to such permit as determined by the Council; and
 - (c) as such manner as to encroach upon other graves, footpaths or roads in the Burial Park/Cemetery .
- (3) An application for a permit referred to in subsection (2) shall obtain such particulars of the erection and the inscription to be placed thereon as the Council may require, and the authorized official may refuse to issue such permit if in his opinion such erection is likely to be of inferior workmanship or quality or is likely in any way to disfigure the Burial Park/Cemetery or is calculated to hurt or offend the feelings of the public, or is likely to be a danger.
- (4) No memorial work whatsoever will be authorized on a grave until an interment in such grave has been effected.
- (5) No headstone shall be erected in an upright (vertical) position which exceeds the following maximum dimensions:
 - (a) Length : 1 000mm
 - (b) Width : 600mm
 - (c) Thickness: 120mm
- (6) Bricks on edge are permitted as a lining around the headstone, provided they are below grass/ -ground level and do not interfere with maintenance work.
- (7) No person shall –
 - (a) Solicit any business or order, or exhibit, distribute or leave any tract, business card or advertisement within the Burial Park/Cemetery, or shall use the Burial Park/Cemetery , or shall use the Burial Park/Cemetery ,

road or walk therein for the conveyance of goods, parcels, or other materials except such as are intended for use in the Burial Park/Cemetery, or

- (b) use any part of the Burial Park/Cemetery for the cutting, dressing and manufacturing of headstones, except with the consent of the authorised official.
- (8) No person shall carry out any memorial work or bring any materials into the Burial Park/Cemetery for the purpose of such work on Saturdays, Sundays and public holidays, except where the removal of monumental work is necessary to effect an interment.
- (9) The holder of a right or the owner of a memorial work shall keep the grave or plot concerned and the memorial work thereon in good order and repair.
- (10) (a) Whenever the holder of a right or the owner of a memorial work has erected any memorial work in the Burial Park/Cemetery and allows it to fall into such state of disrepair as in the opinion of the authorized official constitutes a danger or a disfigurement in the burial park/cemetery, the authorized official may call upon such holder or owner or his near relatives to effect such repairs as may be specified within the period stipulated.

(b) In the event of the required repairs not being effected within the period stipulated, the Council may itself effect the repairs or remove the memorial work without paying compensation and may recover the expense of such repair or removal from such holder or owner or his near relative.
- (11) No person shall be at any time leave or deposit any rubbish, loose soil, stone or other debris within the Burial Park/Cemetery other than at a place provided for that purpose or in any way damage or deface any part of the Burial Park/Cemetery or anything therein contained.
- (12) Where it is necessary to cause a subsequent interment in a grave or plot the onus shall be upon the person requiring the interment to remove any existing memorial work required to be removed for that purpose and for its replacement if necessary.
- (13) No person shall erect palings, or any other structure, improvement or ornamentation on a grave.
- (14) No person shall obstruct, restrict or oppose the superintendent or authorised official in the course of his duty or refuse to comply with any order or request of the superintendent or authorised official.
- (15) No person shall plant a tree or shrub on a grave or plot without the permission of the superintendent or authorised official.
- (16) The superintendent or authorised official may prune, cut down, dig up or remove any shrub or plant or flower in the burial park without any notice.

- (17) Every person in charge of memorial work being carried out within the Burial Park/Cemetery shall, upon demand at any time produce his written permission to carry out such memorial work.
- (18) No person shall fix or erect any memorial work while the ground is, in the opinion of the superintendent or authorised official, in an unfit state.
- (19) The Council or its employees shall not be responsible for any damage to or theft from graves and memorial work within the burial park.

5. Memorials : Cremations

- (1) The Council may provide –
 - (a) buildings, niches or other facilities for the deposit and preservation of the ashes of cremated human remains, for definite periods or in perpetuity upon such terms and conditions as may be determined by the Council;
 - (b) facilities for memorial tablets of approved material upon such terms and conditions as may be determined by the Council; and
 - (c) gardens for the strewing of ashes of cremated human remains.
- (2) All inscriptions on niches, memorial tablets or in books of remembrance shall be subject to the approval of the authorised official.
- (3) No person shall –
 - (a) open a niche containing ashes, or
 - (b) remove an urn or casket containing ashes from a niche, without the permission of the authorised official.
- (4) Ashes to be interred in a grave shall be in a container constructed of perishable material.
- (5) The outer dimensions of urns or caskets to be deposited in a niche shall not exceed –
 - (a) for a double niche, 230 mm x 230 mm x 230 mm, and
 - (b) for a single niche, 150 mm x 150 mm x 230 mm.
- (6) Only urns or caskets containing ashes of a deceased person shall be deposited in a niche.
- (7) No permanent wreaths, sprays, flowers or floral tributes may be placed in the columbarium or in its ground.

6. Prohibited actions

- (1) All vehicles lawfully within the Burial Park/Cemetery shall proceed at a speed of not more than 20km/h and no vehicle shall pass in close proximity to any point where a funeral service is being

conducted. No hooting shall be permitted. No person shall drive any vehicle in the Burial Park/Cemetery except upon the roads provided for that purpose.

- (2) No person under twelve years of age may enter the Burial Park/Cemetery unless such person is under the care of a responsible person.
- (3) No person shall hold or take part in any demonstration for any purpose in the Burial Park/Cemetery .
- (4) No person shall –
 - (a) enter or leave the Burial Park/Cemetery other than by the official gates;
 - (b) sit, stand or climb upon or over memorial work, a gate, wall, fence or building in the Burial Park/Cemetery ;
 - (c) enter the Burial Park/Cemetery with a vehicle without the permission of the authorized official upon terms and conditions determined by Council;
 - (d) expose or convey a body in an unseemly manner in the burial park;
 - (e) play any game or sport, or discharge any fire-arm except as a salute at a military funeral, or discharge any air gun or catapult within the Burial Park/Cemetery or disturb or annoy any person present therein;
 - (f) mark, draw, scribble or erect and advertisement upon, or in any way deface a wall, building, fence, gate, memorial work or other erection in the Burial Park/Cemetery ;
 - (g) pick or in any way interfere with plants or flowers in the burial park; or
 - (h) bring an animal into the Burial Park/Cemetery .
- (5) Persons entering the Burial Park/Cemetery do so at their own risk. The Council will not accept any responsibility for damage, loss or injury sustained.
- (6) No instrumental music shall be performed within the Burial Park/Cemetery without the permission of the Superintendent or authorized official.
- (7) Any person who knowingly makes any false statement under this By-law or who contravenes this By-law shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

7. Repeal of By-laws

The By-laws specified in the first column as Schedule 1 are hereby replaced to the extent set out in the second column.

Schedule 1

REPEALING OF BY-LAWS

TITLE OF BY-LAW	EXTENT OF REPEAL
1. Stellenbosch Municipality: Additional Cemetery By-law as promulgated in PN 253/1977	The whole
2. Standard Cemetery By-law: Amendment as promulgated in PN 183/1989.	The whole
3. Stellenbosch Municipality: Burial Park By-law as promulgated in PN 109/1983	The whole