

# **MANGAUNG LOCAL MUNICIPALITY BY-LAWS RELATING TO MUNICIPAL CEMETERIES**

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**CHAPTER 1  
INTERPRETATION**

**1. Definitions**

- (1) In these by-laws, unless the context otherwise indicates, an expression to which a meaning has been assigned in the Local Government Ordinance, 1962 (Ordinance No 8 of 1962), the Structures Act and the Systems Act or any other applicable legislation, shall have the meaning so assigned to it, and -

**“adult”** (where the word is used to describe a corpse) means a corpse buried in a coffin that will fit into a grave for adults as contemplated in section 14;

**“ashes”** means the remains of a corpse after it has been cremated;

**“burial”** means burial in earth or any other method of disposal of a corpse, ashes or a cadaver in the manner provided for in these by-laws;

**“burial order”** means an order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No 51 of 1992) authorizing a burial;

**“caretaker”** means the official appointed by the Council to supervise and control a cemetery or cemeteries, and his delegates;

**“cemetery”** means land or part thereof, including the buildings and works thereon, that is owned and controlled by the municipality, duly set aside and reserved for the purpose of burials and made available for public use from time to time for burials;

**“child”** (where the word is used to describe a corpse) means a corpse that is being buried in a coffin that fits into a grave for a child as contemplated in section 14;

**“columbarium”** means a memorial wall or a wall of remembrance provided by the Council for the burial of ashes;

**“corpse”** means any dead human body including the body of a stillborn child;

**“Council”** means the municipal council of the Mangaung Local Municipality, its legal successors in title and its delegates;

**“grave”** means a piece of land in a cemetery laid out, prepared and used for a burial;

**“holder”** means a person to whom a reservation certificate for a specific grave has been issued in terms of the by-laws repealed in terms of section 24;

**“Medical Officer of Health”** means the official appointed by the Council from time to time in such position and his delegates;

**“memorial work”** means any headstone, monument, inscription or other similar work or portion thereof erected or intended to be erected upon a grave or a columbarium;

**“municipality”** means the Mangaung Local Municipality, and when referred to as -

- (a) an entity, means Mangaung Local Municipality as described in section 2 of the Systems Act; and
- (b) a geographic area, means the municipal area of Mangaung Local Municipality as determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

**“niche”** means the cavity in a columbarium provided for the burial of ashes;

**“plaque”** means a tablet erected on the columbarium for identification purposes;

**“prescribed fees”** means the fees as determined from time to time by the Council by means of resolution;

**“resident”** means a person who at the time of his death, was ordinarily resident within the municipality or under law liable for the payment of assessment rates, rent, service charges or levies to the Council;

**“responsible person”** means the nearest surviving relative of the deceased person or a person authorised by such relative, or if the caretaker is satisfied that such person does not exist or that the signature of such relative or authorised person cannot be obtained timeously for the purpose of completing the necessary application forms, another person who satisfies the caretaker as to his identity, interest in the burial, capacity to pay the prescribed fees and to comply with the applicable provisions of these by-laws;

**“still-born”** in relation to a child, means that it had at least 26 weeks of intra-uterine existence but showed no sign of life after complete birth, and **‘still-birth’** in relation to a child, has a corresponding meaning;

**“Structures Act”** means the Local Government : Municipal Structures Act, 1998 (Act No 117 of 1998);

**“Systems Act”** means the Local Government : Municipal Systems Act , 2000 (Act No 32 of 2000);

- (2) In these by-laws, unless the context otherwise indicates, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

## **CHAPTER 2 ESTABLISHMENT AND MANAGEMENT OF CEMETERIES**

### **2. Establishment of cemeteries**

- (1) The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.
- (2) The following cemeteries have been established by the Council, and are currently managed and controlled by the Council :
  - (a) Bainsvlei Cemetery
  - (b) Bloemspruit Cemetery
  - (c) Heather Heights Cemetery
  - (d) Memoriam Cemetery
  - (e) Phahameng Cemetery
  - (f) South Park Cemetery

- (g) Storm Avenue Cemetery
- (h) Traditional cemeteries (Bloemfontein)
- (i) Botshabelo cemeteries (2)
- (j) Thaba Nchu urban cemeteries (18)
- (k) Thaba Nchu rural cemeteries (38)

(3) The Council may set aside, reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Council may deem necessary for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, security forces or war heroes, or for the creation and management of the following sections:

- (a) **Berm-section** where memorial work of a restricted size may be erected only on a concrete base provided by the Council at the top or bottom end of a grave. The top surface of graves are leveled and the Council will cut planted as well as natural grass as part of its maintenance program;
- (b) **Monumental-section** where memorial work erected shall cover the entire grave area.
- (c) **Semi-monumental section** where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Council;
- (d) **Natural-grass section** where the surface of graves are leveled. Graves are identified by numbers affixed on top of the graves in such a way that lawnmowers can be used to cut the natural grass without damaging the numbers;
- (e) **Traditional-section** where memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the Berm-section. The surface of graves are levelled;
- (f) **Columbarium-section** where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Council;

### 3. Official hours

- (1) The cemetery and the office of the caretaker shall be open during the hours as determined by the Council. The cemetery office of the caretaker shall be open from Monday to Friday.
- (2) Burials shall take place on the days and during the hours as determined by the Council.
- (3) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit
- (4) No person shall be or remain in a cemetery or part thereof before or after the official hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.

### 4. Register

- (1) A register of graves and burials shall be kept by the caretaker.
- (2) Such register shall be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

### 5. Numbering of graves

- (1) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of section 9, shall be numbered by the Council.

- (2) The number shall be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

**6. Reservation of graves**

- (1) No reservation of a grave in a cemetery shall be allowed.
- (2) Reservation of graves made and recorded in the official records of the Council in terms of the by-laws repealed in terms of section 24, shall still be valid and the Council shall honour such reserved rights.

**7. Transfer of reserved rights**

- (1) A reserved right as contemplated in section 6(2), may not be transferred without the prior approval of the Council.
- (2) Application to transfer such right shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder.
- (4) The reserved right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any), minus 10% administration fees, will be refunded to the holder.

**8. Number of corpses in a grave**

- (1) Only one corpse may be buried in a grave with measurements as contemplated in sub-section 14(1) and 14(2).
- (2) Only two corpses may be buried in a grave with measurements as set out in sub-section 14(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting an application form mentioned in sub-section 9(1) before the first corpse is buried.
- (3) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.
- (4) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

**CHAPTER 3  
BURIALS**

**9. Application for a burial**

- (1) Application for permission for a burial in a cemetery shall be made to the caretaker in writing by completing and submitting a prescribed application form. An application shall be accompanied by:
- (a) the prescribed burial order;
  - (b) the prescribed fees; and
  - (c) a reservation certificate, if applicable;
- (2) No person shall, without the prior written approval of the Council, execute, cause or allow a burial in any other place in the municipality than in a cemetery established and managed by the Council. This includes the burial of a corpse, of ashes and of a cadaver.
- (3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (4) No person shall execute a burial or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the caretaker.

- (5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives and their religion or church affiliation.
- (6) In allocating a grave the caretaker shall as far as practicable possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him to select the section of his choice, but not the individual grave of his choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial shall be executed only in a grave allocated by him.
- (7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.
- (9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

#### **10. Burial of a corpse**

- (1) All graves shall be provided by the caretaker with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.
- (2) There shall be at least 1 200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses shall be placed in a coffin for the burial thereof, except as provided for the Muslim community.
- (4) No person shall without the prior permission of the caretaker conduct any religious ceremony or service according to the rites of one denomination in any portion of a cemetery reserved by the Council in terms of the provisions of section 2 for the use of some other denomination.
- (5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the cemetery.
- (7) No person shall convey or expose a corpse or any part thereof in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to any burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Council for a period of not less than ten years.

#### **11. Burial of ashes**

- (1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave as contemplated in sub-section 14(4) : Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker.

- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (4) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.
- (5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Council and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein whereafter it will once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:
  - (a) approval for the burial has been obtained in terms of the provisions of section 9;
  - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of sub-section 17(1); and
  - (c) the prescribed fees have been paid.
- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker as set out in section 3.
- (11) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.
- (12) The columbarium may be visited daily during the official hours set out in section 3.
- (13) Plaques shall be made of material approved by the Council and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

## **12. Burial of a cadaver**

The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 14(4) : Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.

## **13. Persons dying outside the municipal area**

The provisions of these by-laws shall apply mutatis mutandis to any burial in a cemetery of a person who has died outside the municipality.

## **14. Grave measurements**

- (1) The excavation of a grave for an adult shall be at least 1820 mm deep, 2300 mm long and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1370 mm deep, 1520 mm long and 610 mm wide.

- (3) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep, 2300 mm long and 760 mm wide.
- (5) Deviations from measurements of graves shall be as follows:
- |                   |   |              |
|-------------------|---|--------------|
| Extra wide        | : | 2300 mm long |
|                   | : | 840 mm wide  |
| Extra long        | : | 2530 mm long |
|                   | : | 760 mm wide  |
| Rectangular small | : | 2300 mm long |
|                   | : | 810 mm wide  |
| Rectangular big   | : | 2400 mm long |
|                   | : | 900 mm wide  |
| Brick-nogging     | : | 2600 mm long |
|                   | : | 1050 mm wide |
- (6) The area of a rectangular grave for an adult shall be 1500 mm wide by 2600 mm long.
- (7) The area of a grave for an adult shall be 1210 mm wide by 2430 mm long.
- (8) The area of a grave for a child shall be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave shall be used.

#### **CHAPTER 4 CREMATION**

##### **15. Cremation**

Cremation within the municipality shall only take place in an approved crematorium established for that purpose, and in accordance with the applicable legislation.

#### **CHAPTER 5 EXHUMATION**

##### **16. Exhumation**

- (1) No person shall without the written authority of the Premier of the Free State as contemplated in the Burial Place Ordinance, 1952 (Ordinance No 4 of 1952) and then only after notifying the Council, exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed.
- (2) Any person duly authorised to exhume a corpse as set out above, shall furnish such authority to the caretaker at least eight working hours before the time proposed for the exhumation of such corpse, and shall at the same time pay the prescribed fees.
- (3) An exhumation and removal of any corpse shall be made only in the presence of the caretaker or any authorised member of the cemetery personnel, accompanied by the funeral undertaker and in accordance with the stipulated legislation applicable to exhumations and re-burials.
- (4) A grave from which any corpse is to be removed shall, if required by the caretaker, be effectively screened from public view during the exhumation.
- (5) The person who applied for the exhumation of a corpse, shall provide an acceptable receptacle for the remains and shall remove the remains after the exhumation.
- (6) No person shall be permitted to re-open a grave unless he has satisfied the caretaker that he is authorised thereto.



- (7) After the exhumation of a corpse and the removal of the remains, all rights in the grave will revert to the Council. The re-use of the grave shall be done in consultation with the Medical Officer of Health .
- (8) If at any time and for whatever reason the exhumation and transfer of a corpse to another grave shall become necessary, the Council may, after the relatives of the deceased person have been notified accordingly, exhume such body and transfer it to another grave.

## **CHAPTER 6 MEMORIAL WORK**

### **17. Memorial work**

- (1) Application for the erection of memorial works shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (2) The erection of trellises around graves is prohibited.
- (3) No person shall bring or cause any material to be brought into any cemetery for the purpose of the erection or construction of any memorial work, unless and until:
  - (a) approval for the burial has been obtained in terms of the provisions of section 9;
  - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of sub-section 17(1); and
  - (c) the prescribed fees has been paid.
- (4) Graves of the war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognized body or by the government of any foreign country, shall upon application to the Council, be exempt from the requirement of payment of the prescribed fees.
- (5) The Council may refuse its consent for the erection of any proposed memorial work if the plan and specification thereof reveals that it will be of inferior quality or in any manner likely to disfigure a cemetery or which bears any inscription likely to cause offence to users of the cemetery or to visitors thereto.
- (6) No person engaged upon any memorial work in a cemetery shall at any time disturb any adjacent graves. On completion of such work he shall leave the grave and the cemetery in a clean and tidy condition and remove any building material or surplus ground therefrom.
- (7) A person engaged in the erection of memorial work in a cemetery, shall comply with the following provisions:
  - (a) arrangements will beforehand be made with the caretaker with regard to the date and time of the intended erection;
  - (b) all separate parts of any memorial work other than masonry-construction shall be affixed by copper or galvanized iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work;
  - (c) any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;
  - (d) the underside of every flat stone memorial and the base or landing of every headstone shall be set at least 50 mm below the natural level of the ground;
  - (e) all headstones shall be securely attached to the base;

- (f) flat stones shall consist of one solid piece in the case of all graves;
  - (g) all headstones shall consist of granite, marble, bronze or any other durable metal or stone approved by the Council;
  - (h) all curbing or memorial work on graves shall be erected on concrete foundations at least 1210 mm wide and 200 mm deep over the full width in the case of adults graves and 910 mm wide and 200 mm deep in the case of children's graves;
  - (i) the size of a monumental tombstone (all inclusive) shall be as follows:
 

Single grave	:	2440 mm long
	:	1070 mm wide
Child grave	:	1370 mm long
	:	760 mm wide
Double grave	:	2440 mm long
	:	2290 mm wide
  - (j) all curbing on larger than single graves shall be fixed on substantial concrete mats at the four corners and where joints occur;
  - (k) any concrete foundation on any grave must, upon instruction of the Council, be reinforced where this is considered necessary owing to the weight of the memorial work.
- (8) No person shall erect any memorial work within a cemetery unless the number and section-letter of the grave upon which such work is to be erected, shall be engraved thereon in such a position that it will be legible at all times from a pathway. With the consent of the family of the deceased, the name only of the maker of such memorial work may be placed upon any foot stone.
  - (9) Memorial work shall be constructed and erected in a cemetery only during the official office hours as contemplated in section 3.
  - (10) No person shall fix or place any memorial work during inclement weather or where the soil is in an unsuitable condition.
  - (11) Every person carrying out work within a cemetery shall under all circumstances comply with the directions of the caretaker.
  - (12) The Council may, after due notice, at any time change or alter the position of any memorial work in any cemetery provided that in any case where any memorial work has originally been placed in a certain position with the express consent of the caretaker, any alterations of such position in terms of the provisions of this regulation shall be executed at the expense of the Council.

#### **18. Graves supplied with a berm**

- (1) Notwithstanding anything to the contrary contained in these regulations, a grave which is supplied with a berm shall be subject to the following conditions:
  - (a) no kerbing shall be erected at such graves;
  - (b) the berm provided by the Council shall be 1 200 mm long, 500 mm wide and 300 mm deep;
  - (c) the base of the memorial work to be erected on the berm of a single grave shall not be larger than 1 000 mm long and 230 mm wide. The memorial work together with the base may not be higher than 1 200 mm from the ground surface.
  - (d) a memorial work shall not protrude beyond the base;

- (e) no object may be placed and kept on any grave. A memorial work or a vase for flowers or foliage placed in the orifice provided in the berm, may however be placed and kept on a grave until such time that the ground surface over the grave is leveled.

## **CHAPTER 7 MAINTENANCE**

### **19. Maintenance of graves**

- (1) A memorial work erected upon a grave shall at all times be maintained in good order and condition by the responsible person. Should any such work fall into a state of disrepair or constitute a danger or be a disfigurement of the cemetery, the Council may by written notice addressed to the responsible person by registered post at his last known postal address, require of him to effect such repairs as may be considered necessary. On failure to effect the required repairs within one month of the date of such notice, the Council may have the repairs effected or may have the memorial work removed as it deem fit and may recover the costs for such repairs or removal, from the responsible person.
- (2) Unless otherwise provided for in these regulations, the Council shall be responsible for keeping cemeteries in a neat and tidy condition.
- (3) Grass may be planted on a grave by family members of the deceased, subject to the directions of the caretaker : Provided that the Council shall maintain the grave, as part of the cemetery, at its own cost and in accordance with its own standards and programs;
- (4) All memorial work which has been dismantled for purposes of a further burial shall be re-erected or removed from the cemetery within two months of the date of such dismantling. On failure to do so the Council shall be entitled to remove any such dismantled memorial work from the cemetery without further notice, and to recover the costs of such removal from the responsible person.
- (5) No person shall plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (6) The Council shall have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.
- (7) No person shall deposit any flowers, grass, weeds or other materials removed from a grave, on any other grave, roadway or any other place in the cemetery, except in the refuse bins intended for that purpose.

## **CHAPTER 8 GENERAL CONDUCT IN CEMETERIES**

### **20. General conduct in cemeteries**

- (1) No person under the age of 12 years shall enter a cemetery unless he is in the care of an adult or with the approval of the caretaker.
- (2) No person shall enter or leave any cemetery except through the gates provided for that purpose nor shall any person enter any office or enclosed place in any cemetery, except on business or with the consent of the caretaker.
- (3) No person shall make a false statement or provide false information in an application or other form or document to be completed and submitted in terms of these by-laws.
- (4) No person shall carry on any trade or hawking activity, or solicit any business, or exhibit, distribute or leave any business card or advertisement within any cemetery or on any public place within thirty metres of the boundary of any cemetery, except with the written approval of the Council and on such conditions as the Council may determine.
- (5) No person shall sit, stand or climb upon or over any tombstone, memorial work, gate, wall, fence or building in any cemetery.

- (6) No person shall hold a demonstration of any kind in any cemetery or allow or participate in such demonstration.
- (7) No person shall bring into or allow any animal to enter any cemetery. Any animal found in a cemetery may be impounded.
- (8) Directives from the caretaker to ensure the orderly procession of the ceremony concerning the placement of structures, chairs, voice amplification equipment volume and the type of music must to be played, must be adhered to.
- (9) No person shall within any cemetery obstruct, resist or oppose the caretaker or any official of the Council whilst acting in the course of their official duties, nor refuse to comply with any reasonable order or request of the caretaker or any official of the Council.
- (10) No person shall remove from the cemetery any soil, sand or other substance or thing of a similar nature without the express permission of the caretaker.
- (11) No person shall want only or wilfully damage or cause to be damaged, nor shall any person mark, draw or erect any advertisement, bill or placard upon or in any manner deface any grave, tombstone, monument, wall, building, fence, path or other construction within any cemetery.
- (12) No person shall bribe or try to bribe any employee in the service of the Council in regard to any matter in connection with a cemetery or burial, neither with money gifts or any other benefit.
- (13) No person shall, except where expressly permitted by these by-laws or with the consent of the caretaker, disturb the soil, or plant or uproot any plant, shrub or flower, or in any way interfere with any grave or construction in any cemetery.
- (14) No person shall play any game or take part in any sport, or discharge any firearms except as a salute at a military funeral, or discharge any airgun or catapult within any cemetery, or disturb or annoy any person present therein.
- (15) No musical instruments shall be played in a cemetery without the consent of the caretaker.

## **CHAPTER 9 MISCELLANEOUS**

### **21. Injuries and damages**

- (1) A person using a cemetery do it on his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.
- (2) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he accordingly indemnifies the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his dependants or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

### **22. Fire-arms and traditional weapons**

No fire -arms and traditional weapons shall be allowed in a cemetery.

### **23. Offences and penalties**

- (1) Any person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of

imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).

- (2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

#### **24. Repeal**

The following by-laws are hereby repealed:

- (1) Cemetery Regulations of the former Bloemfontein Municipal Council, promulgated by Administrator's Notice No 96 of 5 March 1971;
- (2) Cemetery Regulations of the former Bainsvlei Municipal Council, promulgated by Administrator's Notice No 37 of 15 February 1974;
- (3) Cemetery Regulations of the former Bloemspruit Municipal Council, promulgated by Administrator's Notice No 23 of 28 January 1977;
- (4) By-laws relating to the control over Cemeteries of the former Mangaung City Council, promulgated by Government Notice No R 2611 of 2 December 1983.