

CEMETERY

[PROVINCIAL NOTICE NO. 611 OF 1956.]
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eTHEKWINI

CEMETERY BY-LAWS

The Administrator, acting on the advice and with the consent of the Executive Committee, has been pleased, under the authority of Section 200 of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942), to approve of the repeal of the By-laws for the Use, Control, Management and Regulation of Burial Grounds, Cemeteries and Crematoria, published under Provincial Notice No. 430 of 1937, as amended by Provincial Notices Nos. 166 of 1938, 472 of 1939, 66 and 203 of 1943, 89 and 106 of 1946, 343 and 487 of 1948, 407 of 1949, 383 of 1950 and 14 of 1955, and the substitution therefor of the subjoined new Cemetery, By-laws, as made by the City Council of the City of Durban at its meeting held on the 19th May, 1955—

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SCHEDULE

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1. Repeal of Existing By-laws.—The existing By-laws of the City of Durban for the use, control, management and regulation of Burial Grounds, Cemeteries, published under Provincial Notice No.430 of 1937 as amended are hereby repealed; provided, however, that the repeal of such By-laws shall not affect anything done or any right, obligation or liability acquired or incurred thereunder.

1A. Nondiscrimination.—(1) Subject to the provision of subsection (2) hereof, no provision of these By-laws shall be applied so as to discriminate between persons on the grounds of race, religion or gender nor shall it be so construed as to have the effect of authorising such discrimination.

(2) Notwithstanding the provisions of subsection (1) hereof, discrimination on the grounds of gender may expressly be authorised in terms of any provision of these By-laws which prescribes the wearing of appropriate apparel in a public place or imposes a restriction upon the entry of persons into public ablution, toilet and changeroom facilities or prescribes different standards for such facilities.

[R. 1A inserted by r. 12 of MN 43 of 1992.]

2. Definitions.—In these By-laws unless the context otherwise requires—

“**Act**” means the Births, Marriages and Death Registration Act 1923 (Act No.17 of 1923) as amended from time to time.

“**A Lawned Area**” is an area set aside by the Director from time to time in any portion of any cemetery as determined by him where no memorial work of any nature whatsoever shall be permitted on a single grave site or plot other than a headstone, the maximum dimensions of which shall be restricted to 450 mm in height above ground level, 600 mm in width and 200 mm in thickness at the base and a vase or vases, the maximum dimensions of which shall be restricted to 225 mm in height above ground level, 200 mm in width and 200 mm in thickness at the base; provided that the vase or vases may be incorporated into an extension of the base of the headstone, in which case the maximum dimensions of the extended base of the headstone shall be restricted to 125 mm in height above ground level, 950 mm in width and 200 mm in thickness. Furthermore, an area not extending further than 400 mm in front of the headstone may be set aside as a garden area.

[Definition of “A Lawned Area” inserted by r. 1 of PN 249 of 1974 and substituted by r. 1 of PN 171 of 1978.]

“**Cemetery**” when used without qualification means a public cemetery or a private cemetery or both according to the context.

“**Council**” means the City Council of the City of Durban.

“**Director**” means the Head of the Department appointed by the Council to administer these By-laws, or his duly authorised representative.

“Grantee” means a person to whom the right to use a private grave site or plot in perpetuity has been granted or such person’s heir or successor in title.

[Definition of “Grantee” inserted by r. (i) (a) of PN 423 of 1960 and amended by r. 1 (a) of PN 373 of 1969.]

“Lessee” means the person, who has purchased the exclusive right to use a private gravesite or plot for the period of the lease.

“Keeper” means—

- (i) in the case of a Cemetery owned and controlled by the Council, the person who shall have been appointed by the Council to manage the same under the direction and control of the Director, and
- (ii) in the case of a private cemetery, the person who shall have been duly appointed to manage the same and to keep the records thereof.

“Medical Officer of Health” means the person lawfully acting for the time being, in the capacity of Medical Officer of Health of the City of Durban or his duly authorised representative.

“Memorial Work” shall mean any tombstone, railing, fence, monument, tablet, memorial inscription, kerbing or other work erected or which may be erected on any grave or plot.

“Ordinance” means the Cemeteries Ordinance 1947 (Ordinance No. 38 of 1947) as amended from time to time.

“Private Cemetery” means a cemetery established and maintained by or on behalf of persons professing any form of religious belief or persons of any religious denomination or sect, principally if not solely for the burial therein of deceased persons of such belief, denomination or sect, or established or maintained by any person principally, if not solely, for the burial therein of deceased members of the family or deceased employees of that person.

“Private Grave” or **“Plot”** means any piece of land within a public cemetery laid out or demarcated, in the case of a “private grave” as a single grave, and in the case of a “plot” as two or more graves for family burials in respect of which any person has purchased or may purchase the exclusive right over a stated period to use the same for burial purposes in terms of these By-laws.

[Definition of “Private Grave” or “Plot” amended by r. (i) (b) of PN 423 of 1960 and by r. 1 (b) of PN 373 of 1969.]

“Proprietor”, in relation to a private cemetery, means any person or any association of persons corporate or unincorporate responsible for the administration and maintenance of a private cemetery and includes any trustee or trustees acting on behalf of any such person or association of persons.

“Public Cemetery” means any cemetery owned, established or maintained by or the control and management of which is legally vested in the Council.

“Public Grave” means any grave in a public cemetery in respect of which any person has purchased or may purchase the right of having a single body interred without obtaining any exclusive right to such grave.

PART I
PRIVATE CEMETERIES

3. Establishment and continued use of Cemeteries without Council's Authority prohibited.—No person shall hereafter establish any private cemetery and no proprietor of any Private Cemetery already in existence shall, if the use of such cemetery was not previously authorised by the Council, continue to use such existing cemetery for burial purposes without the Council's authority being obtained, as provided in Sections 4 and 6 respectively of the Ordinance.

4. Applications Procedure.—Applications for the prior authority of the Council to establish a private cemetery or for the Council's authority for the continued use of any existing Private Cemetery shall be made in writing to the Town Clerk. The applicant shall submit—

- (a) a locality plan to a scale of not less than 1 in 10 000, showing the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated as the case may be, the registered description of the site and showing all streets, public places and privately-owned property within a distance of 100 metres of the site.

[Para. (a) amended by r. 1 (i) of PN 445 of 1970.]

- (b) a "block" plan to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings existing or proposed to be erected.

[Para. (b) amended by r. 1 (ii) of PN 445 of 1970.]

- (c) a plan and sections to a scale of at least 1 in 100 of any building existing or proposed to be erected, and which shall in this case conform with the Building and Sewerage By-laws of the City of Durban.

[Para. (c) amended by r. 1 (iii) of PN 445 of 1970.]

- (d) a list of registers or records kept or proposed to be kept with reference to identification of graves; sale or transfer of grave sites and interments.

- (e) the full name and address of the proprietor.

- (f) the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust.

- (g) a schedule of the burial fees proposed to be charged or actually in force.

5. Publication of Notice of Application.—On receipt of such application the Town Clerk shall cause to be inserted in one or more newspapers circulating in the City a notice stating the nature of the application and specifying the date being not less than 14 days after the date of publication of such notice by which objections to the granting of an application may be lodged with the Council.

6. Grant or Refusal of Application.—The Council, if satisfied after consideration of the application and any objections which may have been lodged that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, may authorise in writing the establishment of the proposed private cemetery or the continued use of the private cemetery as the case may be, referred to in the application, in accordance with the plans submitted to any variation or amendment which it may require and to any conditions which it may prescribe. No departure from the plans as approved shall be permitted without the prior approval of the Council.

7. Duties of Proprietors.—Every proprietor of a private cemetery, the establishment or continued use of which has been authorised by the Council, shall—

- (a) comply with any special conditions prescribed by the Council,
- (b) keep or cause to be kept a record or records showing—
 - (i) the number of each grave site and the ownership thereof; and
 - (ii) the number of interments in each grave site and the name, age, sex, race, last known address, date and cause of death in each case;
- (c) comply with the relevant provisions of the Act and Ordinance and any regulations made thereunder;
- (d) maintain all grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (e) provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites and each block being demarcated by means of signs showing the number and situation of each block. The graves or grave sites in each block shall be separately numbered by means of durable number plates. All signs and number plates shall be maintained in a neat and legible condition;
- (f) allow the Council or its duly authorised officers to enter or inspect the cemetery and all records kept in connection therewith;
- (g) render a monthly return to the Director on or before the 7th day in each month of all burials detailing the name, last known address, age, sex, race, date and cause of death in each case, and the name of the Medical Practitioner who issued the certificate of death, the authority who issued burial order, the block and grave site number and the date of burial;
- (h) render an Annual Return to the Director on or before 31st day of March each year a detailed list of the names and addresses of all Trustees, Committee members and/or persons controlling such cemeteries;
- (i) appoint a keeper to manage the cemetery and to keep the records thereof. Any new appointment or change in the identity of the keeper shall be notified to the Director on the monthly return rendered in terms of the preceding paragraph (g).

PART II CONTROL AND REGULATION OF BURIALS IN PUBLIC AND PRIVATE CEMETERIES

8. Conveyance of Bodies to Cemetery.—Any person conveying a dead body or having charge of a dead body which is being conveyed to any cemetery shall convey the same in an orderly and proper manner and in a proper coffin or other decent and sufficient covering.

9. Burial Order to be produced.—No interment shall be permitted in any cemetery except upon the production to the keeper of a burial order issued in terms of the Act, save in cases where otherwise provided in the said Act.

10. The Building of Vaults in Cemeteries.—Any person who in any part of a cemetery causes a vault to be built for use as a burial place, shall at his own expense cause the vault to be enclosed with walls constructed of good brick or stone properly bonded and solidly put together with good cement mortar, or other materials approved by the Director. A plan of the proposed work shall be supplied in advance to the Director, and no work shall be commenced until written approval has been given by the Director.

11. Opening and Closing of Vaults.—Any person who in any part of a cemetery buries a dead body in a vault shall at his own cost open such vault and after the deposit of the coffin containing such body shall, unless the coffin is hermetically sealed immediately cause the coffin to be wholly and permanently enclosed in a separate cell or receptacle which shall be constructed of good brickwork or other suitable material properly jointed in cement and in such a manner as to prevent as far as practicable the escape of noxious gas from the interior of the cell or receptacle which shall be left permanently undisturbed.

12. Depth of Graves.—No grave shall be less than 1.80 m in depth and no body shall be nearer to the surface of the ground than 1.25 m.

[R. 12 amended by r. 2 of PN 445 of 1970.]

13. Opening and Closing of Graves.—The keeper shall arrange for the opening and closing of all graves and no person shall open, reopen or close a grave or assist in doing so save with his consent and under his supervision.

14. Exhumations.—(1) No body or the remains of a body shall be exhumed without the consent of the Director, and except where a body is to be exhumed for the purpose of any judicial or other enquiry upon the order of a competent officer of the law, the Director shall only give his consent on the production to him of a certificate from the Medical Officer of Health that he is satisfied that the opening of the grave and the exhumation can be carried out without danger to public health.

(2) During the exhumation the keeper shall cause the block in which the grave is situated to be closed to the public. Any person who disobeys any sign or instruction erected or given by the keeper in terms of this Section forbidding entry on the block shall be guilty of an offence.

(3) The grave from which any body is to be removed shall be effectively screened from public view during the exhumation and a shell shall be kept in readiness at the grave.

(4) In giving his consent in terms of subsection (1) hereof the Director shall stipulate the hours during which such exhumation may take place.

PART III PUBLIC CEMETERIES

15. Administration and Management.—Every public cemetery vested in or owned or controlled by the Council shall be managed by a Keeper under the control and direction of the Director in accordance with these By-laws. In the event of such Keeper not being appointed in any case or if the appointed Keeper is unable for any reason to carry out his duties, the Director or his authorised representative shall be the Keeper in terms of these By-laws for the time being.

16. Office Hours.—The office of the Keeper shall be open between the hours of 08:30 and 17:30 daily.

[R. 16 amended by r. (1) of MN 38 of 1993.]

17. Register of Burials to be Kept.—The Keeper shall keep a true register of all burials in the cemetery. Such register shall disclose the information required in terms of Section 13 of the Act and shall be open for inspection by the public during office hours.

18. Plans of Grave Sites to be Exhibited.—In addition to a burial register a plan or diagram of the cemetery shall be provided and kept available for inspection by the public. Such plan shall show the area and situation of all grave sites and plots which shall be separately numbered and marked on such plan. In addition each single grave site included

in any one plot shall be separately indicated and numbered. In the event of a dispute the information recorded on such plan as to the area, situation, number or identity of any grave or plot shall be conclusive.

19. Hours of Admission.—All public cemeteries shall be open to the public between the hours of 08:30 and 17:30 daily and no person shall enter or be in a public cemetery at any other time except by permission of the Keeper, provided however, that this shall not prevent any person from attending any burial authorised in terms of these By-laws to take place outside the official opening hours.

[R. 19 amended by r. (2) of MN 38 of 1993.]

20. Establishment or Setting up of Cemeteries or portions thereof for different races of religious denominations.—(1) Where any cemetery of any portion of a cemetery has been established or set apart by the Council for the burial of persons belonging to a certain race group or of a specified religious denomination or belief in terms of Section 2 of the Ordinance, such setting aside may be indicated by means of notice boards showing the race group or religious denomination for which such cemetery or portion thereof, as the case may be, has been so established or set apart. The portions of the cemetery so set aside shall also be shown on the plan or diagram referred to in Section 18 hereof.

(2) No person shall bury or cause to be buried any deceased person in a cemetery or portion of a cemetery which has been set aside by the Council for the burial of persons belonging to a race group or religious denomination or belief other than that to which such deceased person belonged.

21. Notice of Intention to Inter.—(1) Application for interment giving written particulars of the deceased shall be set out substantially in the form prescribed in the Third Schedule of the By-laws and shall be submitted to the Keeper, together with the requisite fee, at least six (6) hours before the time required for the burial. The burial order as prescribed in the Act shall be submitted to the Keeper, prior to the burial taking place and no burial shall be permitted until the above requirements have been met and a permit authorising the interment has been issued by the Keeper except in cases of extreme urgency as provided for in section 28 of the Births, Marriages and Deaths Registration Act, 1963, which permits burials to take place without a burial order, subject to the procedure outlined in the Act being observed.

[Sub-r. (1) substituted by r. 1 of PN 557 of 1979.]

(2) Where it is intended to inter the deceased in a private grave or plot the rights to which have previously been acquired in terms of terms of these By-laws or of the By-laws repealed hereby, this shall be indicated on the application, and the Certificate or perpetuity receipt as the case may be covering the rights to such private grave or plot shall be attached to the application. In the event of such certificate or perpetuity receipt being lost or destroyed, the Director may require the applicant to furnish other proof of his right to use the private grave or plot.

(3) In cases other than those referred to in subsection (2) hereof, application shall be made at the same time, if this has not been previously done, to the Keeper for a grave or plot, and it shall be indicated therein whether a public grave or a private grave or plot is required. The appropriate fee prescribed in the First Schedule to these By-laws shall accompany the application.

(4) No person other than an authorised official or servant of the Council shall dig or open any grave or plot in any cemetery.

22. Hours of Burials.—(1) No person shall bury or cause to be buried any dead body outside the hours of 08:30 and 17:30 daily, provided however, that in special circumstances and on payment of the late burial fee prescribed in the First Schedule to

these By-laws the Keeper may authorise burials outside the prescribed hours. Applicants for such special permission shall inform the Keeper of the reasons and circumstances necessitating burial outside official hours and these shall be recorded in the register.

[Sub-r. (1) amended by r. (3) of MN 38 of 1993.]

(2) Burials which are commenced before 17:30 and completed after that hour shall incur a special late burial fee prescribed in the First Schedule hereto.

[Sub-r. (2) amended by r. (4) of MN 38 of 1993.]

23. Fees and Charges.—(1) The fees payable to the Council for internments, grave sites and plots, and for other services and facilities supplied by the Council shall be as prescribed in the First Schedule to these By-laws.

[Sub-r. (1) amended by r. 2 of PN 373 of 1969, by PN 58 of 1970, by r. 1 of PN 458 of 1971, by r. 1 MN 127 of 1989, and substituted by r. 1 of MN 25 of 1993.]

(2) All such fees and charges unless previously paid as may be due shall be paid at the time application for burial is made.

(3) Undertakers and managers or officials of public institutions approved by the Council may make special arrangements for payment of such fees and charges monthly. Where any such institution enters into an arrangement to pay such fees and charges monthly, the City Treasurer may require such institution to provide a written guarantee in a form to the satisfaction of the City Treasurer from a registered bank or insurance company for an amount equivalent to the estimated value of burial fees which are likely to be incurred over a period of two months.

[Sub-r. (3) amended by r. 2 of PN 447 of 1979.]

(4) Notwithstanding the provisions of subsections (1) and (6) of section 24 of these By-laws, the rights acquired by any person under a lease in terms of the said subsections and the tariff relating to fees and charges in respect of such lease under section 23 (1) of these By-laws, prior to the date of promulgation of this subsection, shall be preserved.

[Sub-r. (4) inserted by r. 2 of PN 249 of 1974.]

24. Sale of Right to use Private Graves and Plots.—(1) The Council may in its discretion grant to any person for a period of 20 years the exclusive right to use a single grave site as an approved grave or any two or more contiguous sites as a plot for the burial therein of himself, his family or his heirs. Where such right is granted for a period of 20 years, the lessee or his heirs or successors in title shall be entitled to renew the same in terms of subsection (6) hereof for a further period of 20 years. Such grave site or plot shall not be used for the interment of any other person, except with the prior consent of the Director.

[Sub-r. (1) substituted by r. (ii) (a) of PN 423 of 1960, amended by r. 3 of PN 373 of 1969 and by r. 3 (i) of PN 249 of 1974.]

(2) Plans showing the various grave sites available for acquisition as private graves or plots in terms of this section will be kept in the cemetery office and may be inspected free of charge.

(3) Persons desiring to acquire the right to use private graves or plots shall apply in writing to the keeper and the appropriate charge prescribed in the First Schedule shall accompany the application.

(4) The allotment of a private grave or plot shall be recorded in a register and a certificate in the form prescribed in the Second Schedule to these By-laws shall be issued to the applicant. In the event of the said certificate being lost or mislaid, a written confirmation of title to a private grave or plot may be obtained from the Director on payment of the appropriate fee prescribed in the First Schedule of these By-laws. If the

application is not granted the Director shall return to the applicant the amount deposited. Such private grave or plot shall be held subject to the Cemetery By-laws from time to time in force.

[Sub-r. (4) amended by r. 3 (ii) of PN 249 of 1974.]

(5) The right to use a private grave or plot shall not be transferred without the approval of the Director, provided that any person dissatisfied with any decision by the Director may appeal to the City Council in writing within 14 days of date of notification of the Director's decision. Application to transfer the right to use a private grave or plot shall be made by the holder of the certificate or his lawful representative and shall be accompanied by the prescribed transfer fee. The certificate shall be attached to the application and the full name and address of the transferee shall be shown. All transfers shall be registered by the Director and no transfer which does not comply with these conditions shall be valid.

In the event of the right to use a private grave or plot being transferred back to the Council, the original purchase price shall be refunded and no transfer fee shall be payable.

(6) Any lessee desiring to renew any certificate issued in terms of these By-laws may do so on expiry of the initial period of 20 years, and on payment of an amount equal to that paid on acquisition of the right to use the grave or plot or such other amount as may be prescribed in any By-laws which may be in force at the time of such renewal. Applications shall be made in writing before the expiry of the initial period of 20 years, and the certificate shall be produced to the Director who shall endorse the renewal thereon.

[Sub-r. (6) amended by r. (ii) (b) of PN 423 of 1960, by r. 4 of PN 373 of 1969 and by r. 3 (iii) of PN 249 of 1974.]

(7) All private graves or plots shall be used and maintained in conformity with the Cemetery By-laws from time to time in force.

(8)

[Sub-r. (8) substituted by r. (ii) (c) of PN 423 of 1960 and deleted by r. 5 of PN 373 of 1969.]

(9) (i) Upon the failure of a lessee to renew a certificate in terms of subsection (6) the Council may at any time repossess and use the private grave site or plot to which that certificate related.

(ii) The Council may, at any time after the expiry of fifty years from the date of the grant of the right to use a private grave site or plot in perpetuity, repossess and use such site or plot if the grantee fails to comply with a notice served upon him in terms of Section 33 within the period stated in such notice:

Provided that where the whereabouts of the grantee are unknown and cannot, with the exercise of reasonable diligence, be ascertained, the Council shall, before exercising the power to repossess reserved to it by this subsection, publish in a newspaper circulating in Durban a notice of its intention to repossess such private grave site or plot upon the expiry of three months from the date of such notice.

[Sub-r. (9) inserted by r. (ii) (d) of PN 423 of 1960 and substituted by r. 6 of PN 373 of 1969.]

(10) Where a grave site or plot in any public cemetery is required for public or municipal purposes, the Director may allocate another grave site or plot in the same cemetery or in any other public cemetery to the grantee or lessee concerned, in exchange for the grave site or plot required for public or municipal purposes.

[Sub-r. (10) inserted by PN 392 of 1961.]

25. Re-Opening of Private Graves and Number of Bodies in One Grave.—

(1) The consent of the person who is the registered holder of a certificate for the use of a private grave or plot or of his lawful representative must be produced to the Keeper prior to any private grave being reopened for fresh interment.

(2) To avoid undue opening of a grave and the placing of an undesirable number of bodies therein, the Keeper shall decide how many interments may be made in one grave.

25 (bis). Type of Coffin Permitted.—No person shall place or cause to be placed in any public grave, private grave or plot in any cemetery a coffin constructed of any material other than soft wood or other perishable material.

[R. 25 (bis) inserted by r. 2 of PN 171 of 1978.]

26. Public Graves.—(1) Any person who desires to have a body interred in a public grave shall pay the burial fee prescribed in the First Schedule. Such fee shall entitle such person to a single interment only, and the allocation of the grave shall be determined by the keeper.

(2) Where the prescribed charge for the use of a public grave has been paid by or on behalf of any person, the representatives of such person may be permitted within six months after the date of the burial to acquire such grave as a private grave on payment of the charge prescribed for the purchase of the right to use a private grave.

[R. 26 substituted by r. (i) of PN 511 of 1957.]

27. Dimensions of Apertures of Graves.—(1) The regulation dimensions of the aperture for any grave will be as follows—

(a) For every adult—

Length	2.20 m
Breadth at shoulders	0.75 m
Breadth at head	0.50 m
Breadth at foot	0.45 m

(b) For every child—

Length	1.40 m
Breadth at shoulders	0.70 m
Breadth at head	0.36 m
Breadth at foot	0.35 m

[Sub-r. (1) substituted by r. 3 (i) of PN 445 of 1970.]

(2) For the purpose of subsection (1) hereof “Child” means any deceased person under the age of 12 years whose coffin does not exceed the dimensions prescribed for children and “Adult” means any deceased person whose coffin exceeds the dimensions prescribed for children.

(3) Any person requiring an aperture of larger dimensions for any interment shall, together with his application for interment, give the measurements of the coffin, including fittings.

[Sub-r. (3) substituted by r. (ii) of PN 511 of 1957.]

(4) Arrangements may be made with the keeper for the normal depth of the grave aperture to be increased where the soil structure permits to a maximum of 2,40 m. For the purpose of this subsection normal depth shall be 1,80 m.

[Sub-r. (4) substituted by r. (ii) of PN 511 of 1957 and amended by r. 3 (ii) of PN 445 of 1970.]

28. Standard Size of Graves.—The standard size of all single grave sites in a public cemetery shall be 2,40 m by 1,10 m:

Provided that the provisions of this section shall not apply to grave sites in any public cemetery which were laid out prior to 1956 and which are shown on the final plan of such cemetery to be of a greater or lesser size than that prescribed by this section.

[R. 28 amended by PN 347 of 1962 and by r. 4 of PN 445 of 1970.]

29. Funeral Ceremonies.—(1) The person having charge of a funeral shall make all arrangements for the carrying out at such funeral of the exquisite religious ceremony or rites.

(2) No person shall conduct any religious ceremony or service according to the rites of any denomination in such portion of any cemetery as may be set apart for members of other denominations.

30. Entrance to and Exit From Cemetery.—No person shall enter or leave, or seek to enter or leave the cemetery otherwise than through the gates or entrances constructed and provided by the Council for that purpose.

31. Use of Vehicles in Cemetery.—(1) No person shall without the permission of the Keeper take into the cemetery any car, cart, carriage or other vehicle unless such vehicle is required for the conveyance of—

- (a) a dead body;
- (b) mourners and persons concerned with the conduct of a funeral;
- (c) memorial work;
- (d) persons visiting and maintaining grave sites;
- (e) any other persons or materials, which the Director might permit.

[Sub-r. (1) previously r. 31 renumbered by r. 4 of PN 249 of 1974.]

(2) No person shall take into the cemetery any car, cart, carriage or other vehicle having a gross mass in excess of 6 000 kg.

[Sub-r. (2) inserted by r. 4 of PN 249 of 1974.]

All vehicles lawfully within the cemetery shall proceed at a speed not exceeding 15,00 km/h therein, and no vehicle shall pass in close proximity to any point where a funeral service is being conducted.

[R. 31 amended by r. 5 of PN 445 of 1970.]

32. Tampering with Graves Forbidden.—No person shall in any way tamper or interfere with any grave, memorial work, official sign or other erection in a cemetery save in so far as may be necessary in connection with any work which such person has been authorised to do in terms of these By-laws.

33. Graves and Memorial Work to be Kept Clean and in Good Repair.—(1) The lessee or grantee or a private grave or plot shall keep such grave or plot free from weeds and in proper order and all memorial work clean and in a proper state of repair. If any such lessee or grantee neglects to attend to any grave or memorial work erected thereon, the Council may call upon him to maintain such grave in proper order and to repair, renovate or remove any memorial work which is in a dilapidated, ruinous or unsightly condition and, if the whereabouts of the lessee or grantee be unknown to the Council or if the lessee or grantee fails within three months to execute the necessary

work, the Council may itself carry out such maintenance, repair, renovation or removal as it may consider necessary and recover the cost thereof from the lessee or grantee.

[Sub-r. (1) amended by r. (iii) (a) and (b) of PN 423 of 1960.]

(2) No person when cleaning any grave shall deposit or throw the grass, weeds or other material cleaned off the grave on to any adjoining or other plot or on to any road or path or on to any vacant land, but shall either remove the same or place the same into receptacles or containers provided for the purpose.

(3) The lessee or grantee of a private grave or plot in any public cemetery shall be deemed in terms of this subsection to have indemnified the Council, Director and all municipal employees in respect of any damage howsoever caused to or theft of any memorial work erected or which may be erected on any private grave or plot and to have absolved them from any liability for such damage or theft.

[Sub-r. (3) inserted by MN 17 of 1994.]

34.

[R. 34 substituted by r. (iv) of PN 423 of 1960, amended by r. 7 and 8 of PN 373 of 1969, by r. 5 of PN 249 of 1974, by PN 447 of 1979, by PN 331 of 1983, and deleted by MN 45 of 2004.]

35. Trees or Plants on Grave Sites.—No person shall without the previous consent of the Keeper plant on any gravesite in the cemetery, whether such grave site be occupied or not, any tree or shrub or any species of plant capable of holding water in which mosquitoes can breed. The Director may at the lessee's expense prune, cut down or dig up and remove any shrub, plant or flower at any time if in his opinion the same has become unsightly or overgrown or is causing a nuisance, damage to an adjoining grave, or when it is necessary for the purpose of allowing the grave to be used again.

36. Unsightly Objects not Allowed.—No person shall keep or allow to remain on any grave site in the cemetery whether occupied or unoccupied, any tins, bottles, old crockery or other unsightly objects, and the Keeper is authorised to remove any such objects. He may also remove any broken, dilapidated or unsightly wreaths, vases or receptacles.

37. Memorial Work Plans to be Submitted.—No person shall erect, alter or add to any memorial work or any vault in the cemetery until the plans of such work or vault and any inscriptions to be made thereon shall have been submitted to and approved by the Director who shall issue written permission substantially in the form prescribed in the Third Schedule hereto, and the appropriate fee prescribed in the First Schedule of the By-laws has been paid, and the erection of such memorial work shall be carried out under the direction of the Director.

[R. 37 amended by r. 6 of PN 249 of 1974.]

38. Method of Erection of Memorial Work.—(1) Any person erecting memorial work such as kerbing, railing or other enclosing work in the cemetery shall in enclosing the grave or plot erect such work so as to secure uniformity and correct alignment of such enclosing memorial work. This shall apply also to the erection of vaults and other memorial work such as tombstones, headstones or tablets. Any person who fails to observe such order or arrangement or who in carrying out such work encroaches upon a road, path or adjoining ground or grave shall, upon being thereto required in writing by the Director, remove such encroachment and upon failure to do so in the time specified in the notice, the Council may remove the whole of the work at his expense.

(2) All kerbing must be constructed of reinforced concrete with a smooth plaster finish or of marble dressed stone or granite and shall have a reinforced concrete

foundation to a depth of not less than 225 mm. Not less than 2 steel reinforcing rods of 6 mm diameter or greater shall be used for reinforcing the foundations and kerbing.

[Sub-r. (2) amended by r. 6 of PN 445 of 1970.]

(3) All memorial work to be erected in the cemetery must as far as possible be brought into the cemetery in a state prepared and ready for fitting. In no case shall any portion of the cemetery be used for the purpose of cutting, dressing or manufacturing any headstones, monuments, railings, kerbing or fittings without the consent of the Director, who may in his discretion on application grant facilities in unused portions of the cemetery for such purposes. Any person intending to carry out any such work in the cemetery shall before commencing work, report his intentions so to do to the Keeper.

(4) No memorial work or other fixture of any kind shall be placed on a public grave.

39. Clearing of Sites After Completion of Work.—In the erection of memorial work, building or vaults or any other work of a similar nature in the cemetery the person engaged in such work shall on the completion thereof clear up the ground or grave on which he shall have been employed and leave the same clean and tidy.

40. Removal of Memorial Work.—No memorial work shall be removed from the cemetery without the consent of the Director in writing and applications must be submitted on the form prescribed in the Third Schedule of these By-laws.

41. Replacement and/or Re-erection of Memorial Work.—The grantee or lessee of any private grave site or plot in the cemetery or the accredited representative of the grantee or lessee who shall require any memorial work or any other erection to be removed, to permit of burial or for any other purpose, shall apply to the Director for his consent and shall, if called upon to do so, cause all such erections so removed to be replaced or re-erected on the site within a period of two months of the date of such removal.

[R. 41 substituted by r. (v) of PN 423 of 1960.]

42. Exclusion Of Memorial Work.—The Director may prohibit the erection of any proposed memorial work upon any grave which is of inferior quality or workmanship or which is likely in any way to disfigure any cemetery.

42 (bis). Lawned Areas.—(1) The Director may set aside a portion of a cemetery for use as a lawned area.

(2) No person shall introduce any memorial work other than a headstone, garden and/or vase as described in the definition of a lawned area, into a lawned area.

[R. 42 (bis) inserted by r. 7 of PN 249 of 1974.]

43. Cessation of Work on Saturdays.—No person shall bring any memorial work or material into, or do any work within any cemetery on any public holiday or from 12 noon on Saturday in each week until 08:30 on the following Monday, or on any other day before the hour of 08:30.

[R. 43 amended by r. (5) of MN 38 of 1993.]

44. Damage Done in the Cemetery.—No person shall in any part of the cemetery willfully or negligently damage, destroy or disfigure any fence, tree, plant, seat, road, grave, tablet, inscription, monument or gravestone.

45. Removal of Soil from Cemetery.—No person shall remove from the cemetery any soil, sand or other substance or thing of a similar nature without the permission of the Keeper.

46. Playing of Games, Use of Firearms, Trapping of Animals in Cemetery.—No person shall in the cemetery play at any game or throw any stone, stick, or other missile, or discharge any firearm (except when forming part of a firing party at a Military Funeral) or any air-gun, catapult or other instrument, or endeavour to trap, the Director may take all proper measures for capturing or destroying any animal or bird which causes or threatens to cause any damage in the cemetery.

47. Dogs in Cemetery.—No person shall take a dog into the cemetery.

48. Nuisances.—No person shall distribute any card or pamphlet of any description or solicit orders or cause any disturbance in the cemetery or commit any unseemly act or nuisance or interfere with any person or do any act or thing tending to provoke a breach of the peace or to the hurt or annoyance of persons lawfully using or visiting the cemetery.

49. Special Rights of Interment in General Public Cemetery, West Street.—

(1) The right of interment in the Durban General Public Cemetery, West Street, shall be restricted to persons and their Lawful representatives who have secured a private grave site or plot in any portion of such cemetery. In the case of what was known as the General Public Cemetery prior to the 24th September 1906, and in the case of any other burial grounds now included in the said cemetery prior to the 28th May 1925, any person desiring to exercise this right shall produce to the Director the certificate of perpetuity receipt for the purchase of such grave site or plots, or other satisfactory proof of ownership of such private grave or plot.

(2) Notwithstanding the foregoing subsection and subject to all other provisions of these By-laws not inconsistent herewith, any person who is certified in writing by the Secretary of the Anjuman-Esha-A-Tul Islam to have been at the date of his death a member of that society shall be entitled to be interred in Blocks No.17, 27, 29A and 46 of the General Public Cemetery aforesaid.

(3) Any person certified in writing by the Chairman of the Natal District of the Methodist Church of South Africa to have been a Senior Minister of that church in Durban shall be entitled to be interred in any one of the following sites of the General Public Cemetery aforesaid—

Block B: Nos. 36A, 41A, 48A, 53A, 64A, 69B, 69A, 57A.

Block C: Nos. 46A, 51A, 61A, 70A, 73A, 79A, 84A, 90A.

Block D: Nos. 6A, 13A, 21A, 29B, 29A, 45A, 97A.

50. Burials in Old Fort Cemetery.—Except in any special case authorised by the Council or, in any case of emergency requiring immediate attention, authorised by the Mayor, future burials in the Old Fort Cemetery shall be confined to widows or widowers of persons already buried in that cemetery, and in the same grave as that of the predeceased spouse, provided that the grave is capable of taking a further burial, and that under no circumstances shall any new grave be permitted.

51. Public Cemeteries to be Used Principally for Burial of Persons Dying in Durban.—The Public Cemeteries vested in or controlled by the Council shall be used principally for the burial of persons who die in Durban or in any military hospital including members of the Military Forces of the Republic of South Africa and its Allies and persons dying apparently as a result of enemy action at sea or in any war in which the Republic may be engaged. The fees and charges payable by such persons shall be those prescribed in the First Schedule to these By-laws.

52.

[R. 52 deleted by r. 9 of PN 373 of 1969.]

53. [R. 53 deleted by r. 9 of PN 373 of 1969.]
54. [R. 54 deleted by r. 9 of PN 373 of 1969.]
55. [R. 55 deleted by r. 9 of PN 373 of 1969.]
56. [R. 56 deleted by r. 9 of PN 373 of 1969.]
57. [R. 57 deleted by r. 9 of PN 373 of 1969.]

FIRST SCHEDULE

[First Schedule substituted by r. (iii) of PN 511 of 1957, amended by r. (vi) and (vii) of PN 423 of 1960, by MN 1 of 1961, substituted by PN 247 of 1966, by r. 10 of PN 373 of 1969, amended by r. 7 of PN 445 of 1970, by r. 2 of PN 458 of 1971, substituted by r. 8 of PN 249 of 1974, amended by MN 59 of 1976, by MN 71 of 1979, by MN 104 of 1979, by MN 184 of 1980, by MN 12 of 1982, by MN 65 of 1982, by MN 199 of 1982, by MN 105 of 1983, by MN 200 of 1984, by MN 137 of 1985, by MN 68 of 1986, by MN 215 of 1987, by MN 219 of 1987, and by MN 199 of 1988, substituted by r. 2 of MN 127 of 1989, amended by MN 141 of 1990, substituted by r 25 of MN 25 of 1993, and amended by MN 161 of 1994.]

TARIFF OF FEES AND CHARGES

FACILITY OF SERVICE	Charges Payable R
(1) BURIAL FEES: For each burial of a body or remains of a body (excluding ashes) in a public or private grave or plot:	
(a) a child (including stillborn) under 12 years of age	1 070,00
[Sub-item (a) amended by r. 1 of MN 161 of 1994.]	
(b) an adult as defined in Section 27 (2) of the Cemetery By-laws.....	1 260,00
Provided that where the remains of more than one person are buried at the same time in the same grave or plot, the fee or each additional child or adult shall be	85,00
[Sub-item. (b) amended by r. 2 of MN 161 of 1994.]	
(2) For each burial of ashes	70,00
(3) Late burial fee: For burial outside the prescribed hours and payable in addition to (1) above	285,00
(4) Special late burial fee (per hour or part thereof) payable in addition to (1) above where burial, although commenced before closing time, is not completed during official opening hours.....	175,00
(5) (a) Exhumation fee: Adult or child	600,00
(Provided that where the remains of more than one person are exhumed from a grave site at the same time the fee for each additional child or adult shall be R60,00.)	
(b) Exhumation and re-interment fee:	
Adult or child	890,00
(Provided that where the remains of more than one person are exhumed from a grave site at the same time and re-interred the fee	

for each additional child or adult shall be R80,00.)

- (6) (a) Sale of right to use private graves and plots for a period of 20 years, per single grave site, 2,40 m x 1,10 m 380,00
- (b) Registration fee on transfer of each single site 25,00
- (7) Maintenance of grave sites by the Council:
For each grave site (2,40 m x 1,10 m):
 - Initial charge 80,00
 - Maintenance service (first year and thereafter) per year 84,00
 - provided that should the account not be paid within a period of grace of 60 days from due date, a further charge of R80,00 shall be applied.
 - Maintenance service for 5 year period 420,00
- (8) Confirmation of title to private grave or plot where certificate has been mislaid:
 - For each certificate 25,00
- (9) Permission to erect, alter or add to any memorial work or vault on private grave or plot 50,00

SECOND SCHEDULE

PART I

[Heading amended by r. (viii) of PN 423 of 1960.]

[Second Schedule amended by r. (viii) of PN 423 of 1960 and by r. 11 and 12 of PN 373 of 1969.]

SECTION 24, DURBAN CEMETERY BY-LAWS

..... CEMETERY

CERTIFICATE OF TITLE TO PRIVATE GRAVE OR PLOT

It is hereby certified that

Name

Address

and his heirs or successors in title shall have and hold the exclusive right for a period of twenty five/fifty years from date hereof to use Private Grave No.

plot consisting of Private Graves Nos.

.....

situated in Block No.

of the

portion of the above cemetery, subject to the Laws, Regulations and By-laws now and from time to time hereafter in force, with the right to himself, his heirs or successors in title to renew this certificate before the date of expiry of the aforesaid period of twenty five/fifty years for a further period of twenty five/fifty years on payment of a further purchase charge for each grave site prescribed in the By-laws which may then be in force.

The rights conferred by this certificate shall only be transferred with the approval of the Director and on payment of the prescribed transfer fee.

Receipt No. Amount paid £

Date of	To whom	No.	Block	Portion	Persons Interred
---------	---------	-----	-------	---------	------------------

Internments	Granted				

.....
 Director

PART II

[Part II inserted by r. (viii) of PN 423 of 1960 and deleted by r. 12 of PN 373 of 1969.]

THIRD SCHEDULE

SCHEDULE OF FORMS

FORM A

**SECTION 21 (1), DURBAN CEMETERY BY-LAWS
 (CEMETERIES SECTION)**

APPLICATION FOR INTERMENT

To the Keeper,

..... Cemetery,
 Durban

Please have a grave prepared in the
 portion of Cemetery
 for the late
 of (last residence)
 Place of death Date of death
 Sex Age Race Nationality
 Last residence
 Minister officiating: Rev
 Funeral due at cemetery
 Grave Site No Block Depth of grave
 Size of grave Grave to be purchased
 Title to be in favour of
 Address of title holder

Yours faithfully,

 Undertakers

Durban,
 19
 Address
 No

THIRD SCHEDULE

SCHEDULE OF FORMS

FORM B

SECTION 21 (1), DURBAN CEMETERY BY-LAWS
(CEMETERIES SECTION)

PERMIT FOR INTERMENT

..... Cemetery,
..... 19

Permission is granted to
..... interment of the remains of the late
.....
Grave No. Block Section
of Cemetery.

.....
Cemetery Keeper
No

THIRD SCHEDULE

SCHEDULE OF FORMS

FORM C

SECTION 37, DURBAN CEMETERY BY-LAWS
(CEMETERIES SECTION)

PERMIT FOR MEMORIAL WORK

..... Cemetery,
..... 19

Permission is granted to
of
to carry out the following work
.....
on Grave Site No. Block

.....
Director

Date inspected
Remarks
Inspected by

No.....

THIRD SCHEDULE

SCHEDULE OF FORMS

FORM D

SECTION 40/41, DURBAN CEMETERY BY-LAWS
(CEMETERIES SECTION)

PERMIT TO REMOVE MEMORIAL WORK

..... Cemetery,
.....19.....

Permission is granted to
of
to remove the
from Grave Site No. Block

.....
Director

FOURTH SCHEDULE

SECTION 55, DURBAN CEMETERY BY-LAWS

APPLICATION FOR AUTHORITY TO CARRY ON THE BUSINESS OF MAINTAINING GRAVES WITHIN A PUBLIC CEMETERY

Name of applicant

Address of applicant

Date of commencement or intended commencement of business

Full name and legal capacity of person to whom licence is to be issued (*e.g.*, company name and directors)

Sole proprietor

Firm name and name partners

Nature of application (*i.e.*, whether for new licence or renewal)

Racial group of owner of business

Name of public cemetery in which applicant desires to operate

Period for which permit is sought

.....
Signature of applicant

Date

FOURTH SCHEDULE

SECTION 53, DURBAN CEMETERY BY-LAWS

PERMIT TO CARRY ON THE BUSINESS OF MAINTAINING GRAVES WITHIN A PUBLIC CEMETERY

Authority is hereby granted to
of
to carry on the business of maintaining graves in
..... Cemetery over the period
to

.....
Director

N.B.—No work shall be carried out on any public holiday or from 12 noon on Saturday to 8 a.m. on the following Monday or before the hour of 8 a.m. on any day.
