



- 4.11 Any person carrying on the business of street trading shall, when required to do so by a law enforcement officer, produce for inspection any written authorisation or permit issued in terms of these bylaws.
5. **Restriction On Trading In Certain Areas**
- 5.1 The Council may within any township area restrict or prohibit street trading in public places or portions thereof and may determine that trading may be carried out only within the confines of areas demarcated for such purpose.
- 5.2 Upon application, the Council may issue a permit allowing the applicant to carry out street trading from such demarcated area subject to such terms and conditions that the Council deems appropriate.
6. **Enforcement**
- 6.1 Any person who contravenes or fails to comply with the provisions of these bylaws shall be guilty of any offence and on conviction liable to a fine or imprisonment as hereinafter provided.
- 6.2 A law enforcement officer may remove and impound any goods that people carrying on the business of street trader, when requested do so, have failed or refuse to remove from an area where such trading is unlawful; and may also remove and impound any goods abandoned by any street trader.
- 6.3 All goods to be impounded shall be delivered to a duly authorised employee of the Council who shall place such goods in safe custody and account of their disposal.
- 6.4 Any person from whom goods have been removed and impounded may within a period of seven clear days redeem such goods from the Council upon payment of a daily storage fee as determined by the Council from time to time.
- 6.5 For the purposes of this section of the bylaws "goods" besides its ordinary meaning shall include any receptacle, equipment or vehicle associated with the business being conducted by the street trader concerned.
7. **Offences**
- 7.1 The fines and penalties applicable to offences in terms of these bylaws are:
- 7.1.1 Upon conviction of a first offence, the guilty party shall be liable to a fine not exceeding R500, as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991), or in default of payment, to imprisonment for a period not exceeding 14 days
- 7.1.2 In the case of a continuing offence, the guilty party shall be liable to a further fine not exceeding R100 as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991);
- 7.1.3 Upon conviction of a second or subsequent offence, the guilty party shall be liable to a fine not exceeding R1000, as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991), or in default of payment to imprisonment for a period not exceeding 30 days.
- 7.2 A Court convicting a person of an offence in terms of these bylaws may impose an alternative sentence in lieu of a fine or imprisonment.

#### CHAPTER 4: CEMETERY BYLAWS

##### 2. Definitions

For the purpose of this chapter, unless the context otherwise indicates:

- 1.1 "act" means the KwaZulu Natal Cemeteries and Crematoria Act, 1996
- 1.2 "adult" means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;
- 1.3 "after hour fee" means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours save in the case of cremations or burials which because of religious belief are undertaken after such hours or in the case of burial where the mourners undertake to close the grave;
- 1.4 "ashes" means the cremated remains of a body;
- 1.5 "Births and Deaths Registration Act" means Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- 1.6 "body" means any dead human body including the body of a stillborn child;
- 1.7 "burial order" means an order issued in terms of the Births and Deaths Registration Act;
- 1.8 "child" means a deceased person who is not an adult;
- 1.9 "niche" means a compartment in a garden of remembrance for the placing of ashes;
- 1.10 "normal operational hours" means Monday to Friday 08h00 to 15h00 excluding Saturdays, Sundays and Public holidays;
- 1.11 "office hours" means Monday to Friday 07h00 to 16h00 excluding Saturdays, Sundays and Public holidays;
- 1.12 "officer-in-charge" means the registrar of a crematorium appointed in terms of Regulation 21 of the Regulations Relating to Crematoria and Cremations made in terms of Ordinance No. 18 of 1965, and includes a person authorized by the Council to be in control of any cemetery;

##### 3. Requirements For Disposal Of A Body

A person may only bury a body in a cemetery with —

- 1.13 the permission of the Officer-in-charge; and
- 1.14 at a date and time arranged for such burial with the Officer-in-charge.

##### 4. Application For Burial

- 1.15 A person intending to bury a body must submit a duly completed application form to the Officer-in-charge for approval.
- 1.16 The next of kin of the deceased or such other person who is authorized by the next of kin of the deceased must sign such application.
- 1.17 Despite the provisions of section 3.2 the Officer-in-charge may, if he or she is satisfied that the signature of the next of kin cannot be obtained timeously, approve an application by an interested party.
- 1.18 The applicant must —
- 1.18.1 submit the application at least three working days before the burial;
- 1.18.2 indicate whether the application is in respect of a first, second or third burial, in respect of a particular grave;
- 1.18.3 indicate the proposed date and time for such burial.

- 1.19 The Officer-in-charge must approve an application if —  
1.19.1 it is accompanied by an original burial order in terms of the Births and Deaths Registration Act;  
1.19.2 a prescribed fee has been paid;
- 1.20 The Officer-in-charge must, where necessary, take into account the customs of the deceased and the people responsible for the burial.
- 5. Reservation Of A Grave**
- 1.21 An application to reserve a grave must be made to the Officer-in-charge.  
1.22 A surviving spouse of the deceased may apply for an adjoining grave to be reserved, if available.  
1.23 The Officer-in-charge must allocate to the applicant another grave within the cemetery, where persons other than the applicant mistakenly utilized a reserved grave.  
1.24 A grave will be reserved only upon payment of the prescribed fee.
- 6. Postponement Or Cancellation Of A Burial**
- 1.25 An applicant must give notice of postponement or cancellation of a burial in the duly completed application form to the Officer-in-charge, who must approve the application at least one working day before the burial.  
1.26 In a case of a cancellation of a burial —  
1.26.1 a refund will not be made to the applicant for costs incurred for opening an existing grave;  
1.26.2 the Council will only refund the applicant for costs incurred for opening a new grave.
- 7. Number Of Bodies In A Coffin**
- 1.27 Only one body in a coffin may be allowed for burial.  
1.28 Burial of more than one body in a coffin is allowed if application is made to and approved by the Officer-in-charge and the prescribed fee has been paid;  
1.29 Such application may be made in respect of —  
1.29.1 family members who either died together or where another family member dies before burial of the other member of the family has taken place;  
1.29.2 a mother and child who died during childbirth;  
1.29.3 two people living together as partners; or  
1.29.4 unrelated deceased persons, whose families have no objection.
- 8. Burial And Subsequent Burials**
- 1.30 Burial must take place only in a grave allocated by the Officer-in-charge.  
1.31 Subject to paragraph 7.3 not more than two burials may be permitted in a grave;  
1.32 A third burial may be allowed only if —  
1.32.1 an application has been made to the Officer-in-charge and written permission has been granted; and  
1.32.2 the grave has been deepened; and  
1.32.3 the prescribed fee has been paid.  
1.33 A person who has been given permission for either a second or third burial must —  
1.33.1 give at least two days notice; and  
1.33.2 at his or her own cost remove and subsequent to the burial replace all memorial work on such a grave.
- 9. Private Rights**
- 1.34 The holder of Private Rights includes —  
1.34.1 a person who purchased the grave or who received the grave as a gift from the purchaser and whose name appears in the register of the Council;  
1.34.2 a person who paid the burial tariffs in respect of the first burial in the grave;  
1.34.3 a person to whom private rights to a grave have been transferred;  
1.34.4 a person who inherited the private rights.  
1.35 The Private Rights in a grave are transferable, but such transfer becomes effective on registration by the Council.  
1.36 If there is a dispute about the holder of private rights, the dispute must be referred to the Officer-in-charge for determination.
- 10. Sizes Of Graves**
- Subject to the provisions of section 10 the standard size of a grave is as follows:  
1.37 an adult's grave must measure 2 300 mm in length and 900 mm in width and 2000 mm in depth  
1.38 a child's grave shall must measure 1500 mm in length and 700 mm in width and 1 500 mm in depth.
- 11. Enlarging And Deepening A Grave**
- 1.39 An applicant for a burial may, by giving at least 24 hours notice before the burial, request that a grave be enlarged or deepened.  
1.40 If a coffin is too big for the size of an adult grave, such grave will be enlarged to accommodate such coffin at the cost of the applicant.  
1.41 If a child's coffin is too large for a child's grave it must be buried in an adult's grave, on payment of the prescribed fee.  
1.42 A grave may, on application and on payment of a prescribed fee, be deepened for burial of a third coffin.
- 12. Coffins**
- 1.43 Coffins to be placed in a grave must be made of natural wood or other perishable material.  
1.44 Lead coffins are not permitted.



**13. Covering Of Coffins**

- 1.45 Every coffin must be covered with at least 300mm of soil immediately after burial;
- 1.46 There must be at least —
  - 1.46.1 1200mm of soil between a coffin of a buried adult and the surface of the ground; or
  - 1.46.2 900mm of soil in the case of a coffin of a child.
- 1.47 The provisions of this paragraph do not apply to the burial in a tomb.

**14. Body Bags**

- 1.48 If there is more than one body in a coffin each body must be contained in a separate body bag.
- 1.49 A body intended for burial at a cemetery must be sealed in a body bag inside a coffin, except if it is contrary to the tradition, customs or religious beliefs of the deceased person or the applicant.

**15. Religious Or Memorial Services**

- A person who desires to have a religious or memorial service at a cemetery must apply to the Officer-in-charge and pay the prescribed fee.

**16. Control Of Hearses At The Cemetery**

- 1.50 No person in the cemetery may —
  - 1.50.1 drive a hearse or cause a hearse to be driven except on a designated road way;
  - 1.50.2 park a hearse or detain a hearse on the road way after the coffin has been removed from the hearse; or
  - 1.50.3 park a hearse in such a manner that it interferes with other burials in progress.

**17. Conveyance Of Coffins And Bodies**

- 1.51 An applicant in terms of section 3 is responsible at own cost for ensuring that a coffin is conveyed to the cemetery for burial;
- 1.52 No person must in any street, cemetery, or other public place convey a body in a disrespectful manner.

**18. Instructions At Cemeteries**

- 1.53 The Officer-in-charge at the cemetery may issue instructions relating to —
  - 1.53.1 parking of vehicles;
  - 1.53.2 funeral procession;
  - 1.53.3 duration of a service.
- 1.54 Every person taking part in a funeral procession at the cemetery or attending a cremation service must comply with all reasonable instructions of the Officer-in-charge.

**19. Duration Of Service**

- 1.55 No person must occupy a chapel at a cemetery for the purpose of a funeral service or cremation for more than 30 minutes, without the permission of the Officer-in-charge and payment of the prescribed fee.

**20. Hours For Burial**

- 1.56 Subject to section 19.2, a burial must take place only between 08h00 and 16h00.
- 1.57 The Officer-in-charge may, on such conditions as he or she may determine, and on payment of the prescribed fee, give permission to bury outside the stipulated hours.
- 1.58 If the burial takes place outside the hours stipulated in section 19.1, the applicant will provide tools and assume the responsibility of closing the grave.
- 1.59 If the applicant requires the Council to provide the service outside the stipulated hours, the Council may provide such service on payment of the prescribed after hours tariffs, subject to such conditions as the Officer-in-charge may determine.

**21. Conditions Of Exhumations**

- 1.60 No person may exhume a body or cause a body to be exhumed otherwise than in accordance with the prescriptions of the Act and the written consent of the:
  - 1.60.1 Council; and
  - 1.60.2 Provincial Department of Health; and
  - 1.60.3 Officer-in-charge, and
  - 1.60.4 Council's Medical Officer of Health.
- 1.61 Whenever an exhumation is to take place, the Officer-in-charge must inform the Area Commissioner of the South African Police Services.
- 1.62 An exhumation may not take place when the cemetery is open to the public and must take place under the supervision of the Officer-in-Charge.
- 1.63 A member of the South African Police Services must always be present when an exhumation is being conducted.
- 1.64 If remains are to be exhumed from any grave, only the undertaker under the supervision of the Officer-in-charge must cause the grave to be excavated for such exhumation.
- 1.65 If a grave is to be excavated for exhumation, the Officer-in-charge must be given 48 hours written notice before the time of exhumation.
- 1.66 A person who wishes to exhume the remains of a pauper or indigent person must pay the costs incurred by the Council at the time of burial, to the Officer-in-charge.
- 1.67 The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- 1.68 The South African Police Services must if there is proof of illegal burial immediately exhume the body; and take it to a government mortuary for investigation.
- 1.69 A grave of victims of conflict and a grave, which is older than 60 years, may only be exhumed with the permission of South African Heritage Resources Agency.
- 1.70 A Commonwealth War grave may only be exhumed according to section 3 of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992).

**22. Exhumation And Reburial**

- 1.71 The Council may, if a body has been buried in contravention of these by-laws, cause the body to be exhumed and re-buried in another grave.  
1.72 The relatives of the deceased must be notified of the intended exhumation and re-burial by means of a telephone call or registered letter, if possible; and allowed to attend.

**23. Screening Of Exhumation**

- 1.73 The grave from which the body is to be exhumed must be screened from view of the public during the exhumation.  
1.74 The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

**24. Gardening Of Graves And Other Objects On Grave**

- 1.75 The Council is responsible for keeping cemeteries clean unless these by-laws provide otherwise.  
1.76 No person must —  
1.76.1 plant, cut or remove plants, shrubs or flowers on a grave without the permission of the Officer-in-charge; or  
1.76.2 plant, cut or remove plants, shrubs or flowers on the berm section;  
1.77 A person may only erect, place or leave, an object or decoration on a grave during the first 30 days following the burial.  
1.78 Natural or artificial flowers contained in receptacles may be placed on a grave at any time, but in a grave within a berm section or with a headstone, such flowers may only be placed in the socket provided.  
1.79 The Officer-in-Charge may —  
1.79.1 remove all withered natural flowers, faded or damaged artificial flowers and any receptacle placed on a grave; or  
1.79.2 30 days after publishing a general notice remove all objects of decoration, if it is in the public interest.  
1.80 The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is as a result of the negligence of employees of the Council.

**25. Erection Of Memorial Work**

- 1.81 A person intending to erect a memorial work must make an application in the duly completed application form to the Officer-in-Charge.  
1.82 Such application must be made not less than five working days before the date of erection.  
1.83 Memorial work may only be erected during working hours but may, with the approval of the Officer-in-charge be erected outside working hours.  
1.84 No person must, without the consent of the Officer-in-charge —  
1.84.1 erect memorial work or bring material into a cemetery for the purpose of erecting memorial work; or  
1.84.2 remove memorial work for additional inscriptions or other alterations; or  
1.84.3 erect a memorial work on a Saturday, Sunday or a public holiday.  
1.85 The Council is not liable for damage to memorial work resulting from any subsiding soil.  
1.86 A person erecting a memorial work must at the request of the Officer-in-Charge produce the written consent.  
1.87 Memorial work or material to be used in the erection of such work must not be conveyed in a cemetery or crematorium in a manner that may damage the roadways, pathways, lawns, grounds or other memorials.  
1.88 Any surplus material or rubble, resulting from the erection of any memorial, work must be removed by the person responsible for such erection, immediately after completion.

**26. Inferior Memorial Work**

The Council may prohibit the erection of a memorial work or may remove erected memorial work which is of inferior workmanship or quality; is indecent, offensive, objectionable; or in contravention of these by-laws, without compensating the owner.

**27. Inscription On Memorial Work**

- 1.89 Any memorial work must display the number assigned to the grave by the Officer-in-Charge, in permanent and visible markings —  
1.89.1 on the side of the base of the memorial work; or  
1.89.2 on the upper surface, in the lower left hand corner of a tablet erected on a grave in a landscape section.  
1.90 The name of the maker, designer or erector of the memorial work may appear on the work and must be placed at the base of the memorial work.

**28. Dismantling Of Memorial Work**

- 1.91 Only a holder of private rights or a person authorised in writing by the holder of such rights may, with the written permission of the Officer-in-charge dismantle, alter or disturb any memorial work on a grave.  
1.92 Dismantled memorial work must either be removed from a cemetery or be left on the grave on which such memorial work had been erected.  
1.93 The officer-in-charge may in the case of a second or subsequent burial in such grave permit memorial work to be left elsewhere in the cemetery for a period not exceeding 30 days after such burial.  
1.94 The person dismantling the work must immediately after the work is completed remove any surplus material, or rubble resulting from the dismantling of any memorial work.  
1.95 Council may give 30 days written notice to a holder of rights or person, instructing him or her to remove memorial work from the cemetery with any rubble resulting therefrom, at his or her own expense or to re-erect such memorial work if —  
1.95.1 such a holder of rights or person referred to in subsection 1 fails to re-erect dismantled memorial work within 30 days after it was dismantled; or  
1.95.2 such memorial work is left within the cemetery in contravention of section 27.5.2.  
1.96 If any memorial work has been damaged; become a danger to the public; or been erected in contravention of these by-laws, the Council may give written notice to the holder or person, instructing him or her, at his or her own expense, within a period specified in the notice, to —  
1.96.1 alter or make such memorial work safe so that it complies with the provisions of these by-laws;  
1.96.2 dismantle and remove such memorial work from the cemetery together with all rubble resulting therefrom.



- 1.97 If such holder or person fails to comply with a notice in terms of subsection 27.6 the Council may —
  - 1.97.1 re-erect the memorial work;
  - 1.97.2 dismantle and dispose of the memorial work and remove any rubble resulting therefrom; or
  - 1.97.3 make the memorial work safe,
 and such holder or person will be liable for any costs incurred by the Council.
- 1.98 The Council may without giving any notice, or incurring any liability to the holder of rights or person —
  - 1.98.1 dismantle the memorial work and remove it and any rubble resulting therefrom, except memorial work classified as National Heritage; or
  - 1.98.2 make the memorial work safe,
 if such memorial work has become so dangerous to the public that immediate steps to safeguard the public are essential.
- 1.99 After the Council has acted in terms of subsection (8), it must immediately, in writing, notify the holder of rights or person that, unless he or she reclaims the memorial work from the cemetery within a specified period, the Council will dispose of the memorial work.
- 1.100 A holder of rights or person is liable for costs incurred by the Council.
- 1.101 If the holder of rights or person fails to pay the costs or to reclaim the memorial work dismantled by the Council, the Council may dispose of such memorial work in any manner it deems fit.
- 1.102 If any proceeds are derived from the disposal, such proceeds will be offset against the cost of the dismantling, removal, storing and disposing of memorial work and rubble resulting therefrom.

## 29. General Requirements For Memorial Work

- 1.103 Memorial work must be constructed or made of durable material, with a life expectancy of at least 25 years.
- 1.104 Any person erecting memorial work in a cemetery must do so with the approval of the Officer-in-charge.
- 1.105 A person erecting memorial work must comply with the following requirements —
  - 1.105.1 when joining any part of the memorial work to any other part of the memorial work the person must use copper or galvanized iron pins as follows —
    - 1.105.1.1 for memorial work up to a height of 500mm, two or more pins of at least 5mm thick and 100mm long;
    - 1.105.1.2 for memorial work 501mm up to a height of 1000mm two or more pins at least 10mm thick and 200mm long; or
    - 1.105.1.3 for memorial work 1001mm and higher at least two or more pins 20mm thick and 300mm long;
  - 1.105.2 any part of memorial work which rests on the ground, stone or foundation must be properly secured and bedded;
  - 1.105.3 a material of uneven thickness must not be used;
  - 1.105.4 the undersides of every flat memorial work and the base of every memorial work must be sunk at least 50mm below the natural level of the ground;
  - 1.105.5 a border which is more than 225mm above the surface of the ground or more than 200mm deep must not be used without the consent of the Council;
  - 1.105.6 all memorial work and border stones must be securely clamped with round copper or galvanized iron clamps;
  - 1.105.7 all memorial work up to 150mm in thickness must be securely attached to the base;
  - 1.105.8 all the components of memorial work must be completed before being brought in a cemetery;
  - 1.105.9 footstones must consist of one solid piece;
  - 1.105.10 in all cases where memorial work rests on a base —
    - 1.105.10.1 such memorial work must have a foundation;
    - 1.105.10.2 such memorial work must be set with cement mortar;
    - 1.105.10.3 the bottom base of a single memorial work must not be less than 900mm long 220mm wide x 250mm thick and that of a double memorial work not less than 2286mm long x 200mm wide x 250mm thick; and
  - 1.105.11 if loose stone chips are placed on a grave, the level of such stone chips must not be higher than 10mm below the level of the surrounding kerbstones.

## 30. Requirements For Memorial Work In Lawn Section

- 1.106 The following provisions apply to memorial work and graves in a Lawn Section —
  - 1.106.1 the dimensions of the base of any headstones on an adult's grave must not exceed 900mm in length and 260mm in width, but if the base of the headstone is erected over two adjoining graves, such base must not exceed 2200mm in length and 260mm in width;
  - 1.106.2 the dimensions of the base of any headstone of a child's grave must not exceed 610mm in length and 260mm in width, but if the base of the headstone is erected over two adjoining graves such base must not exceed 1200mm in length and 260mm in width;
  - 1.106.3 no portion of any headstone must extend beyond the horizontal dimensions of its base;
  - 1.106.4 headstones must be erected on the concrete berms supplied by the Council, except in the case of a temporary erection where the applicant must provide a foundation suitable to support the headstone, until the Council has installed the berm;
  - 1.106.5 no part of any memorial work must exceed 1500mm in height above the berm;
  - 1.106.6 any headstone must be so positioned that the front edge of the headstone is at least 130mm from the edge of the berm;
  - 1.106.7 no object other than a headstone which may incorporate more than two sockets for receptacles for flowers must be placed on any grave; and a vase in which natural flowers or artificial flowers and foliage may be placed in a socket built in the headstone and such vase must not exceed 300mm in height;
  - 1.106.8 a kerb demarcating any grave and a slab covering are not permitted;

## 31. Requirements For Memorial Work In Memorial Section

- 1.107 The maximum horizontal measurements of any memorial work erected on a grave in a memorial section must —
  - 1.107.1 in the case of an adult's grave, be 2500mm in length and 1050mm in width; or
  - 1.107.2 in the case of a child's grave, be 1500mm in length and 900mm in width.

## 32. Requirements For Memorial Work In Landscape Section

- 1.108 The Council may set aside a section in a cemetery as a landscape section;



- 1.109 Memorial work erected on a grave in a landscape section must —
  - 1.109.1 not exceed 500mm in length, 500mm in width and a minimum of 30mm thick;
  - 1.109.2 not be made of ferrous material.
- 1.110 The memorial work must be embedded horizontally on the ground level on a suitable foundation.
- 1.111 Where memorial work is restricted to a plaque or memorial slab, 500 mm by 500mm, such plaque or memorial slab must be placed horizontal at 30 mm below grass level.

### 33. Burial And Exhumation Of Ashes

- 1.112 A person who wants to bury ashes in a grave, exhume ashes from a grave or scatter ashes must make an application to the Officer-in-charge.
- 1.113 The Officer-in-charge must, on payment of a prescribed fee give written permission to the applicant for burial or exhumation or scattering of ashes, and prepare such grave for burial or exhumation of ashes.
- 1.114 An ash grave in a wall of remembrance must measure 610mm in length and 610mm in width.

### 34. Use Of Niches And Spaces, Affixing Of Memorial

- 1.115 Ashes may be deposited in a garden of remembrance if an application accompanied by a prescribed fee is made to the Officer-in-charge and if the Officer-in-charge gives written permission.
- 1.116 A niche or a space abutting on a path in a garden of remembrance or a niche or a space in a memorial wall, must not be used for storing ashes or for affixing memorial work, without the consent of the Officer-in-Charge and payment of the prescribed fee.
- 1.117 Identity plaques must be made of material approved by the Officer-in-charge and affixed simultaneously with the placing of the ashes.
- 1.118 Ashes and plaques may be removed with the consent of the Officer-in-Charge.
- 1.119 Flower holders may be affixed to the plaque only with the consent of the Officer-in-charge.

### 35. Paupers And Indigent Burials

- 1.120 A person making an application for an indigent or pauper's burial must make a declaration to that effect.
- 1.121 A pauper or an indigent person may be buried according to the conditions determined by the Council.

### 36. Prohibited Acts

- 1.122 No person —
  - 1.122.1 under the age of 16 years must enter any cemetery or only when accompanied by an adult or with the consent of the Officer-in-charge;
  - 1.122.2 must enter or leave any cemetery, except by the gateway provided;
  - 1.122.3 must enter any office or enclosed place in a cemetery where entry is prohibited without the consent of the Officer-in-charge, which may be given only when such person is attending business connected with such cemetery or crematorium.
- 1.123 No person must, within any cemetery —
  - 1.123.1 interfere with any fountain, statue, monument, equipment, fence, grave or Council property;
  - 1.123.2 pick, damage, deface or destroy any flower, plant or seed;
  - 1.123.3 damage, deface or remove any memorial work, grave, building, fence or fixtures;
  - 1.123.4 throw litter outside containers provided by the Council for that purpose;
  - 1.123.5 sit, stand, walk, climb, draw or write on any grave or memorial work;
  - 1.123.6 swim, bath or wash himself him or herself or any animal in a pond, fountain, artificial watercourse, dam or stream;
  - 1.123.7 reside in a cemetery or, without the written consent of the Officer-in-charge, build any structure or encroach on any land;
  - 1.123.8 capture, chase, shoot at or interfere with any fish, bird or animal except where licensed to do so, or take, touch or damage birds' eggs or nests;
  - 1.123.9 light any fire or burn any object unless there is a special provision made by the Council;
  - 1.123.10 drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these By-laws;
  - 1.123.11 drive or ride any vehicle, except in the places referred to in section 35.2.10 at a speed exceeding 15 km per hour;
  - 1.123.12 carry on or solicit business, hold any demonstration or perform an activity which is not normally associated with a cemetery;
  - 1.123.13 cause a nuisance or commit any offensive or indecent act;
  - 1.123.14 play any game except in designated areas;
  - 1.123.15 brew, sell or drink alcohol or abuse drugs;
  - 1.123.16 play any musical instrument without the written consent of the Officer-in-charge;
  - 1.123.17 deliver a public speech except for a funeral service or cremation, without the written consent of the Officer-in-charge;
  - 1.123.18 do anything which may endanger or cause disturbance to any person;
  - 1.123.19 hold organized functions, advertise, dig any hole, trench or place any tent, caravan, booth screen, stand or any construction or obstruction, without the written consent of the Officer-in-charge;
  - 1.123.20 undertake any community or voluntary work, without the written consent of the Officer-in-charge;
  - 1.123.21 make any film, without the written consent of the Officer-in-charge, and payment of the prescribed fee;
  - 1.123.22 remain between sunset and sunrise without the written consent of the Officer-in-charge;
  - 1.123.23 bring or allow an animal, except a guide dog, without the consent of the Officer-in-charge;
  - 1.123.24 hinder, obstruct or resist the Officer-in-charge or any officer of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these By-laws.
- 1.124 Any animal found in a cemetery may be impounded.

### 37. Penalty Clause

Any person who contravenes any provision of these By-laws; fails to comply with any notice issued in terms of these By-Laws; fails or fails to



comply with any lawful instruction given in terms of these By-laws; or obstructs or hinders authorized representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine of R5000,00 or in default of payment of such a to imprisonment for a period not exceeding six months.

## CHAPTER 5: ENCROACHMENT BYALWS

### 1. Definitions

- 1.1 In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates —
  - 1.1.1 "Council" means the Municipal Council of the Umdoni Municipality and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or subdelegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) or, where the context so requires, means the aforesaid Umdoni Municipality;
  - 1.1.2 a service provider in respect of any power, function or duty of the Council as contemplated in paragraph (a), assigned by it for the purposes of these By-laws to that service provider in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

### 2. Council Permission Required

- 2.1 No person may, without prior written permission make or construct any colonnades, verandas, balconies, bay windows, pavement lights, showcases or other projections into or over any part of a public road, and pavement opening in or under any public road.
- 2.2 The Council may refuse the permission required in terms of section 2.1 or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case and subject to payment of the prescribed fee.
- 2.3 The prescribed fees mentioned in section 2.2 are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these By-laws for each encroachment.
- 2.4 The owner of an encroachment must within three months after the date of commencement of these By-laws notify the Council in writing of —
  - 2.4.1 the existence of the encroachment; and
  - 2.4.2 the horizontal dimension of every encroachment measured parallel to the road boundary on or over which the encroachment exists.
- 2.5 Until the Council is notified of the horizontal dimension of the encroachment mentioned in terms of section 2.4.2, every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

### 3. Conditions For The Construction Of Encroachments

- 3.1 The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over public roads, as well as the paving, kerb and gutter thereof shall be to the satisfaction of and to specifications approved by the Council.
- 3.2 If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- 3.3 A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

### 4. Columns

- 4.1 The Council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.
- 4.2 No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.
- 4.3 No person may place a portion of any veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
- 4.4 No person may place a column on a public road where the footway or sidewalk is, or is likely to be occupied by cables, pipes or other municipal services, without the permission of the Council.
- 4.5 The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3m.
- 4.6 Plain piping or tubing must not be used for columns over or on public road verandas and balconies unless architecturally treated for aesthetic purposes.
- 4.7 Nothing in these By-laws prohibits —
  - 4.7.1 the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
  - 4.7.2 in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are observed.

### 5. Balconies And Bay Windows

- 5.1 Balconies, bay windows or encroachments may not overhang a public road if they are at a height of less than 3m above the pavement.
- 5.2 Balconies may not encroach more than 1,35m over any public road.
- 5.3 Bay windows may not encroach more than 900mm over any public road.
- 5.4 The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- 5.5 Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
- 5.6 No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1m in height is allowed above the level of the floor.
- 5.7 Any dividing wall across a balcony over a public road may not exceed 1m in height or 225mm in thickness.
- 5.8 A balcony over any public road may not be the sole means of access to any room or apartment.
- 5.9 No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.