

SWARTLAND MUNICIPALITY

Notice is hereby given in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) that the Municipal Council of the Swartland Municipality has made the by-law set out in the schedule hereto:

SCHEDULE

CEMETERY BY-LAWS

1. In this by-law:—

“caretaker” means a person or official appointed by the Municipality to be in charge of and to exercise control in a cemetery;

“cemetery” means a piece of land duly set aside by the municipality for burials, either within or outside the area of the municipality;

“grave” means a demarcated plot for the burial of a body in a cemetery; and

“municipality” means the Swartland Municipality;

2. The Municipality may set aside any portion of a cemetery for the burial of the deceased of any group or other body or community; provided that —

(a) “religious group” shall not be construed as being a denomination, and

(b) such setting aside shall not entitle any person to be buried in any particular place in a cemetery.

3. (1) The municipality may sell or otherwise dispose of the right of burial in plots on such conditions as it may determine from time to time, and shall issue the person thus acquiring such right with a certificate setting out the conditions attaching to such acquisition.

MUNISIPALITEIT SWARTLAND

Kennis geskied hiermee ingevolge die bepalings van artikel 13 van die Munisipale Stelselwet, 2000 (Wet 32 van 2000) dat die Munisipale Raad van die Munisipaliteit Swartland, die verordening soos uiteengesit in die skedule hiertoe, gemaak het:

SKEDULE

BEGRAAFPLAASVERORDENINGE

1. In hierdie verordening beteken —

“begraafplaas” ’n stuk grond wat behoorlik deur die munisipaliteit vir teraardebestellings afgesonder is, hetsy binne of buite die gebied van die munisipaliteit;

“graf” ’n afgebakte perseel vir die begrawing van ’n lyk in ’n begraafplaas;

“munisipaliteit” die Munisipaliteit Swartland; en

“opsigter” ’n persoon of beampte wat deur die Munisipaliteit aangestel is om toesig te hou oor en beheer uit te oefen in ’n begraafplaas.

2. Die Munisipaliteit kan enige gedeelte van ’n begraafplaas afsonder vir die begrawing van die oorledenes van enige godsdienstige groep of ander liggaam of gemeenskap; met dien verstande dat —

(a) “godsdienstige groep” nie vertolk moet word as synde ’n kerkgenootskap nie, en

(b) sodanige afsondering aan niemand die reg verleen om op enige besondere plek in ’n begraafplaas begrawe te word nie.

3. (1) Die Munisipaliteit kan die reg op begrawing in persele in ’n begraafplaas verkoop of andersins van die hand sit op die voorwaardes wat hy van tyd tot tyd bepaal, en hy reik aan die persoon wat sodanige reg aldus aanskaf, ’n sertifikaat uit waarin die voorwaardes verbonde aan sodanige aanskaffing uiteengesit word.

- (2) The holder of a right of burial shall not dispose of such right except with the written permission of the municipality, and such holder or his next of kin shall not permit any other person who has not been approved by the municipality to be buried in the plot in respect of which such right exists.
4. (1) No person shall bury a body in a cemetery —
 (a) except under the authority of a written permit which may be issued by the caretaker; or
 (b) otherwise than in accordance with the conditions specified in such permit.
- (2) An application for the permit referred to in subsection (1) shall be accompanied by the burial order issued in accordance with the Births and Deaths Registration Act, 1992 (Act 51 of 1992), and shall contain such information as may be required by the caretaker.
5. Except with the permission of the caretaker who shall record the circumstances under which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.
6. No person shall —
 (a) bury a body, unless the grave is of sufficient depth so that the top of the body, or, if contained in a coffin or container, the top of the coffin or container is not less than 1 050 mm below the surface of the ground when the grave has been filled up;
 (b) bury more than one body in a grave, unless the grave has been dug to a sufficient depth so that subsection (a) may be complied with and so that the first body or, if such body is in a coffin or container, such coffin or container may be covered with 100 mm of reinforced concrete or 300 mm of soil when the second body is buried, or
 (c) remove a body from a grave in order to enlarge such grave.
7. (1) The standard measurements for burial plots shall be determined by the Municipality.
 (2) The standard measurements for graves are as follows:
 (a) *Adults:*
 Length: 2 200 mm
 Width: 1 200 mm
 Depth: 1 800 mm
 (b) *Children:*
 Length: 1 350 mm
 Width: 600 mm
 Depth: 1 500 mm
8. (1) No person shall open a grave or exhume or cause a body to be exhumed from a grave —
 (a) except under the authority of a written permit which may be issued by the municipality;
 (b) otherwise than in accordance with the conditions specified in such permit;
- (2) Behalwe met die skriftelike toestemming van die Munisipaliteit mag die houer van 'n reg op begrawing nie sodanige reg van die hand sit nie, en sodanige houer of 'n naasbestaande van die houer van sodanige reg mag nie toelaat dat iemand anders wat nie deur die Munisipaliteit goedgekeur is, begrawe word in die perseel ten opsigte waarvan sodanige reg bestaan nie.
4. (1) Niemand mag 'n lyk in 'n begraafplaas begrawe —
 (a) behalwe ingevolge die magtiging van 'n skriftelike permit wat deur die oopsigter uitgereik kan word, of
 (b) andersins as in ooreenstemming met die voorwaardes in sodanige permit uiteengesit nie.
- (2) 'n Aansoek om die permit in subartikel (1) genoem, moet vergesel gaan van die begrafnisorder uitgereik ooreenkomsdig die Wet op die Registrasie van Geboortes en Sterfgevalle, 1992 (Wet 51 van 1992), en moet die inligting bevat wat die oopsigter vereis.
5. Uitgesonderd met die toestemming van die oopsigter, wat die omstandighede opteken waarin sodanige toestemming verleent word, mag niemand 'n lyk in 'n begraafplaas begrawe gedurende die ure tussen sononder en sonop nie.
6. Niemand mag —
 (a) 'n lyk begrawe nie, tensy die graf diep genoeg is sodat die bokant van die lyk, of, indien dit in 'n doodkis of houer is, die bokant van die doodkis of houer minstens 1 050 mm onder die oppervlak van die grond is nadat die graf toegemaak is;
 (b) meer as een lyk in 'n graf begrawe nie, tensy die graf diep genoeg gegrave is sodat daar aan subartikel (a) voldoen word en sodat die eerste lyk of, as sodanige lyk in 'n doodkis of houer is, sodanige doodkis of houer met 100 mm gewapende beton of 300 mm grond bedek kan word wanneer die tweede lyk begrawe word, of
 (c) 'n lyk uit 'n graf verwijder ten einde sodanige graf groter te maak nie.
7. (1) Die standaardafmetings vir grafersele word deur die Munisipaliteit bepaal.
 (2) Die standaardafmetings vir grafte is soos volg:
 (a) *Volwassenes:*
 Lengte: 2 200 mm
 Breedte: 1 200 mm
 Diepte: 1 800 mm
 (b) *Kinders:*
 Lengte: 1 350 mm
 Breedte: 600 mm
 Diepte: 1 500 mm
8. (1) Niemand mag 'n graf oopmaak of 'n lyk uit 'n graf opgrawe of laat opgrawe —
 (a) behalwe ingevolge die magtiging van 'n skriftelike permit wat deur die Munisipaliteit uitgereik kan word, of
 (b) andersins as in ooreenstemming met die voorwaardes in sodanige permit uiteengesit nie.

- (2) Whenever the municipality deems it advisable that a body be removed from the grave, it may, after consultation, if possible, with any near relative of such deceased person and, with due regard to any other legislation in this regard, remove such body to another grave.
9. (1) No person shall erect or place any kerb, tombstone, monument, railings or fence or any ornamentation upon a grave —
- (a) unless authorised to do so in terms of a written permit issued by the Municipality;
 - (b) otherwise than in accordance with the conditions set out in such permit, or
 - (c) in such a manner as to exceed the boundaries of a burial plot.
- (2) The size (outer dimension) of any erections on burial plots shall not exceed the following measurements:
- (a) *Adults:*
 - (i) Single burial plot: 2 500 mm × 1 050 mm
 - (ii) Double burial plot: the size of two single burial plots
 - (iii) Family burial plot: the appropriate multiple of a single burial plot
 - (iv) Width of kerb: 150 mm
 - (v) Tombstones shall not be higher than 1 600 mm above the surface of the ground.
 - (b) *Children:*
 - (i) Single burial plot: 1 500 × 1 000 mm
 - (ii) Width of kerb: 150 mm
 - (iii) Tombstones shall not be higher than 1 200 mm above the surface of the ground.
- (3) An application for a permit referred to in subsection (1) shall contain such details as may be required by the municipality in respect of the erection concerned and the inscription to be placed thereon, and the municipality may refuse to issue such permit if, in its opinion, such erection is likely to be of poor craftsmanship or quality or is likely in any way to disfigure a cemetery or is calculated to hurt or offend the feelings of the public.
10. No person shall —
- (a) use any portion of a cemetery for the cutting, dressing and manufacturing of tombstones, monuments, railings, kerbs or other grave fittings except with the permission of the municipality or otherwise than in accordance with the conditions determined by the municipality;
 - (b) carry out any work in connection with any kerb, tombstone, monument, railings or fence on or round a grave or bring any materials into a cemetery for the purposes of such work, except during the following hours:
Mondays to Saturdays: sunrise to sunset, or
 - (c) at any time leave any building sand, stones, builder's rubble, soil, rubbish, or other debris in the cemetery.
- (2) Wanneer die Munisipaliteit dit ook al raadsaam ag dat 'n lyk uit 'n graf verwijder word, dan kan hy, na oorleg, indien moontlik, met 'n naasbestaande van sodanige afgestorwene, en met inagneming van enige ander wetgewing in dié verband, sodanige lyk na 'n ander graf verwijder.
9. (1) Niemand mag 'n randsteen, grafsteen, gedenksteen, traliewerk of heining of enige versiering op 'n graf oprig of plaas —
- (a) tensy aldus gemagtig ingevalge 'n geskrewe permit uitgereik deur die Munisipaliteit;
 - (b) behalwe in ooreenstemming met die voorwaardes in sodanige permit uiteengesit nie, of
 - (c) op so 'n wyse dat die grense van 'n grafperseel oorskry word nie.
- (2) Die grootte (buite-afmetings) van enige oprigtings op grafpersele mag nie die volgende mate oorskry nie:
- (a) *Volwassenes:*
 - (i) Enkelgrafperseel: 2 500 mm × 1 050 mm
 - (ii) Dubbelgrafperseel: die grootte van twee enkelgrafpersele
 - (iii) Gesinsgrafperseel: die toepaslike veelvoud van 'n enkelgrafperseel
 - (iv) Breedte van randsteen: 150 mm
 - (v) Grafstene mag nie hoër as 1 600 mm bokant die grondoppervlak wees nie.
 - (b) *Kinders:*
 - (i) Enkelgrafperseel: 1 500 mm × 1 000 mm
 - (ii) Breedte van randsteen: 150 mm
 - (iii) Grafstene mag nie hoër as 1 200 mm bokant die grondoppervlak wees nie.
- (3) 'n Aansoek om 'n permit in subartikel (1) genoem, moet die besonderhede wat die Munisipaliteit vereis, bevat ten opsigte van die betrokke oprigting en die opskrif wat daarop geplaas gaan word, en die munisipaliteit kan weier om sodanige permit uit te reik indien sodanige oprigting na sy mening waarskynlik onvakkundig gebou of van lae gehalte sal wees of waarskynlik 'n begraafplaas op enige wyse sal skend of daarop bereken is om die gevoelens van lede van die publiek te krenk of om vir hulle tot aanstoot te wees.
10. Niemand mag —
- (a) behalwe met die toestemming van die Munisipaliteit of behalwe in ooreenstemming met die voorwaardes wat deur die Munisipaliteit gestel word, enige gedeelte van 'n begraafplaas gebruik vir die kap, bewerking en vervaardiging van grafstene, gedenkstene, traliewerk, randstene of ander graftoebehore nie;
 - (b) enige werk in verband met 'n randsteen, grafsteen, gedenksteen, traliewerk of heining op of om 'n graf uitvoer of enige materiaal vir die doeleinnes van sodanige werk in 'n begraafplaas inbring nie, behalwe gedurende die volgende ure: Maandae tot Saterdae: Sonop tot sononder, of
 - (c) te eniger tyd bousand, klip, bouafval, grond, vuilgoed of ander puin in die begraafplaas agterlaat nie.

11. (1) Whenever the person who erected a memorial work in a cemetery allows it to fall into such state of disrepair as in the opinion of the municipality constitutes a danger or a disfigurement in the cemetery, the municipality may by written notice require him to effect such repairs as may be specified in such notice, and if his address is unknown such notice may be published in a newspaper circulating within the area of the municipality.
- (2) In the event of the required repairs not being effected within three months from the service or publication of such notice the municipality may itself effect the repairs or remove the memorial work without paying compensation and may recover the expense of such repair or removal from such person.
12. (1) The holder of the right of burial in a plot in a cemetery shall keep that plot and the monuments, tombstones or other erections thereon in good order and repair.
- (2) The municipality may undertake the upkeep of graves at the prescribed charges.
- (3) No person shall undertake the upkeep of graves in a cemetery except with the written consent of the municipality.
13. (1) No person shall —
- (a) plant a tree or shrub on a grave site without the permission of the caretaker; or
 - (b) when cleaning a grave plot, deposit the material cleared from the grave, in the cemetery at a place other than that provided for such purpose.
- (2) The caretaker or his authorised assistant may prune, cut down, dig up or remove any shrub, plant or flower in a cemetery if such is in his opinion unsightly.
14. No person shall —
- (a) enter or leave a cemetery except by the proper gates;
 - (b) sit, stand or climb upon or over a memorial work, gate, wall, fence or building in a cemetery;
 - (c) drive a hearse in a cemetery except upon the carriage ways provided for that purpose;
 - (d) enter a cemetery —
 - (i) with a bicycle; or
 - (ii) with any other vehicle without the permission of the caretaker;
 - (e) conduct a religious ceremony or service according to the rites of any denomination in that part of a cemetery set aside for members of any other denomination;
 - (f) expose or convey a body in an unseemly manner in a street, cemetery or other public place;
 - (g) mark, draw, scribble or erect an advertisement upon, or in any way deface a wall, building, fence, gate, memorial work or other erection in a cemetery;
 - (h) pick flowers in a cemetery;
 - (i) smoke in a cemetery; or
 - (j) bring an animal into a cemetery;
 - (k) hold a demonstration or participate in such demonstration in a cemetery;
11. (1) Wanneer die persoon wat 'n gedenkwerk in 'n begraafplaas opgerig het, ook al toelaat dat dit in so 'n vervalle toestand geraak het dat dit na die mening van die Munisipaliteit gevaelik of onooglik in die begraafplaas is, dan kan die Munisipaliteit hom deur middel van 'n skriftelike kennisgewing aansê om die reparasies uit te voer wat in so 'n kennisgewing uiteengesit word, en as sy adres nie bekend is nie, dan kan sodanige kennisgewing gepubliseer word in 'n nuusblad wat in die gebied van die Munisipaliteit gelees word.
- (2) In geval die nodige reparasies nie binne drie maande van diening of publikasie van sodanige kennisgewing uitgevoer word nie, kan die Munisipaliteit self die reparasies uitvoer of die gedenkwerk sonder betaling van vergoeding verwyder en die koste verbonde aan sodanige reparasies of verwydering op so 'n persoon verhaal.
12. (1) Die houer van die reg op begrawing in 'n perseel in 'n begraafplaas moet dié perseel en die gedenkstene, grafstene of ander oprigtings daarop in goeie orde en reparasie hou.
- (2) Die Munisipaliteit kan die onderhoud van die grafte onderneem teen die voorgeskrewe tarief.
- (3) Niemand mag die onderhoud van grafte in 'n begraafplaas onderneem nie, behalwe met die skriftelike toestemming van die Munisipaliteit.
13. (1) Niemand mag —
- (a) sonder die toestemming van die opsigter 'n boom of struik op 'n grafperseel plant nie; of
 - (b) by die skoonmaak van 'n grafperseel die materiaal wat van die graf opgeruum word, op 'n ander plek in die begraafplaas stort as dié wat vir sodanige doel verskaf word nie.
- (2) Die opsigter of sy gemagtigde assistent kan enige struik, plant of blom in 'n begraafplaas snoei, afsny, uitspit of verwyder as dit na sy mening onooglik is.
14. Niemand mag —
- (a) in 'n begraafplaas gaan of dit verlaat nie, behalwe deur die behoorlikehekke;
 - (b) op 'n gedenkwerk, hek, muur, heining of gebou in 'n begraafplaas sit of staan of daarop of daaroor klim nie;
 - (c) 'n lykwa in 'n begraafplaas bestuur nie, behalwe op die ryweë wat vir dié doel verskaf word;
 - (d) in 'n begraafplaas gaan —
 - (i) met 'n fiets; of
 - (ii) met enige ander voertuig, sonder die toestemming van die opsigter nie;
 - (e) 'n godsdienstigeheid of erediens hou volgens die gebruik van enige godsdienstige groep in dié gedeelte van 'n begraafplaas wat vir lede van enige ander groep afgesonder is nie;
 - (f) 'n lyk op 'n onbetaamlike wyse blootstel of vervoer in 'n straat, begraafplaas of ander openbare plek nie;
 - (g) op 'n muur, gebou, heining, hek, gedenkwerk of ander oprigting in 'n begraafplaas merke maak, teken, krap of 'n advertensie oprig of dit op enige wyse ontsier nie;
 - (h) blomme in 'n begraafplaas pluk nie;
 - (i) in 'n begraafplaas rook nie; of
 - (j) 'n dier in 'n begraafplaas bring nie.
 - (k) in 'n begraafplaas 'n betoging hou of daaraan deelneem nie;

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| <p>(l) create or allow to be created a nuisance in a cemetery; nor shall any person disrupt or allow to be disrupted any funeral proceedings in a cemetery, or</p> <p>(m) discharge any firearm in a cemetery, except as a salute of a military funeral.</p> <p>15. The charges payable in terms of section 3(1), as well as all other charges payable for burials, exhumations, reinterments or any other services rendered by the municipality in a cemetery or in connection with a funeral, shall from time to time be fixed by the municipality by resolution.</p> <p>16. Any person who contravenes any provision of this by-law or disregards or fails to comply with a lawful instruction from the caretaker shall be guilty of an offence and liable upon conviction to a penalty not exceeding —</p> <ul style="list-style-type: none"> (1) a fine of one thousand Rand or imprisonment for a period of six months or either such fine or such imprisonment or both such fine and such imprisonment; (2) in the case of a continuing offence, an additional fine of fifty Rands or an additional period of imprisonment of ten days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure. | <p>(l) in 'n begraafplaas 'n oorlas skep of toelaat dat 'n oorlas daarin geskep word nie; ook mag niemand enige begrafnisverrigtinge in 'n begraafplaas ontwrig of toelaat dat dit ontwrig word nie, of</p> <p>(m) enige vuurwapen in 'n begraafplaas afvuur nie, behalwe as 'n saluut by 'n militêre begrafnis.</p> <p>15. Die gelde betaalbaar ingevolge artikel 3(1), asook alle ander gelde betaalbaar vir begrawings, opgrawings, herbegrawings of enige ander dienste wat deur die Munisipaliteit in 'n begraafplaas gelewer word of wat in verband staan met 'n begrafnis, word van tyd tot tyd deur die raad van die Munisipaliteit by besluit vasgestel.</p> <p>16. Iedereen wat enige bepaling van hierdie verordening oortree of 'n wettige opdrag van die opsigter verontagsaam of nalaat om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n straf van hoogstens —</p> <ul style="list-style-type: none"> (1) 'n boete van eenduisend Rand of gevangenisstraf vir 'n tydperk van ses maande, óf sodanige boete of sodanige gevangenisstraf óf beide sodanige boete en sodanige gevangenisstraf; (2) in die geval van 'n voortdurende misdryf, met 'n addisionele boete van vyftig Rand, of 'n addisionele tydperk van gevangenisstraf van 10 dae, óf sodanige addisionele boete of sodanige addisionele gevangenisstraf, óf beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur, en (3) 'n verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die Munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim. |
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