

NOTICE 127 OF 2017

CEMETERIES BY-LAW, 2012

By-law No.2, 2012

BY-LAW**As Amended by the Cemeteries Amendment By-Law 2017**

To provide for the establishment and management of cemeteries in the Dawid Kruiper Municipality; and for matters connected therewith.

WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on municipalities the executive authority and right to administer Local Government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer;

WHEREAS in terms of section 12 of the Local Government: Municipal Structures Act, 1998, The Dawid Kruiper Municipality has been established, subsequent to the disestablishment of the Mier and //Khara Hais Municipalities;

WHEREAS the disestablished Mier and //Khara Hais Municipalities had their former areas of jurisdiction merged under the jurisdiction of the Dawid Kruiper Municipality;

WHEREAS the Dawid Kruiper Municipality intends to regulate and control cemeteries in a responsible and sustainable manner;

AND NOW THEREFORE BE IT ENACTED by the Council of the Dawid Kruiper Municipality as follows:

TABLE OF CONTENTS**CHAPTER 1
Interpretation**

1. Definitions

**CHAPTER 2
Establishment and management of cemeteries**

2. Establishment of cemeteries
3. Official hours
4. Register
5. Numbering of graves
6. Reservation of graves and niches in municipal cemeteries
7. Transfer of reserved rights
8. Number of corpses in a single grave in a municipal cemetery

**CHAPTER 3
Burials**

9. Application for a burial
10. Burial of a corpse
11. Burial of ashes
12. Burial of a cadaver

- 13. Persons dying outside the Municipality
- 14. Measurements of graves

**CHAPTER 4
Cremation**

- 15. Cremation

**CHAPTERS
Exhumation**

- 16. Exhumation from a municipal cemetery

**CHAPTER 6
Memorial work**

- 17. Memorial work
- 18. Graves supplies with a berm

**CHAPTER 7
Maintenance**

- 19. Maintenance of graves

**CHAPTER 8
General conduct in municipal cemeteries**

- 20. General conduct in municipal cemeteries

**CHAPTER 9
Private cemeteries**

- 21. Establishment of private cemeteries
- 22. Application to establish private cemeteries
- 23. Record of private cemeteries to be kept by the Municipality
- 24. Land on which a private cemetery has been established may be used for burials only
- 25. Exhumation of corpses from private cemeteries

**CHAPTER 10
Miscellaneous**

- 26. Injuries and damages
- 27. Firearms and traditional weapons
- 28. Penalty clause and expenses
- 29. Short title

**CHAPTER 1
Interpretation
Definitions**

- 1. In this By-law, unless the context otherwise indicates-

"*adult*" (where the word is used to describe a corpse) means the corpse of a person 9 years of age or older;

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

"building control officer" means any person appointed or deemed to be appointed as building control officer by the Municipality in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"burial" means burial in earth or any other method of disposal of a corpse, ashes or a cadaver in the manner provided for in this By-law;

"burial order" means an order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992) authorising a burial;

"caretaker" means the officer appointed by the Municipality to supervise and control a municipal cemetery or municipal cemeteries, and his or her delegates;

"cemetery" means land or part thereof, including the buildings and works thereon, duly set aside and reserved for the purpose of burials and shall include a columbarium;

"child" (where the word is used to describe a corpse) means the corpse of a person younger than 9 years of age;

"columbarium" means a memorial wall or a wall of remembrance provided by the owner of a cemetery for the burial of ashes;

"corpse" means any dead human body, including the body of a stillborn child;

"developed area" means that portion of the area of jurisdiction of the Municipality which -

- (a) has by actual survey been subdivided into erven;
- (b) is surrounded by surveyed erven; or
- (c) is an informal settlement;

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

"holder" means a person to whom a reservation certificate for a specific grave in a municipal cemetery has been issued in terms of section 6 [or a law repealed by section 29];

"Medical Officer of Health" means the officer appointed by the Municipality from time to time in such position and his or her delegates;

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

"municipal cemetery" means a cemetery that is owned and controlled by the Municipality and made available for public use from time to time;

"Municipality" means the Dawid Kruiper Municipality;

"Municipal Manager" means the person appointed as the accounting officer of the Dawid Kruiper Municipality in terms of the Local Government: Municipal System Act, 2000;

"niche" means the cavity in a columbarium provided for the burial of ashes;

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

"**prescribed fees**" means the fees as determined from time to time by the Municipality;

"**private cemetery**" means a cemetery situated -

- (a) inside the area of jurisdiction of the Municipality; and
- (b) outside a developed area, not owned and controlled by the Municipality, made available from time to time by the owner thereof for private use and shall include a single grave;

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

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

"**stillborn**" in relation to a Child, means that it had at least 26 weeks of intra-uterine existence, but showed no sign of life after complete birth.

CHAPTER 2

Establishment and management of cemeteries

Establishment of cemeteries

2. (1) The Municipality may from time to time set aside and reserve suitable municipal land within the Municipality for the establishment and management of a municipal cemetery.
- (2) The Municipality may, in accordance with the provisions of Chapter 9, consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land.
- (3) A cemetery established under a law repealed by this By-law, or that otherwise existed when this By-law came into operation, shall be deemed to be established under this section.
- (4) The Municipality may set aside, reserve and demarcate within a municipal cemetery, in accordance with an approved layout plan, such areas as the Municipality may deem expedient for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, members of security forces or war heroes, or for the creation and management of -
 - (a) a berm section where memorial work of a restricted size may be erected only on a concrete base provided by the Municipality at the top or bottom end of a grave, while the top surface of the grave is levelled;

- (b) a monumental section where memorial work erected shall cover the entire grave area;
 - (c) a semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Municipality;
 - (d) a natural-grass section where the surface of graves is levelled and identified by numbers affixed on top of the graves in such a way that a lawnmower can be used to cut the natural grass without damaging the numbers;
 - (e) a traditional section where the surface of graves is levelled and memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the berm section;
 - (f) a columbarium section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Municipality.
- (5) The setting aside, reservation and demarcation mentioned in subsection 2(4) above shall not be executed in a matter constituting unfair discrimination.

Official hours

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

Register

4. A register of graves and burials shall be kept by the caretaker of a municipal cemetery and such register shall be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

Numbering of graves

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

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

Reservation of graves and niches in municipal cemeteries

6. (1) Any person who wishes to reserve a specific grave for future use in a municipal cemetery, must apply to the caretaker of that cemetery and such application must-
- (a) be done in writing on the form provided by the Municipality; and
- (b) be accompanied by the prescribed fees.
- (2) The Municipality may grant or refuse the application.
- (3) If the application is granted, the Municipality must issue a reservation certificate to the applicant setting out the conditions subject to which the certificate is issued.
- (4) If the Municipality refuses the application, it must set out its reasons for such refusal in writing, and return the fees referred to in subsection (1)(b) to the applicant.
- (5) The reservation of a grave made and recorded in the official records of the Municipality in terms of a previous law, shall be deemed to be done under this section.
- (6) The provisions of subsections (1) to (5) shall apply *mutatis mutandis* in respect of the reservation of a specific niche in a municipal columbarium.

Transfer of reserved rights

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

Number of corpses in a single grave in a municipal cemetery

8. (1) Only one corpse may be buried in a grave with measurements as contemplated in section 14(1) or (2).
- (2) Only two corpses may be buried in a grave with measurements as set out in section 14(4):

Provided that application for the burial of two corpses has been made to the caretaker in writing by submitting an application mentioned in section 9(1) before the first corpse is buried.

- (3) After the reopening of a grave for the purpose of the burial of a second corpse as mentioned in subsection (2) in that grave, a layer of soil of at least 150 mm must be left undisturbed on top of the coffin, and in no instance, may the lid of the second coffin be nearer than 900 mm measured from the natural surrounding surface.
- (4) If on reopening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation shall be handled in consultation with the Medical Officer of Health.

CHAPTER 3

Burials

Application for a burial

9. (1) "Application for permission for a burial in a municipal cemetery shall be made to the municipal manager or his duly authorised delegate on the prescribed application form and such application shall be accompanied by –
 - (a) the prescribe burial order;
 - (b) the prescribed fees; and
 - (c) a reservation certificate, where applicable."
- (2) No person shall, without the prior written permission of the Municipality, execute, cause or allow a burial, including the burial of ashes or a cadaver, in any other place in the Municipality than in a municipal cemetery.
- (3) An application for permission for a burial must be submitted to the municipal manager or his duly authorized delegate at least 24 working hours prior to the planned burial, failing which the municipal manager or his duly authorized delegate may refuse the application.
- (4) No person shall execute a burial or cause or allow a burial to be executed in a municipal cemetery, unless written approval for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the municipal manager or his duly authorized delegate.
- (5) In allocating a date and time for a burial, the municipal manager or his duly authorized delegate shall have regard to the customs of the deceased's relatives and their religion or church affiliation.
- (6) The allocation of a specific grave is the responsibility and in the sole discretion of the municipal manager or his duly authorized delegate and a burial shall be executed only in a grave allocated by him or her:

Provided that in allocating a grave the municipal manager or his duly authorized delegate shall as far as practicable allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice, but not the individual grave of his or her choice.

- (7) The Municipality may allow in its discretion a burial without payment of the prescribed fees in a part of a municipal cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the municipal manager or his duly authorized delegate at least 4 working hours before the time set for the burial.
- (9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

Burial of a corpse

10. (1) No graves in a municipal cemetery shall be provided by the caretaker.
- (2) There shall be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses shall be placed in a coffin for the burial thereof, except as provided by a particular religion.
- (4) No person shall, without the prior permission of the caretaker, conduct any religious ceremony or service according to the rites of one denomination in any portion of a municipal cemetery reserved by the Municipality in terms of the provisions of section 2(4) for the use of some other denomination.
- (5) No person shall permit any hearse in a municipal cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the municipal cemetery.
- (7) No person shall convey, or expose a corpse or any part thereof, in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to a burial in a municipal cemetery shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Municipality for a period of not less than ten years.

Burial of ashes in municipal cemeteries

11. (1) Ashes may be buried in a municipal cemetery.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a municipal cemetery, unless written approval for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker of the municipal cemetery.
- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility, shall be made to the caretaker of the municipal cemetery on the prescribed application form.
- (4) Subject to section 6, niches shall be allocated by the caretaker of the municipal cemetery strictly in the order in which the applications therefor are received.
- (5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker of the municipal cemetery may refuse the application.
- (6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility of the Municipality, shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Municipality and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it shall once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker of the municipal cemetery on the prescribed application form.
- (9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein, unless and until-
 - (a) approval for the burial has been obtained in terms of the provisions of section 9;
 - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of section 17(1); and
 - (c) the prescribed fees have been paid.
- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker as set out in section 3.
- (11) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.

- (12) The columbarium may be visited daily during the official hours set out in section 3.
- (13) Plaques shall be made of material approved by the Municipality and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

Burial of a cadaver

- 12. The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in section 14(4):

Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.

Persons dying outside the area of the Municipality

- 13. The provisions of this By-law shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the Municipality.

Measurements of graves

- 14. (1) The excavation of a grave for a person 9 years of age or older shall be at least 1800 mm deep, 2300 mm long and 750 mm wide.
- (2) The excavation of a grave for a person younger than 9 years of age shall be at least 1300 mm deep, 1500 mm long and 750 mm wide.
- (3) In the event that a grave of a greater depth, length and width than those specified above is required, an application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker of the municipal cemetery, together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep, 2300 mm long and 750 mm wide.
- (5) Permitted deviation from measurements of graves shall be as follows:

Extra wide	2300 mm long 840 mm wide
Extra-long	2530 mm long 760 mm wide
Rectangular small	2300 mm long 810 mm wide
Rectangular big	2400 mm long 900 mm wide

Brick nogging 2500 mm long
 1050mmwide

- (6) The area of a rectangular grave for an adult shall be 1500 mm wide and 2600 mm long.
- (7) The area of a grave for an adult shall be 1210 mm wide and 2430 mm long.
- (8) The area of a grave for a child shall be 1210 mm wide and 1520 mm long, and if a coffin is too large, an adult grave shall be used.

CHAPTER 4 Cremation

- 15. Cremation within the Municipality shall only take place in an approved crematorium established for that purpose, and in accordance with the provisions of the Cremation Ordinance, 1926 (Ordinance NO.6 of 1926).

CHAPTER 5 Exhumation Exhumation from a municipal cemetery

- 16.
 - (1) No person shall, without the written approval contemplated in section 3 of the Exhumation Ordinance, 1980 (Ordinance No. 12 of 1980), and then only after notifying the Municipality, exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed from a municipal cemetery.
 - (2) Any person duly authorised to exhume a corpse as set out above, shall furnish such authority to the caretaker at least 8 working hours before the time proposed for the exhumation of such corpse, and shall at the same time pay the prescribed fees.
 - (3) An exhumation and removal of any corpse from a municipal cemetery shall be made only in the presence of the caretaker or any authorised member of the cemetery personnel, accompanied by the funeral undertaker and in accordance with the stipulated legislation applicable to exhumations and reburials.
 - (4) A grave from which any corpse is to be removed shall, if required by the caretaker, be effectively screened from public view during the exhumation.
 - (5) The person who applied for the exhumation of a corpse shall provide an acceptable receptacle for the remains and shall remove the remains after the exhumation.
 - (6) No person shall be permitted to reopen a grave in a municipal cemetery, unless he or she has satisfied the caretaker that he or she is authorised thereto.
 - (7) After the exhumation of a corpse and the removal of the remains from a municipal cemetery, all rights in the grave shall revert to the Municipality, and the reuse of the grave shall be done in consultation with the Medical Officer of Health.

- (8) If at any time and for whatever reason the exhumation and transfer of a corpse to another grave in a municipal cemetery shall become necessary, the Municipality may, after the relatives of the deceased person have been notified accordingly, exhume such body and transfer it to another grave.

CHAPTER 6
Memorial work

17. (1) Application for the erection of memorial works shall be made to the caretaker of the municipal cemetery on the prescribed application form.
- (2) The erection of a trellis around a grave is prohibited.
- (3) No person shall bring or cause any material to be brought into any municipal cemetery for the purpose of the erection or construction of any memorial work, unless and until -
- (a) approval for the burial has been obtained in terms of the provisions of section 9;
- (b) approval for the erection of the memorial work has been obtained in terms of the provisions of subsection (1); and
- (c) the prescribed fees have been paid.
- (4) Graves of war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognised body or by the government of any foreign country, shall upon application to the Municipality, be exempted from the requirement of payment of the prescribed fees.
- (5) The Municipality may refuse its consent for the erection of any proposed memorial work if the plan and specification thereof reveals that it will be of inferior quality or in any manner likely to disfigure a cemetery or which bears any inscription likely to cause offence to users of the municipal cemetery or to visitors thereto.
- (6) No person engaged upon any memorial work in a municipal cemetery shall at any time disturb any adjacent graves and on completion of such work he or she shall leave the grave and the cemetery in a clean and tidy condition and remove any building material or surplus ground therefrom.
- (7) A person engaged in the erection of a memorial work in a municipal cemetery, shall-
- (a) make arrangements beforehand with the caretaker with regard to the date and time of the intended erection;
- (b) ensure that all separate parts of any memorial work other than masonry-construction are affixed by copper or galvanised iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work;
- (c) ensure that any part of such work which rests upon any stone or other foundation is fairly squared and pointed;

- (d) ensure that the underside of every flat stone memorial and the base or landing of every headstone is set at least 50 mm below the natural level of the ground;
- (e) ensure that all headstones are securely attached to their bases;
- (f) ensure that flat stones consist of one solid piece in the case of all graves;
- (g) ensure that all headstones consist of granite, marble, bronze or any other durable metal or stone approved by the Municipality;
- (h) ensure that all curbing or memorial work on graves are erected on concrete foundations at least 150 mm wide and 200 mm deep;
- (i) ensure that the sizes of monumental tombstones (all inclusive) are:
- | | |
|--------------|-------------------------------|
| Single grave | 2400 mm long
1070 mm wide |
| Child grave | 1400 mm long
1000 mm wide |
| Double grave | 2400 mm long
2400 mm wide; |
- (j) ensure that all curbs on larger graves than single graves shall be fixed on substantial concrete mats at the four corners and where joints occur;
- (k) ensure that any concrete foundation on any grave, upon instruction of the Municipality, is reinforced where it is considered necessary owing to the weight of the memorial work.
- (8) No person shall erect any memorial work within a municipal cemetery, unless the number (if any) and section-letter of the grave upon which such work is to be erected, are engraved thereon in such a position that it will be legible at all times from a pathway, and, only with the consent of the family of the deceased, the name of the maker of such memorial work may be placed upon any footstone.
- (9) Memorial work shall be constructed and erected in a municipal cemetery only during the official office hours as contemplated in section 3.
- (10) No person shall fix or place any memorial work in a municipal cemetery during inclement weather or where the soil is in an unsuitable condition.
- (11) Every person carrying out work within a municipal cemetery shall under all circumstances comply with the directions of the caretaker.
- (12) The Municipality may, after due notice, at any time change or alter the position of any memorial work in any municipal cemetery:

Provided that in any case where any memorial work has originally been placed in a certain position with the express consent of the caretaker, any alterations of such position in terms of the provisions of this By-law, shall be executed at the expense of the Municipality.

Graves supplied with a berm

18. (1) Notwithstanding anything to the contrary contained in this By-law, a grave which is supplied with a berm shall be subject to the conditions set out in subsection (2).
- (2) (a) No kerbing shall be erected at such grave.
- (b) The berm provided by the Municipality shall be 1200 mm long, 500 mm wide and 300 mm deep.
- (c) The base of the memorial work to be erected on the berm of a single grave shall not be larger than 1000 mm long and 230 mm wide, and the memorial work, together with the base, may not be higher than 1200 mm from the ground surface.
- (d) A memorial work shall not protrude beyond the base.
- (e) No object shall be placed and kept on any grave:

Provided that a memorial work or a vase for flowers or foliage placed in the orifice provided in the berm, may be placed and kept on a grave until such time as the ground surface over the grave is levelled.

CHAPTER 7 Maintenance Maintenance of graves

19. (1) (a) A memorial work erected upon a grave shall at all times be maintained in good order and condition by the responsible person.
- (b) Should any such work fall into a state of disrepair or constitute a danger or be a disfigurement of the municipal cemetery, the Municipality may by written notice addressed to the responsible person by registered post at his or her last known postal address, require of him or her to affect such repairs as may be considered necessary.
- (c) On failure to affect the required repairs within 1 month of the date of such notice, the Municipality may have the repairs effected or may have the memorial work removed as it deems fit and may recover the costs for such repairs or removal from the responsible person.
- (2) Unless otherwise provided for in this By-law, the Municipality shall be responsible for keeping municipal cemeteries in a neat and tidy condition.

- (3) Grass may be planted on a grave by family members of the deceased, subject to the directions of the caretaker:
- Provided that the Municipality shall maintain the grave, as part of the cemetery, at its own cost and in accordance with its own standards and programs.
- (4) (a) All memorial work which has been dismantled for purposes of a further burial, shall be re-erected or removed from the municipal cemetery within 2 months of the date of such dismantling.
- (b) On failure to do so, the Municipality shall be entitled to remove any such dismantled memorial work from the cemetery without further notice, and to recover the costs of such removal from the responsible person.
- (5) No person shall plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (6) The Municipality shall have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.
- (7) No person shall deposit any flowers, grass, weeds or other materials removed from a grave, on any other grave, roadway or any other place in the cemetery, except in the refuse bins intended for that purpose.

CHAPTER 8

General conduct in municipal cemeteries

20. (1) No person under the age of 12 years shall enter a municipal cemetery unless he or she is in the care of an adult or with the approval of the caretaker.
- (2) No person shall enter or leave any municipal cemetery, except through the gates provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery, except on business or with the consent of the caretaker.
- (3) No person shall make a false statement or provide false information in an application or other form or document to be completed and submitted in terms of this By-law.
- (4) No person shall carry on any trade or hawking activity, or solicit any business, or exhibit, distribute or leave any business card or advertisement within any cemetery or on any public place within 30 m of the boundary of any municipal cemetery, except with the written approval of the Municipality and on such conditions as the Municipality may determine.
- (5) No person shall sit, stand or climb upon or over any tombstone, memorial work, gate, wall, fence or building in any municipal cemetery.
- (6) No person shall hold a demonstration of any kind in any municipal cemetery or allow or participate in such demonstration.
- (7) No person shall bring into or allow any animal to enter any municipal cemetery, and any animal found in a cemetery may be impounded.

- (8) Directives from the caretaker to ensure the orderly procession of the ceremony concerning the placement of structures, chairs, voice amplification equipment, volume and the type of music to be played, shall be adhered to.
- (9) No person shall within any municipal cemetery obstruct, resist or oppose the caretaker or any official of the Municipality, whilst acting in the course of his or her official duty, nor refuse to comply with any reasonable order or request of the caretaker or any official of the Municipality.
- (10) No person shall remove from the municipal cemetery any soil, sand or other substance or thing of a similar nature without the express permission of the caretaker.
- (11) No person shall wantonly or wilfully damage or cause to be damaged, nor shall any person mark, draw or erect any advertisement, bill or placard upon or in any manner deface any grave, tombstone, monument, wall, building, fence, path or other construction within any municipal cemetery.
- (12) No person shall bribe or try to bribe any employee in the service of the Municipality in regard to any matter in connection with a cemetery or burial, neither with money, gifts or any other benefit.
- (13) No person shall, except where expressly permitted by this By-law, or with the consent of the caretaker, disturb the soil, or plant or uproot any plant, shrub or flower, or in any way interfere with any grave or construction in any municipal cemetery.
- (14) No person shall play any game or take part in any sport, or discharge any firearm, except as a salute at a military funeral, or discharge any airgun or catapult within any municipal cemetery, or disturb or annoy any person present therein.
- (15) No musical instrument shall be played in a municipal cemetery without the consent of the caretaker.

CHAPTER 9

Private cemeteries

Establishment of private cemeteries

21. (1) The owner of land situated outside a developed area may, with the prior written permission of the Municipality, and subject to the conditions determined by' the Municipality, establish a private cemetery on such land:

Provided that a private cemetery consisting of a columbarium only, may also be established inside a developed area.
- (2) Any existing private cemetery shall be deemed to have been established in terms of subsection (1).
- (3) The owner of land on which a private cemetery is situated, shall be responsible for keeping such cemetery in a neat and tidy condition.

Application to establish private cemeteries

22. (1) The owner of land situated outside a developed area, desirous of establishing a private cemetery on such land, must-
- (a) on the form provided by the Municipality, direct his or her application to the Municipal Manager;
 - (b) provide the Municipal Manager with a plan -
 - (i) indicating the location of the proposed private cemetery on the land concerned; and
 - (ii) containing the detail layout of the proposed private cemetery, showing the exact location and number of each grave; and
 - (c) provide such further information as may be required by the Municipal Manager.
- (2) The Municipal Manager shall refer the application to the building control officer, who shall do, or cause to be done, an inspection of the land concerned and make a recommendation regarding the application to the Municipality.
- (3) After the Municipality has considered the recommendations of the building control officer, it shall -
- (a) grant the permission contemplated in section 21(1); or
 - (b) refuse the application, stating its reasons for such refusal, and forthwith, in writing, notify the applicant accordingly.
- (4) The owner of land on which a private cemetery is deemed to have been established in terms of section 21(1) must, in respect of that cemetery, within a year after the commencement of this By-law, provide the Municipality with -
- (a) the plan contemplated in subsection (1)(b); and
 - (b) a declaration stating the name of the deceased person buried in each grave if it is known to the owner.

Record of private cemeteries to be kept by the Municipality

23. (1) The Municipality must keep proper record of all private cemeteries, established or deemed to have been established, within its area of jurisdiction.
- (2) The Municipality must update the records of private cemeteries within its area of jurisdiction regarding -
- (a) each new grave added to a private cemetery by the owner of the land not already shown on the plan contemplated in section 22(1)(b)(ii); and
 - (b) each burial that takes place in a private cemetery.

- (3) The owner of land on which a private cemetery is situated, must provide the Municipality with the particulars referred to in subsection (2), within 7 days after a burial has taken place, accompanied by a copy of the burial order and a statement indicating the number of the grave in which the deceased person has been buried.

Land on which a private cemetery has been established may be used for burials only

24. A private cemetery may be used for burials only, except where the Municipality gives written permission to the owner of the land to discontinue the use of the private cemetery for burials and determines how the mortal remains of persons buried in such cemetery must further be disposed of.

Exhumation of corpses from private cemeteries

25. No person may, without the prior written permission of the Municipality and subject to any law governing the exhumation of corpses, exhume a corpse from a private cemetery.

**CHAPTER 10
Miscellaneous
Injuries and damages**

26. A person using a municipal cemetery shall do so on his or her own risk, and the Municipality accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.

Firearms and traditional weapons

27. No firearm or traditional weapon shall be allowed in a municipal cemetery.

Penalty clause and expenses

28. (1) Any person contravening or failing to comply with any of the provisions of this By-law, shall be guilty of an offence and upon conviction by a court be liable to a fine or imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.
- (2) Any expense incurred by the Municipality as a result of a contravention of this By-law, or in the doing of anything which a person was directed to do under this By-law, and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

Short title

29. This By-law shall be called the Cemeteries By-law, 2012

DAWID KRUIPER MUNICIPALITY

CEMETERIES AMENDMENT BY-LAW, 2017

GENERAL EXPLANATORY NOTE

- [] Words in bold type and square brackets indicate omissions from existing enactments.
 _____ Words underlined with a solid line indicate insertions in existing enactments.

To provide for the amendment of the Cemeteries By-Law, 2012; to provide for the substitution of the name "//Khara Hais", wherever it appears; to provide for the insertion of a preamble; and to provide for matters connected therewith.

BE IT ENACTED by the Council of the [//Khara Hais] Dawid Kruiper Municipality, as follows: -

Insertion of a preamble of the Dawid Kruiper Municipality: Cemeteries By-law, 2012:

1. The Dawid Kruiper Municipality: Cemeteries By-Law, 2012 (hereinafter referred to as the principal By-Law), is hereby amended by the insertion of the following preamble:

"WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on municipalities the executive authority and right to administer Local Government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer;

WHEREAS in terms of section 12 of the Local Government: Municipal Structures Act, 1998, The Dawid Kruiper Municipality has been established, subsequent to the disestablishment of the Mier and //Khara Hais Municipalities;

WHEREAS the disestablished Mier and //Khara Hais Municipalities had their former areas of jurisdiction merged under the jurisdiction of the Dawid Kruiper Municipality;

WHEREAS the Dawid Kruiper Municipality intends to regulate and control cemeteries in a responsible and sustainable manner;

AND NOW THEREFORE BE IT ENACTED by the Council of the Dawid Kruiper Municipality as follows:"

Amendment of Section 1 of the Dawid Kruiper Municipality: Cemeteries By-Law, 2012

2. Section 1 of the principal By-Law is hereby amended:
 (a) by the substitution for the definition of "holder" of the following definition:

""holder" means a person to whom a reservation certificate for a specific grave in a municipal cemetery has been issued in terms of section 6 [or a law repealed by section 29]";

- (b) by the substitution for the definition of "Municipality" of the following definition:
"Municipality" means the [//Khara Hais] Dawid Kruiper Municipality;
- (c) by the substitution for the definition of "Municipal Manager" of the following definition:
""Municipal Manager" means the person appointed [in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)] as the accounting officer of the Dawid Kruiper Municipality in terms of the Local Government: Municipal System Act, 2000."

Amendment of section 9 of the Dawid Kruiper Municipality: Cemeteries By-Law, 2012

3. Section 9(1) of the principal By-Law is hereby amended:
 - (a) by the substitution for the word "caretaker" of the following words:
"Application for permission for a burial in a municipal cemetery shall be made to the [caretaker] municipal manager or his duly authorised delegate on the prescribed application form and such application shall be accompanied by -
 - (d) the prescribe burial order;
 - (e) the prescribed fees; and
 - (f) a reservation certificate, where applicable."
4. Section 9(3) of the principal By-law is hereby amended:
 - (a) by the substitution for the words "caretaker" and "of a municipal cemetery" of the following words:
"An application for permission for a burial must be submitted to the [caretaker] [of a municipal cemetery] municipal manager or his duly authorized delegate at least 24 working hours prior to the planned burial, failing which the [caretaker] municipal manager or his duly authorized delegate may refuse the application."
5. Section 9(4) of the principal By-law is hereby amended:
 - (a) by the substitution for the word "caretaker" of the following words:
"No person shall execute a burial or cause or allow a burial to be executed in a municipal cemetery, unless written approval for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the [caretaker] municipal manager or his duly authorized delegate."
6. Section 9(5) of the principal By-law is hereby amended:
 - (a) by the substitution for the word "caretaker" of the following words:
"In allocating a date and time for a burial, the [caretaker] municipal manager or his duly authorized delegate shall have regard to the customs of the deceased's relatives and their religion or church affiliation."
7. Section 9(6) of the principal By-law is hereby amended:
 - (a) by the substitution for the word "caretaker" of the following words:
"The allocation of a specific grave is the responsibility and in the sole discretion of the [caretaker] municipal manager or his duly authorized and a burial shall be executed only in a grave allocated by him or her. Provided that in allocating a grave the [caretaker] municipal manager or his duly authorized shall as far as practicable

allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice; but not the individual grave of his or her choice."

8. Section 9(8) of the principal By-law is hereby amended:
- (a) by the substitution for the word "caretaker" of the following words:
"Notice of cancellation or postponement of a burial must be submitted to the [caretaker] municipal manager or his duly authorized at least 4 working hours before the time set for the burial."

Amendment of section 10 of the Dawid Kruiper Municipality: Cemeteries By-Law, 2012.

4. Section 10 of the principal By-Law is hereby amended:
- (a) By the following insertion:
"(1) No graves in a municipal cemetery shall be provided by the caretaker"

Amendment of section 29 of the Dawid Kruiper Municipality: Cemeteries By-Law, 2012:

7. The following section is hereby substituted for section 29 of the principal By-Law:
"29. This By-Law is called the Dawid Kruiper Municipality: Cemeteries Amendment By-Law, [2012] 2017"