

# **NKOMAZI MUNICIPALITY PAUPER INDIGENT AND UNKNOWN BURIALS**

## **DRAFT POLICY**

The policy on Paupers and Indigent Burials will be there to guide Council, Officials, Individuals, Community and Funeral Undertakers on the handling the above.

### **1. INTERPRETATION/DEFINITIONS**

In these by-laws, unless the context otherwise indicates.

“**Adult**” means a deceased person over the age of 12 years;

“**Body**” means the remains or any portion thereof any deceased person;

“**Cadaver**” means a dead human body.

“**Cemetery**” means any land or part thereof with the municipality duly set aside by the Council as a cemetery;

“**Child**” means a deceased person who is not an adult;

“**Crematorium**” means a crematorium as defined in section 1 of the Ordinance and includes any place set aside by the Council for the cremation of a body;

“**Crematory**” means the room in the crematorium which houses the cremation refractory.

“**Indigent person**” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organization or NGO can be found to bear the burial or cremation costs of such deceased person. The Nkomazi Municipality can bury such a person as a pauper.

“**Municipality**” means the area under control, and jurisdiction of the Council as well as any outside area contemplated in section 7(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939).

“**Non-resident**” means any person who at the time of his death was not a resident of the Nkomazi Municipality.

“**Officer in charge**” means any person authorized by the Council to be in control of any cemetery and in the case of a crematorium, the registrar of such crematorium;

“**Office hours**” means Monday to Friday 07h00 to 16h00 excluding Saturday, Sunday and Public holidays.

“**Ordinance**” means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

“**Pauper**” means a person who has died as an unknown person or if no relative or other person, welfare organization or NGO can be found to bear the burial or cremation of such deceased person. Paupers are buried three in a grave.

“**Plot**” means any area laid out in any cemetery for not less than two and not more than ten graves adjoining each other, in respect of which the exclusive right to enter has been acquired in terms of these by-laws;

“**Registrar of deaths**” means any person appointed as registrar of deaths in terms of the Birth, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963);

“**Regulation**” means a regulation published in terms of the Ordinance;

“**Resident**” means any person who, at the date of his death ordinarily resided in the municipality or who for at least six months immediately prior to such date was the owner of fixed property in the municipality;

“**Tariff**” means a tariff of charges as determined by the Council from time to time, by special resolution, in terms of section 80B of the Local Government Ordinance, No. 17 of 1939);

“**Working hours**” from Monday to Friday as determined from time to time by the Council to be normal working hours.

## **2. DISPOSAL OF BODY**

2.1 No person shall, save with prior written consent of the Council, dispose of or attempt to dispose of a body other than interment in a comity or cremation in a crematorium.

2.2 If that person is an **unknown person, the Municipality will take possession of the body**, and keep it through its agent. “Funeral Undertaker” for at **least three months**, in an approved and registered mortuary.

2.3 If that person was and **indigent person**, the **council** will decide on **the time and place** of burial through it’s **Officer in Charge**.

### **3. PAUPER AND INDIGENT BURIALS**

A pauper is defined as a person who has died as an unknown person within the geographic boundaries of Council subject to Section 48(2) of the Health Act no. 63 of 1977 as amended – “Shall be buried or cremated at the discretion of Council”

- 3.1 A pauper who is buried in a cemetery as determined by Council, are entered three ( x 3 ) in a grave and without a headstone.
- 3.2 An indigent person is defined as a person who died in indigent circumstances within the geographic boundaries of Council where no relative, other person, NGO or Welfare organization can be found to cover the cost for the burial or cremation of the deceased person.
- 3.3 The onus of proof of being indigent rests with the applicant declaring indigency and confirmed by next of kin or representatives.

### **4. APPLICATION FOR PAUPER/INDIGENT BURIAL FROM OUTSIDE INSTITUTIONS**

Subject to the provision of the Imports Act, 1959 and the said Birth, Marriages and Deaths Act no. 51 of 1992, a person who has died in a hospital or other institution, shall be the responsibility of that hospital or institution care, in the case who has been admitted to or kept in such a hospital or institution on or on behalf of the Local Authority or in the case of a person who, not being a convicted person or a person under arrest, has died in any prison.

### **5. APPLICATION FOR PAUPER/INDIGENT BURIAL FROM THE COMMUNITY**

An application for a pauper/indigent burial within the community of Nkomazi, will only be considered and approved should :-

5.1 The relevant application forms are completed and signed. Attached to this document the following original copies has to be attached as annexure "A" :-

5.1.1 ID document of diseased and date of death

5.1.2 Death Certificate BR5

5.1.3 SAP BL20

5.1.4 SAP report with (a) case number and (b) permission to bury

5.1.5 Sworn affidavit from next of kin/family, neighbor or friend (No Councillor is allowed to do this affidavit on behalf of the diseased)

5.1.6 Quotation from the funeral undertaker unless instructed by the Officer in Charge to make use of an undertaker appointed by council

5.1.7 Social Service Report

5.2 Sworn Affidavit must indicate the following :-

5.2.1 The relationship of person giving the affidavit, indicating his/her ID number and place of residence

5.2.2 The permission to surrender the body to the Nkomazi Municipality to deal with it in a way as guided by this policy and it's by-laws

## **6. FUNERAL UNDERTAKER**

Any ground can be set aside by the Council for a cemetery and no person shall inter a body or cause it to be interred in any other place within the municipal area. No person shall, save with the prior written consent of the council, dispose of or attempt to dispose of a body, other than any internment in a cemetery or cremation in a crematorium.

Subject to section 33 and 39 of the Health Act, 1977 (Act 63 of 1977) no undertaker shall contract of bury or cremate any body in any cemetery or crematorium under the control of the Council unless :-

- (a) The undertaker is in a possession of a certificate of competence
- (b) The premise from which the undertaker operates is zoned in accordance with planning for such a business
- (c) The requirements relating to a funeral undertakers premises are in accordance with Act. 63 of 1977
- (d) The premises are subject to inspection.  
The Council reserves the right to refuse permission to any undertaker to undertake business in any cemetery or crematorium under its jurisdiction if such undertaker is not in compliance with these by-laws and if the undertaker is in default of any payment of tariffs.
- (e) At funeral, the undertaker must supply, erect, operate and remove all lowering equipment using own labour.
- (f) At certain circumstances, the Municipality employees must help to close the grave.