

The Council of the uMhlathuze Municipality has in terms of section 156 of the Constitution, 1996 (Act No 108 of 1996), read in conjunction with section 11 of the Municipal Systems Act, 2000 (Act No 32 of 2000), made the following bylaws :

BYLAWS: FUNERAL UNDERTAKERS

1. Definitions

Unless the context otherwise indicates -

“the Act” means the National Health Act, 2003 (Act No 61 of 2003), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates:-

“adequately ventilated and illuminated” means adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No 103 of 1977), as amended or the health bylaws applicable within the area of jurisdiction of Council ;

“Council” means the uMhlathuze Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;

“certificate of competence” means a document contemplated in section 5;

“environmental health practitioner” means a person who is an employee of Council and who is registered with the Health Professions Council of South Africa and is designated in terms of section 31 (1) of the National Health Act, 2003 (Act No 61 of 2003).

“existing funeral undertaker’s premises” means existing funeral undertakers’ premises, which are used as such, on the date of commencement of these bylaws;

“funeral undertaker’s premises” means premises that are or will be used for the preparation and or storage of corpses;

“holder” means the person in whose name a certificate of competence has been issued;

“new funeral undertaker’s premises” means undertaker’s premises that start operating as such after the date of commencement of these bylaws;

“nuisance” means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof .

“preparation” means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purpose, and “prepare” and any word derived there from shall have a corresponding meaning;

“pure water” means clean and clear water that contains no Escherichia coli organisms and is free from any substance in concentrations that are detrimental to human health;

“provisional certificate of competence” means a document as referred to in section 7.

“rodent – proof” means rodent-proofed as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R.1411 of 23 September 1966.

“thermometer” means an apparatus which can give the temperature readings referred to in the bylaws, the combined accuracy of such a thermometer and its temperature – sensitive sensor being approximately 0,5°C.

Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and vice versa.

2. Corpses to be prepared only at funeral undertaker’s premises in respect of which a certificate of competence has been issued

Unless otherwise provided for in these bylaws, no person shall prepare and / or store any corpse except on funeral undertaker’s premises in respect of which a certificate of competence has been issued and is in effect.

3. Exemptions

- (1) Council may in writing exempt any person from compliance with all or any of these bylaws where, in the opinion of Council, non-compliance does not or will not create a nuisance.
- (2) Such exemption shall be subject to such conditions and valid for such a period as Council may stipulate in the certificate of exemption.

4. Application for the issue or transfer of a certificate of competence

- (1)(a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker’s premises shall, not less than 21 days before submitting his application to Council, cause a notice of his intention to be published in English, Afrikaans and Zulu in a newspaper that circulates in the area in which such premises will be or is situated.
- (b) Such notice shall contain information to the effect that an application for the issue of a certificate of competence in terms of these bylaws is to be submitted to Council and that any person who wishes to object to such use shall lodge his objection, together with substantiated representations, with Council in writing within 21 days of the date of publication of such notice.
- (2)(a) An application for the issue of a certificate of competence shall be made in writing by the applicant or his authorized representative to Council, on the prescribed form.
- (b) An application for the issue of a certificate of competence shall be accompanied by
 - (i) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.
 - (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system;

- (iii) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized;
 - (iv) particulars of any person other than the applicant or any of his employees who prepares or will prepare corpses on the premises.
 - (v) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown.
 - (vi) a cleansing and disinfection programme.
 - (vii) details of registered health care waste remover, transporter and disposer.
- (3) Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.
- (4) Council shall not issue / transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by an environmental health officer appointed by Council and his report on such inspection, including his recommendation on such issue or transfer, is in the possession of Council.

5. Issue or transfer of certificate of competence

When Council is satisfied that the premises concerned –

- (1) complies with all requirements laid down in these bylaws and any other applicable legislation;
- (2) are in all respect suitable for the preparation of corpses; and
- (3) will not be offensive to any occupants of premises in the immediate vicinity of such premises,

it shall, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the applicant in such form as it may determine or shall by endorsement transfer an existing certificate of competence to a new holder, as the case may be.

6. Validity and transfer of certificate of competence

- (1) A certificate of competence shall be valid for a period of one year, annually renewable, from the date on which it was issued until it is revoked or suspended or expires in terms of these bylaws.
- (2) A provisional certificate of competence shall, on endorsement by Council, be transferable from one holder to a new holder and such certificate shall if so endorsed be valid for a period of one year, annually renewable from the date of which it was issued until it is revoked or suspended or expires in terms of these bylaws.

7. Issue of provisional certificate of competence

- (1) Notwithstanding the fact that Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, Council may in the case of existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises.
- (2) A certificate referred to in subsection (a) will only be issued if Council is satisfied that the use of such funeral undertaker's premises does not and will not create a nuisance, and will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of these bylaws.
- (3) If, after the period referred to in subsection (b), the premises does not comply with the provisions of these bylaws, Council may revoke the provisional certificate of competence.

8. Duties of holder

- (1) The holder shall immediately inform Council in writing if there are any changes in the particulars or circumstances supplied to Council in the application for the certificate of competence.
- (2) A funeral undertaker shall not dispose of a body in any place or premises other than a cemetery or crematoria registered in terms of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No 12 of 1996).
- (3) The holder shall comply with the provisions of these bylaws, applicable legislation and any conditions imposed by Council.

9. Suspension or revocation of a certificate of competence or provisional certificate of competence

- (1) If Council is of the opinion, on the strength of an inspection report and/or recommendation by an environmental health officer, that there are reasonable grounds to suspect that –
 - (a) the funeral undertaker's premises concerned are being used in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned; or
 - (b) the premises concerned are being used in contravention of the provisions of the National Health Act, 2003 (Act No 61 of 2003), these bylaws or other applicable legislation or any conditions imposed by the certificate of competence or provisional certificate of competence, Council may -
 - (i) in relation to conditions referred to in section 9(1)(a) where in its opinion the health hazard in question is a real hazard revoke the certificate of competence or provisional certificate of competence concerned;

- (ii) in relation to an irregularity referred to in section 9(1)(b) suspend the certificate of competence or provisional certificate of competence concerned for such period as Council may determine, to enable the holder to comply with the applicable legislation and/or conditions imposed, if the holder fails to comply within the period stipulated in the notice of suspension Council may revoke the certificate without further notice.
- (2) A notice issued by Council in terms of section 9(1) shall be issued in writing, and then served on the holder.
- (3) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this bylaw shall have the effect that, from the date of the notice of suspension or revocation -
 - (a) no preparation of any corpse shall be performed on the premises concerned;
 - (b) no corpse shall be received for preparation on the premises concerned; and
 - (c) no corpse shall be preserved on the premises concerned and every corpse shall immediately be removed to a mortuary under the control of the State, a provincial administration or Council or any other funeral undertaker's premises, provided that this bylaw shall not be applicable and the said notice shall not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.
- (4) Where Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this bylaw was corrected after such revocation, it shall, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

10. Requirements relating to funeral undertaker's premises

- (1) Provision for the following shall be made on funeral undertaker's premises:
 - (a) A preparation room for the preparation of corpses.
 - (b) Change-rooms, separate for each sex, for the use of the employees employed at such premises.
 - (c) Refrigeration facilities for the refrigeration of corpses.
 - (d) Facilities for the washing and cleansing of utensils and equipment inside the building.
 - (e) Facilities for the cleansing of vehicles on the premises.
 - (f) Facilities for the loading and unloading of corpses as contemplated in clause 10 (6)
- (2) No room on a funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended.
- (3) The preparation room -
 - (a) shall be so designed as to –

- (i) be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom: Provided that, where a preparation room on existing funeral undertaker's premises so communicates, the entrance thereto shall be so concealed that the interior thereof is completely out of the sight of any person in such office or salesroom;
 - (ii) enable obnoxious odours and vapors to be adequately treated; and
 - (iii) be sufficiently ventilated and lighted;
- (b) shall have a floor –
- (i) covering an area of not less than 16m² for the first table of the kind referred to in section 10 (3) (e) and 8m² for each additional table;
 - (ii) constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by Council; and
 - (iii) which, if it is replaced or laid after the date of commencement of these bylaws, shall be provided with half round filling where it meets the walls;
- (c) shall have walls the inner surfaces of which have a smooth finish and are covered with a light-colored washable paint or other suitable, smooth, waterproof, light -colored and washable material.
- (d) shall be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust proof and painted with a light coloured washable paint;
- (e) shall contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
- (f) shall contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;
- (g) shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces;
- (h) shall have door openings that are not less than 0,82m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.
- (4) Each change-room shall contain at least the following:

- (a) One hand-basin with hot and cold running water for every six employees or part thereof;
 - (b) disposable towels, soap, nailbrushes and disinfectant; and
 - (c) not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men or part thereof .
- (5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, shall be installed in or close proximity of such preparation room and -
- (a) where refrigerators are used, it shall be constructed of a material that does not absorb moisture, shall be provided with removable trays and shall be so designed as to drain into an approved drainage system and be easy to clean;
 - (b) be of such a nature that the surface temperature of any corpse shall be no higher than 5 °C within 3 hours of its being received on the premises and no higher than 15°C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.
 - (c) in instances where cold chambers are used, it shall comply with section 10 (3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean.
 - (d) corpses are not to be stored on top of each other and must be stored individually on the trays or shelves.
- (6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by Council.
- (7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in section 10 (6).
- (8) The funeral undertaker's premises shall be rodent-proof.

10A. Conveyance of Mortal Remains

No person shall convey any mortal remains:

- (1) unless the mortal remains have been sealed in an airtight container and placed in a non-transparent, sturdy, sealed coffin; or
- (2) No coffin container in which the mortal remains have been placed may be conveyed unless –
 - (a) the outer surface of such coffin or container is free from any leakages or any other secretion matter emanating from such mortal remains; and

- (b) offensive odours are absent.

11. Hygiene

- (1) All health care waste generated must be stored, removed, transported and disposed of in accordance with Council's Environmental Health Bylaws.
- (2) Every holder of a certificate of competence relating to funeral undertaker's premises shall -
 - (a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the preparation of corpses or post mortems, and each such employee or other person shall, at all times when so involved, wear such clothing;
 - (b) keep such premises free of pests and insects at all times.
 - (c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared;
 - (d) wash and disinfect all equipment used for the preparation of corpses immediately after use;
 - (e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis; and
 - (f) keep such premises clean and tidy at all times;
 - (g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

12. Penalties

Any person who -

- (1) contravenes or fails to comply with any provisions of these bylaws;
- (2) contravenes or fails to comply with any notice given or condition imposed in terms of these bylaws;
- (3) for the purpose of these bylaws makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or officer; or
- (4) threatens, resists, interferes with or obstructs an authorized officer or employee of Council in the performance of his powers, duties or functions under these bylaws,

shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding twelve months or to both the fine and the imprisonment.