



BA-PHALABORWA MUNICIPALITY

POLICY ON EXHUMATIONS AND REBURIALS OF HUMAN REMAINS

TABLE OF CONTENTS

No.	CONTENT	PAGE NO.
1	Purpose	2
2	Definitions	2
3	Legal provisions	2
4	Cultural heritage	2
5	Authorization for exhumation of human remains	2
6	Exhumation requirements	3
7	Reburial of human remains	4
8	Conveyance of human remains	4
9	Compliance with the pandemic	4

1. Purpose

To delineate a policy with respect to the protection and preservation of found human remains including the reporting, exhumation and reburial of such remains, consistent with the provisions of The Heritage Resources Act.

2. Definitions

The definition of human remains, for the purposes of this document, is that provided in The Heritage Resources Act, which reads as follows:

“human remains” means remains of human bodies that in the opinion of the Minister have heritage significance and that are situated or discovered outside a recognized cemetery or burial ground in respect of which there is some manner of identifying the persons buried therein.

3. Legal provisions

The National Health Act, 2003 (Act No, 61 of 2003) Regulations Relating to the Management of Human Remains provides in terms of Authorization for exhumation of humans in section 26, Exhumations requirements in section 27 and the Reburial of human remains in section 28.

4. Cultural heritage

It is common to find cultural heritage objects, or “artifacts”, associated with human remains, or as parts of grave furniture (coffins, etc.).

These heritage objects, termed “grave goods” by archaeologists, are integral to the formulation of policy and procedures relative to the handling of human remains.

It is therefore imperative to obtain authorization to exhume human remains.

5. Authorization for exhumation of human remains

1. No exhumations and reburials of human remains shall be done unless:

(a) authorized by the relevant sphere of government and permitted by the relevant local government in whose jurisdiction the exhumation and reburial will take place; or

(b) A court order issued by a magistrate and shall be permitted by the relevant local government in whose jurisdiction the exhumation and reburial will take place.

2. Exhumation approval shall not be issued without a reburial permit issued by the relevant local government in which the reburial will take place. or without a cremation permit, in cases where the exhumed body will be cremated.

3. No person shall exhume any human remains, unless for the: -

(a) removal from the original grave to a new grave acquired in the same cemetery;

(b) removal for burial in another cemetery;

(c) removal for cremation;

(d) removal for forensic: examination of the deceased;

(e) transfer from a public grave to a private grave;

(f) for legal reasons. such as crime related investigations; or

(g) for archeological reasons.

4. The local government shall grant a permit for an exhumation on condition that the exhumation of the human remains shall only be done by a registered undertaker; such undertaker shall be based in the jurisdiction of the local government issuing the exhumation permit referred to in the regulation.

6. Exhumation requirements

1. The following are the exhumation requirements:
 - (a) whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.
 - (b) a member of the South African Police Services must always be present when an exhumation is being conducted
 - (c) an exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer—In-charge.
 - (d) the disinterment or removal of human remains shall be carried out under the supervision of an Environmental Health Practitioner of the relevant health authority in whose area of jurisdiction the human remains are buried, provided that if the relevant health authority concerned does not have the services of an Environmental Health Practitioner at the time, such authority may request the services of an Environmental Health Practitioner of another health authority, or an environmental health practitioner in private practice , registered with the HPCSA as an Environmental Health Practitioner to perform the duties as referred to in the regulation;
 - (e) only persons with direct involvement may be present at the disinterment or removal of human remains and no dogs or other animals maybe allowed at the grave site; and
 - (f) an Environmental Health Practitioner must monitor the exhumation process to ensure that no health nuisance or hazard is caused, by ensuring that at the exhumation site:
 - (i) the grave and the human remains are treated with a disinfectant after exhumation and any other protective measures as he/she may deem necessary;
 - (ii) an adequate supply of water, soap and disinfectants for cleansing purposes shall be available at the grave for cleansing of persons handling the human remains;
 - (iii) the correct grave is re-opened;
 - (iv) human remains are placed in a non-transparent and closely sealed container immediately after it has been disinterred and be handled in a way that no nuisance or health hazard is caused;
 - (v) a new approved container is supplied by the undertaker, or if the existing container is to be reused, that it is secured and leak proof;
 - (vi) human remains exhumed and ail pieces of the original coffin are placed in the new coffin;
 - (vii) a new coffin is properly sealed and identified;

- (viii) the health and safety of the workers is maintained by use of approved protective equipment;
- (ix) the grave is not left unguarded. and
- (x) immediately after the remains have been removed. that such grave is covered or sealed with approved top soil.

7. Reburial of human remains

1. All reburials shall be registered with the relevant local government and the local government concerned shall thereupon enter such reburial in the register of reburials of such local government.

8. Conveyance of human remains

1. (1) The human remains of a person who, at the time of his or her death suffered from a disease or condition which is capable of transmitting an illness even after death and in the opinion of the health authority concerned, may pose a health hazard or endanger public health in one way or another, may not be conveyed in public in any way unless:
 - (a) Such human remains are placed in a polythene bag sealed in an airtight container, placed in a sturdy non-transparent sealed coffin, embalmed and or the total surface of the body covered with a 5 cm layer of wood sawdust or other absorbent material which is treated with a disinfectant;
 - (b) A medical practitioner declares in writing that in his or her opinion the conveyance of such human remains will not constitute a health hazard.
 - (c) Such declaration must accompany the human remains at all times during the conveyance and up to the burial; and
 - (d) For human remains of a person whose cause of death was small pox, anthrax or viral hemorrhagic fever, the body shall not be embalmed, but strict guidelines on management of communicable diseases as may be published by the Department of Health shall be followed.
2. The declaration referred to in sub-regulation 1 shall be shown to an officer on demand by the person responsible for the conveyance of the human remains.
3. No person shall damage a container referred to in sub-regulation (1)(a), or open such container or remove the remains from the container or come into direct contact with the human remains after it has been sealed without prior approval from an officer referred
4. to in sub-regulation (1)(b).

9. COMPLIANCE WITH THE PANDEMIC

This policy will be implemented in line with all pandemic guidelines.

ACTING MUNICIPAL MANAGER
JB SELAPYANE

DATE

COUNCIL RESOLUTION:

DATE:

