

# MAKHADO MUNICIPALITY

## DRAFT MUNICIPAL FACILITIES: CEMETERIES BY-LAWS

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**1. Definitions**

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

“**adult**” (where the word is used to define a body) means a deceased person whose coffin will fit into the grave opening prescribed for adult in section 18;

“**aesthetic section**” means a cemetery or section of a cemetery which has been set aside by the Council wherein a headstone may only be erected and strips of garden will be provided by the Council;

“**berm**” means a concrete base laid by the Council at the head of a grave, in the Aesthetic Section;

“**body**” means the remains of a deceased person and includes a still-born child;

“**burial**” means burial in earth or any other form of sepulture and includes the cremation or any other mode of disposal of a body;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 No. of 1992);

“**caretaker**” means the official whom the Council appoints from time to time in a supervisory capacity with regard to the Cemetery;

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

“**child**” (where the word is used to define a body) means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18;

“**columbarium**” means a structure containing rows of niches for the purpose of placing receptacles containing the ashes of cremated bodies therein;

“**contractor**” means the person who has paid or caused any of the charges prescribed in the tariff to be paid or who has obtained any of the rights set out in these by-laws or who has obtained the right to have a memorial work erected or constructed or who has obtained any other rights or interests referred to or mentioned in these by-laws.

## **2. Principles and objectives**

The Council, acting under the powers granted to it by national and provincial legislation, and aware of the dignity of its residents and the need to preserve that dignity, and aware that a dead body is to be granted respect, and that all its residents have the right to inter a body in a cemetery, hereby adopts these by-laws to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a body by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

## **3. Application of By-Laws**

These by-laws apply to all cemeteries within the Makhado municipal area.

#### **4. Legislative framework**

These By-laws fall within the legislative framework of the:

- (a) Inquests Act, 1959 (Act No. 58 of 1959);
- (b) Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- (c) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (d) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- (e) Local Government: Municipal Systems Act. 2000 (Act No. 32 of 2000).

### **CHAPTER I GENERAL**

#### **5. Curator, and Burial order**

- (1) Council must appoint a curator for each cemetery to control and administer the cemetery.
- (2) The curator may not allow an interment to take place unless a burial order in, terms of section 20 of the Births and Deaths Registration Act, 1992 has been issued.
- (3) The curator must keep a record of all interments, and the record must contain:
  - (a) The particulars of the person who requested the interment;
  - (b) The particulars of the body to be interred, such as the name, address, and identification number;
  - (c) The number of the grave in which the body is interred; and
  - (d) The date of the interment.

#### **6. Interment and cremation**

- (1) No person may dispose of a body in any other manner than by interring it in a cemetery, or having it cremated in a crematorium approved in terms of provincial legislation.
- (2) The remains of a body (hereinafter referred to as “the ashes”) cremated at a crematorium within or outside the boundaries of the municipality may be interred in a columbarium or in a grave, on payment of the charges prescribed in the tariff.
- (3) A person who contravenes subsection (1) commits an offence.

**7. Interment free of charge**

The Council may upon request inter a dead body free of charge in such grave and manner as is the responsibility of the Council in terms of the provisions of any other law.

**8. Hours of admission or visit for public**

- (1) Every cemetery is open to the public 7 days a week during the following hours: 08h00 and 17h00, however the Council may close to the public a cemetery or part thereof for such periods if it is in the interest of the public.
- (2) No person, excluding workers or persons with permission, may be in or remain in a cemetery or part thereof before or after the hours mentioned in subsection (1) or during a period when it is closed to the public.
- (3) A person who contravenes subsection (2) commits an offence.
- (4) Special permission must be obtained from the Caretaker for admission of the cemetery during non-official hours.

**9. Children**

- (1) No child under 12 years of age may enter a cemetery unless he or she is under the care of an adult person.
- (2) A person who allows a child to enter a cemetery in contravention of subsection (1), commits an offence.

**10. Keeping to path**

Except for purposes permitted by these by-laws, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

**11. Entrance and exit to cemeteries, office, fenced place or building**

- (1) No person may enter or leave a cemetery, except by a gate provided for the purpose.
- (2) No person may enter an office, building or fenced place in a cemetery, except in connection with lawful business.
- (3) A person who contravenes subsection (1) or subsection (2) commits an offence.

**12. Distribution of tract or advertisement**

- (1) No person may solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement within a cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

**13. Disrespect**

- (1) No person may treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work.
- (2) A person who contravenes subsection (1) commits an offence.

**14. Prohibited conduct within cemetery**

- (1) No person may –
  - (a) commit or cause a nuisance within a cemetery;
  - (b) ride an animal or cycle within a cemetery;
  - (c) bring or allow an animal to wander inside a cemetery;
  - (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
  - (e) hold or take part in a demonstration in a cemetery;
  - (f) interrupt during the performance of his or her duties an official; workman or labourer employed by the Council in a cemetery;
  - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under these by-laws to make;
  - (h) use a cemetery for an immoral purpose;
  - (i) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a cemetery;
  - (j) use water for any form of gardening without the permission of the caretaker;
  - (k) plant trees, flowers or shrubs on or between graves;
  - (l) leave any rubbish, soil, stone, debris or litter within the cemetery, and
  - (m) in any way damage or deface any part of a cemetery or anything therein contained.

- (1) An animal found in a cemetery may be destroyed by the Council, without paying any compensation to the owner thereof.
- (2) A person who contravenes a provisions of subsection (1) commits an offence.

#### **15. Rights of interest in ground**

No person shall acquire any right to or interest in any ground or grave in a cemetery, other than such rights or interests as may be obtainable under these by-laws.

### **CHAPTER II INTERMENT**

#### **16. Application for, purchase and use of grave**

- (1) A person desiring to have a body interred in a grave must submit to the caretaker an application in writing in the form set out in Schedule A and the application must be signed by the nearest surviving relative of the person whose body will be buried in the grave or such other person as the nearest surviving relative may authorize to sign the application on his or her behalf.
- (2) If the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, or for another valid reason, he or she may in his or her discretion grant an application signed by any other interested person.
- (3) An application must be submitted to the caretaker at least one working day before the time of the interment and two working days in the case where the size of the grave exceeds the standards size.
- (4) The Council may on payment of the applicable charges prescribed in the tariff sell to a person the use of a grave in a section of A cemetery.
- (5) Not more than two interments are allowed in a grave in which a corpse had already been entombed, except where application is made in terms of subsection (1) and sections 20 and 23 and the charges prescribed in the tariff have been paid.
- (6) No person may inter a body without an application first having been approved.

- (7) A person who contravenes subsection (5) or subsection (6) commits an offence.

**17. Alteration of date of interment**

Should any alteration be made in the day or hour previously fixed for an interment, notice of the alteration must be given to the caretaker at the cemetery at least six hours before the time fixed for the interment, and failure to do so constitutes an offence.

**18. Dimensions of grave openings**

- (1) The standard dimensions of graves are as follows
- (a) Adult
    - (i) Single grave: Length: 2200mm; Width: 900mm.
    - (ii) Double grave: Length: 2200mm; Width: 2700mm.
  - (b) Child
    - (i) Single grave: Length: 1500mm; Width: 700mm.
- (2) Any person requiring an aperture for an interment in an adult's grave of a size larger than the standard dimensions must, when submitting an application in the terms of section 16, specify the measurements of the coffin, and pay the charges prescribed in the tariff for enlarging the aperture.

**19. Depth of grave**

- (1) An adult's grave is 1900mm in depth and that of a child 1500mm in depth.
- (2) The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin may not be less than 1200mm from the surface.

**20. Reserving of grave**

- (1) Any person desiring to reserve the use of a grave must apply therefore to the caretaker.
- (2) A restriction is placed on the reserving of graves, and reservations shall only be accepted for adult graves in the monumental section as stated in subsection (3), upon payment of the charges prescribed in the tariff.
- (3) In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.

- (4) In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivors, however, subject to the provisions of section 23, the interment of the survivors may be permitted in the same grave.

**21. Child's coffin too large**

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the usual fee for an adult's interment must be paid by the person submitting an application in terms of section 16, and in the instance where a child's interred in a section intended for adults the tariff applicable to adults applies.

**22. Construction material of coffin**

- (1) A coffin interred in a grave must be constructed of wood or bio-degradable material.
- (2) A person who interrs a coffin in contravention of subsection (1) commits an offence.

**23. Number of bodies in one grave**

Only where prior arrangements has been made in terms of section 16(5) and subject to section 37, may more than one body be buried in a single grave.

**24. Coffin to be covered with earth / concrete**

Every coffin must upon being placed in a grave, be covered with at least 300 mm of earth or concrete immediately without delay, and failure to do so constitutes an offence.

**25. Disturbance of mortal remains**

- (1) Subject to the provisions of an exhumation order given in terms of the Inquests Act, 1959 (Act No. 58 of 1959) or any other provision of any Act relating to the exhumation of bodies, no mortal remains or ground surrounding it in a cemetery may be disturbed.
- (2) A person who contravenes subsection (1) commits an offence.

**26. Religious ceremony**

The members of a religious denomination may conduct a religious ceremony in connection with an interment or memorial service.

**27. Hearse and vehicle at cemetery**

- (1) No hearse or other vehicle may enter a cemetery without the permission of the caretaker.
- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for the purpose.
- (3) A person who contravened subsection (1) or (2) commits an offence.

**28. Exposal of body**

- (1) No person may expose a dead body or a part thereof in a cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

**29. Instructions of caretaker**

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

**30. Music inside cemetery**

- (1) Only sacred singing is allowed in a cemetery, except in the case of a police or military funeral, in which case the prior permission of the caretaker must be obtained.
- (2) A person who contravenes subsection (1) commits an offences.

**31. Interment attended by more than three hundred people**

In any instance where it is probable that more than 300 people will be present at an interment, the person submitting an application in terms of section 16, must notify the fact to the caretaker the day before the funeral, and failure to do so constitutes and offence.

**32. Occupation of chapel or shelter**

- (1) No person may for the purpose of a funeral occupy a chapel or shelter in a cemetery for more than 45 minutes.

- (2) A person who contravenes subsection (1) commits an offence.

**33. Days and hours of interment**

- (1) Interments may take place between 09h00 and 16h00 on week days and between 09h00 and 12h00 on Saturdays only.
- (2) A person who contravenes subsection (1) commits an offence.

**34. Number of grave**

- (1) No person may inter a body in a grave on which a peg marked with the number of the grave has not been fixed.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER III**

**EXHUMATION OF BODY AND RE-OPENING OF GRAVE**

**35. Exhumation**

- (1) Subject to permission from the municipality, or the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 (Act No. 58 of 1959) or any other provision of any Act relating to the exhumation of corpses, no person may without an Environmental Health Practitioner being present:
  - (a) disturb a corpse or mortal remains or ground surrounding it in a cemetery; or
  - (b) remove a corpse from a grave.
- (2) Any person requesting for a corpse to be exhumed or a grave to be opened must provide the municipality with an affidavit certifying that he or she has the authority to do so, and such an affidavit must be accompanied by any supporting documentation that may be required in terms of any Act relating to the exhumation of corpses.
- (3) The prescribed fee for exhumation must be paid to the municipality at least two days before the date fixed for the exhumation or removal of the corpse.
- (4) A person who contravenes the provisions of subsection (1) commits an offence.

**36. Time of exhumation**

- (1) No person may exhume or cause a corpse to be exhumed at any other time than that specified by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

**37. Re-opening of grave**

- (1) No person may re-open a grave for the purpose of interring a second corpse in the same grave without permission of the municipality
- (2) When considering an application contemplated in subsection (1), the municipality may impose such conditions it may deem necessary.
- (3) The municipality may re-open a grave for the purpose of establishing the identity of the corpse.
- (4) In the event of a police investigation, a corpse may be exhumed on receipt of a written request from the investigating officer, provided that the provisions of the Inquests Act, 1959 (Act No. 58 of 1959) have been complied with.
- (5) A person who contravenes subsection (1) or any condition imposed in terms of subsection (2) commits an offence.

**CHAPTER IV  
CARE OF GRAVE**

**38. Shrubs and flowers**

The Council may at any time prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged, or wilted.

**39. Care of graves**

- (1) The maintenance of a grave is the responsibility of the person contemplated in section 16(1).
- (2) The municipality may, on application by a person contemplated in section 16(1), and upon payment of a fee prescribed by the municipality, undertake to keep any grave in order for any period.

**CHAPTER V**  
**ERECTION AND MAINTENANCE OF MEMORIAL WORK**

**40. Consent of Council**

- (1) No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Council and of the contractor of a grave.
- (2) When erecting a memorial work, the following must be submitted:
  - (a) a sketch which gives an indication of the measurements and the position;
  - (b) specification of the material of which the memorial work is to be constructed; and
  - (c) the wording of the epitaph.
- (3) The sketch must be submitted 30 days before the erection commences, and must be accompanied by the charges prescribed in the tariff.
- (4) A person who contravenes subsection (1) commits an offence.

**41. Position of memorial work**

- (1) No person may erect a memorial work on a grave, before the position in which such memorial work is to be placed has been indicated by the Council.
- (2) Should the condition of subsection (1) not be complied with the Council has the right to alter the position of the memorial work and to recover the costs of the alteration from the contractor.

**42. Repairs to memorial work**

Should the contractor of a grave allow a memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Council may cause a Notice of Compliance, as contemplated in section 61, to be served on the contractor.

**43. Supervisions of work**

A person engaged upon any work in a cemetery must effect the work under the supervision of the Council, and failure to do so constitutes an offence.

**44. Damaging of memorial work**

The Council under no circumstances accepts responsibility for any damage which may at any time occur to a memorial work, and which is not due to the negligence of the Council's employees.

**45. Moving of memorial work**

The Council may, after due notice, at any time change or alter the position of a memorial work in a cemetery and recover the cost thereof from the owner of the memorial work, however in an instance where a memorial work has originally been placed in a certain position with the express consent of Council or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Council.

**46. Bringing material into cemetery**

- (1) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless and until –
  - (a) the provisions of section 40 have been complied with;
  - (b) all charges due in respect such grave have been duly paid; and
  - (c) the Council's written approval of the proposed work has been given to the applicant, which approval is only valid for six months, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.
- (2) The grave number must be neatly indicated in figures 30 mm in size, and failure to do so constitutes an offence.
- (3) A person who contravenes subsection (1) commits an offence.

**47. Cleaning of memorial work by Council**

A memorial work placed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of these by-laws are contravened thereby, may be removed by the Council at the cost of the contractor after due notice, without payment of any compensation.

**48. Requirements for erection of memorial work**

- (1) A person erecting a memorial work must comply with the following:

- (a) He or she must be in possession of a plan approved by the Council;
  - (b) All work must be effected according to the provisions laid down by the Council;
  - (c) Proceedings must be of such a nature that no damage be caused to any structure or offence given;
  - (d) Where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
  - (e) With the contractor's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm; and
  - (f) Tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal.
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

**49. Conveying of memorial work**

- (1) No person may convey any stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck, which may cause damage to the paths or grounds or structures of the cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

**50. Vehicle and tools**

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene these by-laws and by no means block any road or roads, and failure to do so constitutes an offence.

**51. Complying with Council's directions**

A person carrying on work within a cemetery must in all respects comply with the directions of the Council, and failure to do so constitutes an offence.

**52. Times for bringing in material and doing work**

- (1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during the following hours: Mondays to Fridays: From 07h00 to 18h00.
- (2) No person may engage in work, which may be disturbing when a funeral takes place and for the duration of the funeral.
- (3) A person who contravenes subsections (1) or (2) commits an offence.

**53. Inclement Weather**

- (1) No person may fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.
- (2) A person who contravenes subsection (1) commits an offence.

**54. Production of written permission**

A person charged with a work or on his or her way to or from work within the cemetery, must upon demand from the Council or its authorized official, produce the written consent issued to him or her in terms of section 40, and failure to do so constitutes an offence.

**CHAPTER VI**

**SECTIONS**

**55. Council to determine sections**

The Council determines the sections according to the provisions applicable.

**56. Memorial section**

- (1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 48 must be complied with and that the following measurements may not be exceeded:
  - (a) Height: 2000 mm.
  - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
  - (c) Thickness: 250 mm

- (2) The Council may in the course of time, level all graves and plant grass thereon.
- (3) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been leveled.
- (4) A person commits an offence of he or she –
  - (a) exceeds the measurements stipulated in subsection (1); or
  - (b) contravenes section (3).

**57. Garden of Remembrance**

- (1) This section contains only the columbarium with niches, and the containers may not exceed 300mm x 150mm x 150mm.
- (2) Plaques may be erected and must be of non-corrodible metal or masonry only and must be 150mm by 150 mm in size.
- (3) Flowers and wreaths may be placed on the places provided therefore only.
- (4) Failure to comply with the requirements of this subsection constitutes an offence.

**58. Heroes' Acre**

- (1) A heroes' acre consists of a structure erected for the purpose and contains no body but is only a memorial.
- (2) No person may erect such memorial without the written approval of the Council and the Council decides upon the merits of such matters.
- (3) The size of the memorial work must be 500 mm x 300 mm and must be manufactured from a non-corrodible metal or masonry upon which inter alia, the contribution made by the person in question is mentioned.
- (4) A person who interments a body in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

**CHAPTER VII  
MISCELLANEOUS**

**59. Authentication and service of order, notice or other document**

- (1) An order, notice or other document requiring authentication by the Council must be sufficiently signed by the Municipal Manager or by a duly authorized officer of the Council, such authority being conferred by resolution of the Council or by a by-law or regulation, and when issued by the Council in terms of these by-laws shall be deemed to be duly issued if it is signed by an officer authorized by the Council.
- (2) Any notice or other document that is served on a person in terms of these by-laws, is regarded as having been served –
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**60. Complaint**

A person wishing to lodge a complaint must lodge the complaint, in writing, with the Municipal Manager.

**61. Notice of compliance and representations**

- (1) A notice of compliance must state –
  - (a) the name and residential and postal address, if either or both of these be known, of the affected person;
  - (b) the nature of the state of disrepair;
  - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
  - (d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
  - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
  - (f) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to Council at a specified place.
- (2) Council, when considering any measure or time period envisaged in subsection (1) (d) and (e), must have regard to –
  - (a) the principles and objectives of these By-laws;
  - (b) the state of disrepair;
  - (c) any measures proposed by the person on whom measures are to be imposed; and
  - (d) any other relevant factors.
- (3) A person may within the time period contemplated in paragraph (1) (f) make representations, in the form of a sworn statement or affirmation to Council at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and Council condones the late lodging of the representations.
- (5) Council must consider the representations and any response thereto by an authorized official or any other person, if there be such a response.
- (6) Council may, on its own volition, conduct any further investigation to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Council must also consider the further response.

- (7) Council must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must-
  - (a) set out the findings of Council;
  - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
  - (c) specify a period within which the person must comply with the order made by Council.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Council will inform the person that he or she –
  - (a) must discharge the obligations set out in the notice; or
  - (b) may elect to be tried in court.
- (10) If the person elects to be tried in court he or she must, within seven calendar days, notify Council of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the order.
- (12) Where there has been no compliance with the requirements of a notice, the Council may take such steps as it deems necessary to repair the memorial work and the cost thereof must be paid to the Council in accordance with section 62.

## **62. Costs**

Should a person fail to take the measures required of him or her by notice, the municipality may recover from such person all costs incurred as a result of it acting in terms of section 61(12).

## **63. Appeal**

- (1) A person whose rights are affected by a decision of an official, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) The municipal manager must commence with an appeal within six weeks and decide the appeal within a reasonable time.

#### **64. Charges**

- (1) The charges set forth in the tariff (as contained in Schedule B) in respect of the various items therein contained, must be paid to the Council.
- (2) Should a person fail to pay a tariff as prescribed in these by-laws, Council may act in accordance with the provisions of the Credit Control and Debt Collection By-laws, 2010.

#### **65. Notice of contravention**

- (1) The Council may serve a notice of contravention on a person who has committed an offence in terms of these by-laws.
- (2) A notice of contravention must –
  - (a) specify at the time when the notice is issued, the name and residential and postal address, if either or both of these be known, of the person on whom the notice is served
  - (b) state the particulars of the contravention;
  - (c) specify the amount of the penalty payable in respect of that contravention and the place where the penalty may be paid; and
  - (d) inform the person that he or she may, within 28 calendar days of the date of service of the notice –
    - (i) pay the penalty;
    - (ii) inform Council in writing that he or she elects to be tried in court on a charge of having committed an offence.
- (3) If a person elects to be tried in a court he or she must, within seven calendar days, notify the Council of his or her intention.

#### **66. Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to-

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by Council as result of such contravention or failure.

**67. Limitation of liability**

The Council is not liable for any damage or loss caused by –

- (a) the exercise of any power or the performance of any duty in good faith under these By-laws;
- (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

**68. Revocation of by-laws**

The Louis Trichardt Cemeteries By-laws, 1985 are hereby revoked

**SCHEDULE**

**SCHEDULE A**

**APPLICATION FORM**

Name of applicant .....

Address of applicant .....

Name of diseased person to be interred .....

Particulars of diseased person .....

**SCHEDULE B**

**TARIFF OF CHARGES**

1. Section 6(2) : R .....
2. Section 19(4): R .....
3. Section 19(5): R .....
4. Section 21(2): R .....
5. Section 22(2): R .....
6. Section 22(4): R .....
7. Section 23: R .....
8. Section 37(2): R .....
9. Section 42(3): R .....