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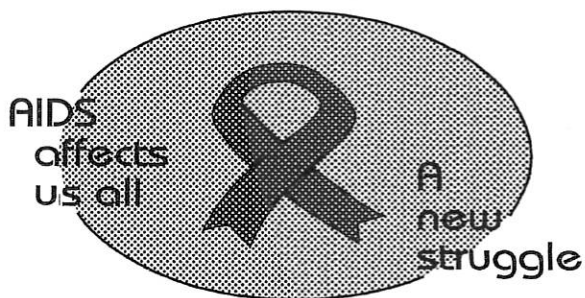
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No. 2908

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NOTICE 41 OF 2018



MUSINA LOCAL MUNICIPALITY

CEMETERIES AND CREMATORIA BY-LAW

The Municipal Manager of Musina Local Municipality acting in terms of section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) hereby publishes the cemeteries and crematoria by-law for the Municipality as approved by Council as set out hereunder.

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1. Definitions

In this by-law, 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 an adult;

“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 No. 51 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;

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

“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 this by-law 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 this by-law.

2. Purpose

- (1) To make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

3. Application for a grave

- (1) A person desiring to have a body interred in a grave must submit to the municipality 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 any family member as the nearest surviving relative may authorize to sign the application on their behalf.
- (2) An application must be submitted to the municipality at least three working days before the time of the interment and four working days in the case where the size of the grave exceeds the standard size, unless otherwise.
- (3) The municipality shall upon payment of a prescribed tariffs given permit the use of a grave in a section of a cemetery.

- (4) 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 15 and 18 and the prescribed tariff has been paid.
- (5) No person may inter a body without an application first having been approved by the municipality and a permit been obtained.
- (6) If the application is unsuccessful the municipality must inform the applicant and notify the applicant about the rights as outlined in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

4. Burial order

- (1) The municipality must appoint an authorized official for each cemetery to control and administer the cemetery.
- (2) The municipality through its authorized official 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 municipality 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.

5. Interment

- (1) No person may dispose of a body or the remains after cremation in any other manner than by interring it in a cemetery.
- (2) The municipality may upon request inter a dead body free of charge if it is a pauper, indigent person or under any other circumstances that are beyond control.

6. Hours of admission or visit for public

- (1) Every cemetery is open to the public 7 days a week during the following hours: 08:00 and 16:00, however the municipality 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 authorized officials 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) Special permission must be obtained from the municipality for admission to the cemetery during non-official hours.

7. Children

- (1) No child under 12 years of age may enter a cemetery unless the child is under the care or supervision of an adult person.

8. Entrance and exit to cemeteries

- (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.

9. 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.

10. Disrespect

- (1) No person may treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work.

11. Prohibited conduct

- (1) No person may –
 - (a) enter or leave a cemetery except by a gate provided;
 - (b) distribute advertisements or solicit any business order or exhibit in the cemetery;
 - (c) commit or cause a nuisance within a cemetery;
 - (d) ride an animal or cycle within a cemetery;
 - (e) climb or sit on other graves or memorial work;
 - (f) bring or allow an animal to wander inside a cemetery;
 - (g) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the municipality;
 - (h) hold or take part in a demonstration in a cemetery;
 - (i) interrupt authorized officials of the municipality when performing their duties;
 - (j) obstruct, resist or oppose or refuse to comply with orders made by authorized official of the municipality;
 - (k) use a cemetery for an immoral purpose;

- (l) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a cemetery;
- (m) use water for any form of gardening without the permission of the municipality;
- (n) plant trees, flowers or shrubs on or between graves;
- (o) leave any rubbish, soil, stone, debris or litter within the cemetery, or
- (p) in any way damage or deface any part of a cemetery or anything therein contained.

12. Alteration of date of interment

- (1) 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.

13. 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 specify the measurements of the coffin, and pay the prescribed charges for enlarging the aperture.

14. 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.

15. Reservation of a grave

- (1) Any person desiring to reserve the use of a grave must apply therefore to the municipality.
- (2) A restriction is placed on the reserving of graves and reservations shall only be accepted for adult graves in the monumental section, upon payment of the prescribed tariffs.
- (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 the interment of the survivors may be permitted in the same grave.
- 16. Child's coffin too large**
- (1) 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 charges for an adult's interment must be paid by the person submitting an application and in the instance where a child's interred in a section intended for adults the tariff applicable to adults applies.
- 17. Construction material of coffin**
- (1) A coffin interred in a grave must be constructed of wood or bio-degradable material.
- 18. Number of bodies in one grave**
- (1) Only where prior arrangements has been made in terms of section 3 may more than one body be buried in a single grave.
- 19. Coffin to be covered with soil or concrete**
- (1) Every coffin must upon being placed in a grave, be covered with at least 300 mm of soil or concrete immediately without delay.
- 20. Religious ceremony**
- (1) The members of a religious denomination may conduct a religious ceremony in connection with an interment or memorial service.
- 21. Hearse and vehicle at cemetery**
- (1) No hearse or other vehicle may enter a cemetery without the permission of the authorized official.
- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for the purpose.
- 22. Exposal of body**
- (1) No person may expose a dead body or a part thereof in a cemetery.

23. Instructions by authorized official

- (1) A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the authorized official.

24. 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 municipality must be obtained.

25. 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 1:30 (one hour thirty) minutes.

26. Days and hours of interment

- (1) Interments may take place between 07:00 and 16:00 on week days and between 07:00 and 16:00 during the weekend and also on holidays.

27. 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.

28. Exhumation

- (1) Any person requesting for a corpse to be exhumed or a grave to be opened must provide the municipality with an affidavit certifying the authority to do so and such an affidavit must be accompanied by any supporting documentations that may be required in terms of any Act dealing exhumation of corpses and the approval thereof.
- (2) 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.
- (3) 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.

29. Shrubs and flowers

- (1) 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.

30. Care of graves

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

31. Consent of municipality

- (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 municipality.
- (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 if the memorial work is not done on the day of the funeral and must be accompanied by the charges prescribed.
- (4) If the memorial work is done on the day of the funeral the applicant must reflect it in the application for the grave and show the sketch.

32. 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 municipality.
- (2) Should the condition of subsection (1) not be complied with the municipality has the right to alter the position of the memorial work and to recover the costs of the alteration from the applicant.

33. Supervisions of work

- (1) A person engaged upon any work in a cemetery must effect the work under the supervision of the municipality.

34. Damaging of memorial work

- (1) The municipality 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 employees of the municipality.

35. 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 31 have been complied with;
 - (b) all charges due in respect of such grave have been duly paid; and
 - (c) the municipal 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.

36. Cleaning of memorial work

- (1) A memorial work placed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of this by-law are contravened thereby, may be removed by the municipality at the cost of the owner after due notice, without payment of any compensation.

37. Requirements for erection of memorial work

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

38. 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.

39. Vehicles and tools

- (1) 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 this by-law and by no means block any road or roads.

40. Complying with municipal directions

- (1) A person carrying on work within a cemetery must in all respects comply with the directions of the municipality.

41. 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 between 07:00 to 16:00 from Monday to Friday.
- (2) No person may engage in work, which may be disturbing when a funeral takes place and for the duration of the funeral.

42. Inclement weather

- (1) No person may fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.

43. Production of written permission

- (1) A person charged with a work to or from work within the cemetery, must upon demand from the municipality or its authorized official, produce the written consent issued for the work.

44. Memorial section

- (1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 37 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 2700 mm in case of a double grave; and
 - (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.

45. The 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 150mm in size.
- (3) Flowers and wreaths may be placed on the places provided therefore only.

46. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager or by a duly authorized officer of the municipality, 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 this by-law 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 this by-law, 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 or 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.

47. Complaint

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

48. Notice of compliance and representations

- (1) A notice of compliance must state –
- (a) the name, 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; and
 - (e) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to municipality at a specified place.
- (2) Council, when considering any measure or time period envisaged in subsection (1) (d) must have regard to –
- (a) the purpose of this by-law;
 - (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) (e) 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 municipality condones the late lodging of the representations.
- (5) The municipality must consider the representations and any response thereto by an authorized official, 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 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 the person –
 - (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 the person must, within seven calendar days, notify municipality.
- (11) If the person does not elect to be tried in court, the person must, within the prescribed manner and time discharge the 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 49.

49. Costs

- (1) Should a person fail to take the measures required by notice, the municipality may recover from such person all costs incurred as a result of it acting in terms of section 48(12).

50. Charges

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

51. Notice of contravention

- (1) The municipality may serve a notice of contravention on a person who has committed an offence in terms of this by-law.
- (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 the person may, within 28 calendar days of the date of service of the notice –
 - (i) pay the penalty; or
 - (ii) inform municipality in writing if the person elects to be tried in court on a charge.
- (3) If a person elects to be tried in a court the person must, within seven calendar days, notify the municipality.

52. 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.
- (4) The appeal must be in line with section 62 of the Local Government: Municipal Systems Act, 2000.

53. Offences and penalties

- (1) Any person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall upon conviction if found guilty be liable to a fine or imprisonment.

54. Repeal of by-laws

Mutale Local Municipality Cemeteries and crematoria by-law published in the Limpopo *Provincial gazette* number 1070 on the 14 June 2005 to an extend that it was applicable to wards which are now falling within Musina Local Municipality, or any cemeteries and crematories of Musina Local Municipality published dealing with cemeteries and crematories and any other by-law on cemeteries and crematoria applicable to the Musina Local municipality are hereby repealed.

55. Short title and commencement

This by-law is called Musina Local Municipality Cemetery and Crematoria

By-law and shall come into operation on the date of publication in the *provincial gazette*.

SCHEDULE 1**MUSINA LOCAL MUNICIPALITY****APPLICATION FOR RESERVATION OF A GRAVE**

Certificate of reservation no.....

This serve to certify that Identity number of

.....having paid the prescribed fees of R....., is entitled
to use the site(s) described below for the:Purpose of burial of:..... Identity
number.....

Grave plot no:.....section.....

Measuring.....

Cemetery

Date of burial:

Time of burial:.....

MUNICIPAL MANAGER_____
DATE