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 XIFUNDZANKULU XA LIMPOPO  
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 VUNDU LA LIMPOPO  
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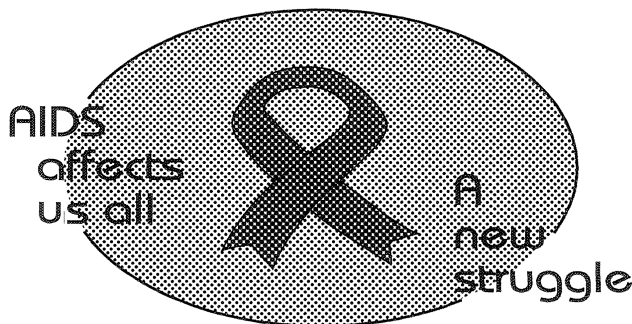
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**No. 2190**  
 Buitengewoon  
 Hu tshi katelwa na  
 Gazethe dza *Nyingo*

**We all have the power to prevent AIDS**



**Prevention is the cure**

**AIDS  
 HELPLINE**

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DEPARTMENT OF HEALTH

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**CONTENTS • INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>LOCAL AUTHORITY NOTICE</b>			
46	Local Government: Municipal Systems Act (32/2000): Mogalakwena Municipality:		
	Cemetery By-laws.....	3	2190
	Public Anemities By-laws.....	20	2190

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## LOCAL AUTHORITY NOTICE

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### LOCAL AUTHORITY NOTICE 46

<b>MOGALAKWENA MUNICIPALITY CEMETERY BY-LAWS</b>
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The Municipal Manager of Mogalakwena Local Municipality hereby publishes in terms of section 13 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000) the By-laws set forth hereinafter, which have been adopted by the council.

#### INDEX

	<b>Page number</b>
1. Introduction	5
2. Definitions	5
3. Establishment of Cemetery	5
4. Disposal of Bodies	5
5. Permission of Caretaker for Interments	6
6. Free Burial	6
7. Hours of Admission to Visitors	6
8. Children	6
9. Keeping to Paths	6
10. Entrance and Exit from Cemetery	6
11. No Person to Distribute Tracts or Advertisements	6
12. Sitting or Climbing on Memorials	6
13. Committing Nuisance	6
14. Animals in Cemetery	6
15. Riding Forbidden	7
16. Disturbance of Soil or Plants	7
17. Demonstration	7
18. Bribes	7
19. Interruption of Workmen	7
20. Obstruction of Caretaker	7

21.	Complaints	7
22.	Immoral Uses	7
23.	Defacing Monuments	7
24.	Fees	7
25.	Right to Ground in Cemetery	8
26.	Signature of Notices	8
27.	Interments in Public and Private Graves or Plots	8
28.	Plans	9
29.	Consent of Municipality to Transfer	9
30.	Registration of Transfer	9
31.	Interment in Public Graves	9
32.	Interment in Private Graves	9
33.	Notice of Interment	10
34.	Office Hours	10
35.	Payment of Fees	10
36.	Dimensions of Apertures for Graves	10
37.	Child's Coffin Over Size	10
38.	Depth of Grave	10
39.	Opening of Graves	11
40.	Covering of Earth	11
41.	Fees must be paid	11
42.	Construction of Graves & Coffins	11
43.	Restricted Number of Burials in One Grave	11
44.	Covering Coffin with Earth	11
45.	Disturbing Human Remains	11
46.	Funerals	11
47.	Interment of Deceased Persons Resident Outside Local Area Committee Areas	12

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48.	Exposure of Dead Body	12
49.	Directions of Caretaker	12
50.	Gun-Shots	12
51.	Bands	12
52.	Exhumation	12
53.	Hours of Internment	12
54.	Numbering of Graves	12
55.	Coffin Lids not to be removed	12
56.	Exhumations of Bodies and Re-Opening of Graves	12
57.	Screening of Operations	13
58.	Grant or Deed Required before Re-Opening Graves	13
59.	Removal by Municipality of Body from One Grave to Another	13
60.	Exhumations in Terms of Various Enactments	13
61.	Care of Graves	13
62.	Railings	13
63.	Memorials or Inscriptions cannot be Admitted without the Consent of the Council	14
64.	Memorial Work on Graves	14
65.	Exclusion of Memorial Work	14
66.	Repair of Memorial Work	14
67.	Removal of Memorial Work from the Public Grave	14
68.	Supervision of Work	15
69.	Damage to Memorial Work	15
70.	Reversing, Etc, of Memorial Work	15
71.	Bringing of Material into Cemetery	15
72.	Removal of Memorial Work by Municipality	15
73.	Numbering of Graves	15
74.	Conveyance of Memorial Work	15

75.	Vehicles and Tools	16
76.	Compliance with Directions of Caretaker	16
77.	Rubbish and Debris	16
78.	Removal of Repairs	16
79.	Unsuitable Weather	16
80.	Production of Permit	16
81.	Penalties	16
82.	Repeal of By-Laws	16
83.	Commencement Date	17

## 1. INTRODUCTION

The purpose of the by-law is:

- To provide for cemeteries for the burial of dead bodies;
- To provide for procedures, methods and practices to regulate the burial and exhumation of dead bodies; and
- The provision of grave plots and maintenance thereof.

## 2. DEFINITIONS

For the purpose of these by-laws, which may be cited for all purpose as the Cemetery By-laws":-

*"Adult" shall mean any deceased person over the age of 12 years whose coffin exceeds the dimensions prescribed for children in Section 36[b].*

*"Caretaker" shall mean the person from time to time holding the appointment of caretaker of any cemetery or acting in such capacity appointed by the municipality;*

*"Cemetery" shall mean any piece of ground duly set apart by the Council as a public cemetery;*

*"Child" shall mean any deceased person under the age of 12 years whose coffin does not exceed the dimensions prescribed for children in Section 36[b];*

*"Memorial work" shall mean any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected upon any grave;*

*"Municipality" shall mean the municipality to which these by-laws apply;*

*"Person" shall mean any person except an official of the municipality on duty in any cemetery;*

*"Plot" shall mean any piece of ground laid out for two or more graves, the exclusive right to inter in which ground has been purchased by any person in terms of Section 32;*

*"Private grave" shall mean any piece of ground laid out for a single grave within any cemetery, the exclusive right to inter in which ground has been purchased, subject to the conditions mentioned in Section 27;*

*"Public grave" shall mean any grave which any person has purchased or may purchase the right of having a single body interred without obtaining any exclusive right to such grave or the use thereof;*

*"Registrar of Deaths" shall mean any person for the time-being appointed by the Government to register deaths.*

**3. ESTABLISHMENT OF CEMETERY**

The Municipality may from time to time set apart any ground for the purpose of a public cemetery, and no person shall inter or cause any body to be interred in any other place except with written permission of the Municipality.

**4. DISPOSAL OF BODIES**

No person shall dispose; burn or cremate of any dead body in any other manner than by burial.

**5. PERMISSION OF CARETAKER FOR INTERMENTS**

No person shall inter or cause any body to be interred within any cemetery without the permission of the caretaker.

**6. FREE BURIAL**

The Municipality may upon application, at its discretion, inter any body free of charge, in such place and manner as it may deem fit.

**7. HOURS OF ADMISSION TO VISITORS**

The cemetery shall be open every day from 06h00 till 06:30; provided always that the Municipality shall have power to close to the public that cemetery or any portion thereof for such periods as to the Municipality may seem fit.

**8. CHILDREN**

No person under twelve years of age may enter the cemetery unless such person is under the care of a responsible person.

**9. KEEPING TO PATHS**

No person shall leave the gravel roads and pathways except for purposes permitted by these by-laws.

**10. ENTRANCE AND EXIT FROM CEMETERY**

No person shall enter or leave the cemetery except by the proper entrance gates or shall enter any office or enclosed place in the cemetery except on business.

**11. NO PERSON TO DISTRIBUTE TRACTS OR ADVERTISEMENTS**

No person shall solicit any business, order or exhibit, distribute or leave any tract, business card or advertisement within the cemetery, or shall use any cemetery road or walk for the conveyance of any goods, parcel or other material except such as are intended for use in such cemetery.

**12. SITTING OR CLIMBING ON MEMORIALS**

No person shall sit, stand or climb upon or over any memorial work, gate, wall, fence or building in the cemetery.

**13. COMMITTING NUISANCE**

No person shall commit any nuisance within the cemetery.



**14. ANIMALS IN CEMETERY**

No person shall bring or allow any dog, cat, fowl or any other animal or bird to wander inside the cemetery. Any dog, cat or fowl found in the cemetery may be destroyed by the Municipality without paying any compensation to the owner thereof.

**15. RIDING FORBIDDEN**

No person shall ride any animal or cycle within the cemetery where such riding is not expressly permitted by the Municipality.

**16. DISTURBANCE OF SOIL OR PLANTS**

No person, except where it is expressly permitted under these by-laws, shall disturb the soil, plant or uproot any shrub or flower or in any way interfere with any grave or erection in the cemetery.

**17. DEMONSTRATION**

No person shall hold or take part in any demonstration in the cemetery without the consent of the Municipality.

**18. BRIBES**

No person shall bribe or offer any gratuity to any servant of the Municipality employed in or about the cemetery, and no such person shall accept any bribe or gratuity.

**19. INTERRUPTION OF WORKMEN**

No person shall interrupt any workman or labourer employed by the Municipality in the cemetery in the performance of his/her duties.

**20. OBSTRUCTION OF CARETAKER**

No person shall obstruct, resist or oppose the caretaker in the course of his duty or refuse to comply with any order or request which the caretaker is entitled to make under these by-laws.

**21. COMPLAINTS**

Any person wishing to make any complaint shall enter such complaint in a book which will be kept for that purpose at the caretaker's office.

**22. IMMORAL USES**

No person shall use or cause the cemetery to be used for any immoral purposes.

**23. DEFACING MONUMENTS**

No person shall mark, draw, scribble, erect advertisements upon or in any way deface any wall, building, fence, gate, memorial work or other erection within the cemetery.

**24. FEES**

The fees as determined from time to time by the Municipality shall be paid to the Municipality in respect of the various items therein contained within the times hereinafter mentioned.

**25. RIGHT TO GROUND IN CEMETERY**

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

**26. SIGNATURE OF NOTICES**

Whenever the consent or permission of, or a notice by the Municipality is required under these by-laws, such consent, permission or notice shall be deemed to have been granted or issued on any order or notice signed by the Municipal Manager or by any other official of the Municipality duly authorized thereto.

**27. INTERMENTS IN PUBLIC AND PRIVATE GRAVES OR PLOTS**

- a) The Municipality may, at its discretion, sell to any person the use of any piece of ground for a private grave or plot. Unless otherwise arranged, such graves shall be of the dimensions described in Section 36. Any person desiring to purchase the use of any such private grave or plot shall apply to the caretaker. Such grave or plot shall be allotted by the caretaker and held, subject to the provisions of these by-laws.
- b) **Burial of ashes**
- i) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker.
  - ii) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility shall be made to the caretaker in writing by completing and submitting a prescribed application form.
  - iii) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.
  - iv) An application for permission for a burial must be submitted at least 24 [twenty-four] working hours prior to the planned burial, failing which the caretaker may refuse the applications.
  - v) An urn or casket ashes that has been deposited in a building, columbarium or other facility shall not be removed without the caretaker's prior written consent.
  - vi) Every niche containing ashes shall be sealed by a tablet by the Council and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the

purpose of depositing and additional urn or casket hereafter it will once again be sealed.

- vii) Application for the opening of a niche shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- viii) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:
  - a) approval for the burial has been obtained in terms of the provisions of section viii);
- ix) Any person engaged upon any work on the columbarium, shall executive such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker.
- x) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.
- xi) The columbarium may be visited daily during official hours.
- xii) Plaques shall be made of material approved by the Council and shall be affixed simultaneously with the placing of the ashes and within 30 [thirty] days of the obtaining of the consent.

#### **28. PLANS**

Plan showing the various graves and plots available will be kept at the caretaker's office and may be inspected by any person free to charge during the office hours prescribed in 34 hereof.

#### **30. CONSENT OF MUNICIPALITY TO TRANSFER**

No person shall transfer or sell any private grave or plot without the consent of the Municipality.

#### **30. REGISTRATION OF TRANSFER**

Every transfer of a private grave or plot shall be registered by the Municipality on notification given by the transferor, and the registration fee be paid by the transferor to the Municipality. No transfer that does not comply with these conditions shall be valid.

#### **31. INTERMENT IN PUBLIC GRAVES**

Any person wishing to have any body interred in any public grave shall pay to the Municipality the prescribed fee for such interment at the time that the written notice of interment is given. Such person upon payment of the said fee shall be entitled to a single interment only and the position of the grave which shall remain the Municipality's property shall be determined by the caretaker.

**32. INTERMENT IN PRIVATE GRAVES**

Any person wishing to have any body interred in any private grave or in any grave contained in a plot where a previous interment has been made in such grave, shall in every case pay the prescribed fee.

**33. NOTICE OF INTERMENT**

Any person wishing to have any body interred shall give notice to the caretaker upon the form issued or approved by the Municipality for the purpose, not less than 48 hours before such interment. Such person shall in the notice of interment give the name, age, former residence, trade, occupation, nationality and religious denomination of the deceased person, the cause of death and the date of decease. Any person giving any false information in such notice shall be deemed to have committed a breach of these by-laws.

**34. OFFICE HOURS**

The caretaker's office will be open between the hours of 7:30 and 4:30.

**35. PAYMENT OF FEES**

All fees and charges as prescribed shall be paid to the Municipality who will give an official receipt for the same.

If any alternation be made in the day or hour previously fixed for an interment, notice of such alternation shall be given to the caretaker not later than one hour before such interment.

**36. DIMENSIONS OF APERTURES FOR GRAVES**

The regulation dimensions of the aperture for any grave shall be as follows:

a) ***For every adult:***

Length: 2,35m.  
Width: 0,91m.

b) ***For every child:***

Length: 1,50m.  
Width: 0,6m.

Any person requiring an aperture of larger dimensions for any interment shall, together with the written notice of interment, give the measurement of the coffin, including fittings. An additional fee, as determined from time to time, is payable.

**37. CHILD'S COFFIN OVER SIZE**

Should a child's coffin be too large for the child's grave it will be placed in an adult's grave and the usual fee for an adult's grave shall be paid by the person giving the notice of interment.

**38. DEPTH OF GRAVE**

No adult's grave shall be less than 1,8m, and no child's grave shall be less than 1,5m in depth. In the case of plots no adult's grave shall be less than 1,8m, and no child's grave shall be less than 1,5m in depth.

**39. OPENING OF GRAVES**

No grave shall be opened within five years from the date of the last interment therein without the special consent of the Municipality.

**40. COVERING OF EARTH**

There shall be at least 1,2m of earth between any coffin and the surface of the ground; provided always that 0,9m of earth shall be sufficient if such coffin contains a child.

**41. FEES MUST BE PAID**

No person will be permitted to inter any body in any grave or plot in respect of which he owes any sum by way of purchase money, rent, fee or otherwise.

**42. CONSTRUCTION OF GRAVES & COFFINS**

- a) All graves shall be prepared by the caretaker with the exception of graves lined with brick or other material in which the masonry work or lining work shall be carried out under the supervision of the caretaker by the person who ordered the grave or by his servant or agent.
- b) Only airtight metal or metal-lined coffins shall be used for interment in vaults. In the case of any other grave the coffin shall be constructed of soft wood or other perishable material.

**43. RESTRICTED NUMBER OF BURIALS IN ONE GRAVE**

Not more than two bodies shall be buried in one grave. In no case shall the bodies of more than one adult or two children be buried within any grave at the same time except in the case of a still-born child whose body may be interred in the same grave as its mother's body. Provided that a second interment in any one grave shall only be permitted if permission for a subsequent interment in that grave is sought at the time application is made for a first interment, and providing the charges for a second interment are paid by the applicant when submitting such application the Council shall grant permission for a second interment. Provided further that the Council shall not be responsible for the removal of memorials or the repair thereof

**44. COVERING COFFIN WITH EARTH**

Every coffin or body upon being placed in any grave shall be covered at once with 30 cm of earth.

**45. DISTURBING HUMAN REMAINS**

No person shall disturb any human remains or any soil adjacent thereto in the cemetery except for a purpose expressly permitted under these by-laws.

**46. FUNERALS**

The members of any religious denomination may conduct religious ceremonies in connection with any interment or memorial service subject to the control and regulations of the Municipality.

**47. INTERMENT OF DECEASED PERSONS RESIDENT OUTSIDE LOCAL AREA COMMITTEE AREAS**

The Council may, at its discretion, permit the interment of deceased persons who at the time of death were resident outside the Municipal area. The fees prescribed for such cases shall be paid, as determined from time to time by Council.

**48. EXPOSURE OF DEAD BODY**

No person shall convey any body in an unseemly manner or expose any such body or any part thereof in any street, cemetery of public place.

**49. DIRECTIONS OF CARETAKER**

Every person taking part in any funeral procession or ceremony shall comply with the lawful directions of the caretaker while such person is within the cemetery.

**50. GUN-SHOTS**

No gun-shots shall be allowed, except in the case of a military funeral where permission was granted by the Municipality for such a special interment.

**51. BANDS**

No music shall be performed within the cemetery without the written permission of the Council, except in the case of police or military funerals.

**52. EXHUMATION**

Exhumation should happen only with approval of the Municipality.

**53. HOURS OF INTERNMENT**

No interment shall take place before 07:30 or after 16:30; the caretaker may on request or in the cases of emergency and upon payment of an additional fee as prescribed allow interment to take place.

**54. NUMBERING OF GRAVES**

In every case where an interment is to take place the undertaker shall obtain a peg from the caretaker with the number of the grave allotted by the Municipality for such interment marked upon it, and shall fix such peg on such grave. No person shall fix any such peg on any grave which has not been duly allotted as aforesaid, and no person shall inter any body in any grave upon which a peg, containing the number of such grave, has not been lawfully fixed. It shall be an offence for any person to remove or damage any such number pegs.

**55. COFFIN LIDS NOT TO BE REMOVED**

No person shall whilst in the cemetery remove any coffin-lid or slide.

**56. EXHUMATIONS OF BODIES AND RE-OPENING OF GRAVES**

No person shall exhume or cause any body to be exhumed without the written permission of the Municipality.

Such permission shall be handed to the caretaker at least two clear days before the date proposed for the removal of such body.

**57. SCREENING OF OPERATIONS**

The grave from which any body is to be removed shall be effectively screened from view during the exhumation and a coffin shall be kept in readiness at the grave.

**58. GRANT OR DEED REQUIRED BEFORE RE-OPENING GRAVES**

No person shall be permitted to re-open any grave until he has satisfied the Municipality that he is entitled thereto.

**59. REMOVAL BY MUNICIPALITY OF BODY FROM ONE GRAVE TO ANOTHER**

If at any time the removal of any body shall seem to the Municipality to be advisable, the Municipality may cause such body to be removed to another grave, provided always that the consent of a near relative of such deceased person shall, where possible, first be obtained.

**60. EXHUMATIONS IN TERMS OF VARIOUS ENACTMENTS**

- a) The provisions of Section 56 shall not apply in respect of any exhumation ordered by a Magistrate in terms of Section (3)(4) of the Inquest Act, 1959, (Act No. 58 of 1959), and Section 64(1) of the Health Act, 1977 (Act No. 63 of 1977), or by a health officer of the Department of Health in terms of Section 46 of the Health Act (no 63 of 1977).
- b) The provisions of Section 60 shall be subject to the provisions of the Removal of Dead Bodies Ordinance. No. 7 of 1925, as amended Ordinance No.9 of 1931

**61. CARE OF GRAVES**

The owner of every private grave shall keep such grave free from weeds and in proper order. If the owner shall neglect to attend to any such grave the Municipality may, by written notice, require him to attend to such grave. In the event of such notice not being complied with within one month, the Municipality may itself attend to it and recover from the owner the amount actually spent in respect of such work.

Any person may, with the permission of the caretaker, plant any shrub, plant or flower upon any grave, provided always that no plant, shrub or flower shall be cut or carried away by any person without the consent of the caretaker, and the Council may prune, cut down or remove any tree or plant which is causing or may at any future time cause damage to any memorial work or be detrimental to the cemetery. The Municipality shall not be liable for any damage loss as a result of such removal.

**62. RAILINGS**

No person shall erect or place any railing, metal work or other permanent ornament in the cemetery without the consent of the Municipality.

**63. MEMORIALS OR INSCRIPTIONS CANNOT BE ADMITTED WITHOUT THE CONSENT OF THE COUNCIL**

No person shall erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription in the cemetery without the written consent of the Municipality and of the owner of such memorial.

**64. MEMORIAL WORK ON GRAVES**

- a) No person shall erect any memorial work upon any grave except in such position as the caretaker may appoint.
- b) All memorials erected shall conform to the following requirements:
  - i) The joints of any memorial work shall be securely, fastened by means of galvanized iron or copper cramps, pins or dowels.
  - ii) Border stones shall be properly squared.
  - iii) The undersides of the foundation and border stones shall not be exposed above the natural surface of the ground.
  - iv) All head and border stones shall be securely cramped with metal camps.
  - v) No chiseling or hewing of stone work shall be allowed within the cemetery.

**65. EXCLUSION OF MEMORIAL WORK**

The Municipality may exclude from the cemetery any proposed memorial work which being, in its opinion, of inferior workmanship or quality, and is likely for that reason to disfigure the cemetery. The Municipality may also exclude from the cemetery any proposed memorial work which in its opinion is likely to offend public morals or good taste.

**66. REPAIR OF MEMORIAL WORK**

If the owner of any memorial work shall allow the same to fall into such a state of disrepair as, in the opinion of the Municipality, constitutes a danger to or a disfigurement in the cemetery, the Municipality may give written notice requiring him/her to effect such repairs as it may deem necessary, and if the address of the owner is not known to the Municipality, such notice may be published in a daily newspaper circulating within the municipality. In the event of the required repairs not being effected within one month from the service or publication of such notice the Municipality may itself affect the repairs and recover the expense of such repair from the owner.

**67. REMOVAL OF MEMORIAL WORK FROM THE PUBLIC GRAVE**

No person shall erect or construct any memorial brick or stone work upon any public grave without the written permission of the Municipality. Any such work may be removed by the Municipality and disposed of it without payment of any compensation, provided always that the Municipality by advertisement in a daily newspaper circulating in the municipality, shall have previously given notice that it is its intention



to remove such work unless same shall be removed by the owner thereof within a period to be named in such notice, such period to consist of not less than thirty days from the publication of such notice, that no court order is required before commencing with removal after said period has lapsed.

**68. SUPERVISION OF WORK**

Any person engaged upon any work in the cemetery shall affect such work under the supervision and to the satisfaction of the caretaker.

**69. DAMAGE TO MEMORIAL WORK**

The Municipality shall in no case be liable for any damage which may at any time occur to any memorial work from any cause whatsoever.

**70. REVERSING, ETC, OF MEMORIAL WORK**

The Municipality may at any time at its discretion reverse or alter the position of any memorial work in the cemetery; provided always that any alternation effected under the provisions of this section shall be executed at the expense of the Municipality.

**71. BRINGING OF MATERIAL INTO CEMETERY**

No person shall bring any material into the cemetery for the purpose of constructing any memorial work or any brick or stone work upon any grave unless and until:

- a) a sketch with dimensions figured thereon and showing the position of the proposed work accompanied with a specification of the material to be used and a copy of the proposed inscription, carving or ornamentation has been submitted to the caretaker not less than three days before it is proposed to bring such material into the cemetery;
- b) all fees due in respect of such grave or plot have been duly paid; and
- c) the Municipality's written approval of the proposed work has been given to the applicant.

**72. REMOVAL OF MEMORIAL WORK BY MUNICIPALITY**

Any memorial work placed, constructed, altered, decorated, painted or otherwise dealt with in the cemetery in such a way as to infringe any provision of these by-laws, may at once be removed by the Municipality without payment of any compensation.

**73. NUMBERING OF GRAVES**

No person shall bring any memorial work within the cemetery unless the number and section letter of the grave upon which such work is to be placed shall be marked thereon, provided always that in the case of footstones, such mark shall be placed only on the top thereof. With the next of kin's consent, the name of the maker may also be placed upon the top of any footstone, provided that no address or other particulars are added.

**74. CONVEYANCE OF MEMORIAL WORK**

No person shall convey any stone, brick or memorial work or any portion thereof within the cemetery upon any private vehicle or truck, which is not drawn or pushed by hand and furnished with wheels having tyres not less than four inches broad, and of a kind which, in the opinion of the caretaker, is not likely to damage the paths or grounds of the cemetery, unless the Municipality shall give its written permission to any person to use a vehicle not complying with the above-stated requirements, provided always that no such vehicle shall be drawn or pushed along any path which, in the opinion of the caretaker, is too narrow or otherwise unsuitable for such traffic.

**75. VEHICLES AND TOOLS**

Every person engaged upon any work upon any grave or plot shall provide such vehicle, tools and other appliances as may be required by him, provided always that no such vehicles, tools or appliances shall be of such a kind as to contravene these by-laws.

**76. COMPLIANCE WITH DIRECTIONS OF CARETAKER**

Every person carrying on any work within the cemetery shall always comply with the directions of the caretaker.

**77. RUBBISH AND DEBRIS**

No person shall at any time leave any rubbish, loose soil, stone or other debris within the cemetery, or in any way damage or deface any part of the cemetery, or anything therein contained.

**78. REMOVAL OF REPAIRS**

All new work removed or dismantled for purposes of an interment, repairs or reconstruction shall be removed during the course of such work from the cemetery to an adjacent depot provided for the purpose by the Municipality and such new work shall be replaced and restored to the satisfaction of the Municipality within thirty days of the removal.

**79. UNSUITABLE WEATHER**

No person shall fix or place any memorial work in unsuitable weather or while the ground is in an unfit state or while the surface of the ground in the cemetery is liable to be unduly damaged or disturbed as a result of such work.

**80. PRODUCTION OF PERMIT**

Every person in charge of work or on his way to or from work within the cemetery shall, upon demand at any time, produce the written permission to carry out such work, required under these by-laws.

**81. PENALTIES**

Any person contravening any of the provisions of these by-laws shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding R500,00 or in default of payment to imprisonment for a period not exceeding six months.

**82. REPEAL OF BY-LAWS**

The Cemetery By-laws of Mogalakwena Municipality promulgated under Administrator's Notice 79 on 1 February 1950, as amended, are hereby repealed.

**83. COMMENCEMENT DATE**

These by-laws take effect on the date of promulgation in the Limpopo Provincial Gazette.

## **MOGALAKWENA LOCAL MUNICIPALITY PUBLIC AMENITIES BY-LAWS**

The Municipal Manager of Mogalakwena Local Municipality hereby publishes in terms of section 13 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000) the By-laws set forth hereinafter, which have been adopted by the council.

To regulate the admission of persons, animals and vehicles to public amenities; to provide for the use and enjoyment of public amenities; to determine conduct that will not be permitted within public amenities; to provide for the enforcement of these by-laws and to provide for matters incidental thereto.

### **INDEX:**

	<b>Page number</b>
1. Definitions	2
2. Maximum number of persons	3
3. Admission to and sojourn in a public amenity	3
4. Entrance fees	3
5. Nuisances	3
6. Health matters	4
7. Structures	4
8. Liquor and food	4
9. Animals	4
10. Use of public amenities	5
11. Application and permission	5
12. Safety and order	6
13. Water	7
14. Laundry and crockery	7
15. Vehicles	7

16.	Games	7
17.	Improper or indecent behaviour	7
18.	Powers of a person in control	8
19.	Penalties	8
20.	Short title and commencement	8

### Definitions

1. In this by-law, unless the context otherwise indicates –

**“constitution”** means the Constitution of the Republic of South Africa Act 108 of 1996;

**“council”** means the council of the local municipality of Mogalakwena or any committee, any sub-committee, or any staff member acting under council’s delegated or sub-delegated authority;

**“municipality”** means the local municipality of Mogalakwena established in terms of section 12 of the Structures Act in Provincial Notice 479 dated 22 September 2000 and published in Provincial Gazette Extraordinary 5588 dated 22 September 2000;

**“notice”** means an official notice drawn by the council in the official languages of the Province of Limpopo and displayed by order of the council at every entrance to or at a conspicuous place at or on a public amenity and in which the council shall make known provisions and directions adopted by it in terms of this by-law;

**“public amenity”** means

- (a) any land, square, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail owned by the Municipality, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
- (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the council and to which the general public has access, whether on payment of admission fees or not;
- (c) any public amenity contemplated in paragraphs (a) and (b), if it is lawfully controlled and managed in terms of an agreement by a person other than the council.

**“staff member”** means a member of staff of the municipality;

**“Structures Act”** means Local Government: Municipal Structures Act 117 of 1998 and

**“this By-law”** includes the Schedule hereto.

**Maximum number of persons**

2. (1) The council may determine the maximum number of visitors who may be present at a specific time in or at a public amenity, provided that different numbers may so be determined for different public amenities.
- (2) The numbers contemplated in sub-section (1) are made known by the council by means of a notice.

**Admission to and sojourn in a public amenity**

3. (1) Admission to a public amenity is at own risk.
- (2) A public amenity is, subject to the provisions of these by-laws, open to the public on the times determined in respect of different public amenities.
- (3) No person shall enter or leave a public amenity at a place other than that indicated for that purpose.
- (4) The conditions, times and places contemplated in sub-section (1), (2) and (3) shall be made known by the council by means of a notice.

**Entrance fees**

4. (1) Any person, other than a person referred to in sub-section 4(3) shall on entering a public amenity pay the entrance fee determined from time to time by the council in accordance with the provisions of section 24(2)(e)(ii) of MFMA and such entrance fee shall be made known by means of a notice.
- (2) Different entrance fees may so be determined in respect of visitors of different ages.
- (3) The council may exempt certain persons or groups of persons from the payment of an entrance fee.

**Nuisances**

5. No person shall perform or permit any of the following acts to be performed in or at a public amenity -
  - (a) the use of language or the performance of any other act which disturbs the good order;
  - (b) unless with the written council permission, the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults;
  - (c) the burning of any matter and/or the production of smoke unless specifically authorised by the council;
  - (d) the causing of unpleasant or offensive smells;
  - (e) the causing of disturbances by fighting, shouting, arguing, singing or by

- (f) the playing of musical instruments, or by the use of loudspeakers, radio reception devices, television sets, or similar equipment;
- (g) the creation of a nuisance by begging for money, food, work, or the offering of services.

#### **Health matters**

6. No person shall in or at a public amenity-
- (a) dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the amenity;
  - (b) pollute or contaminate in any way the water in any bath, swimming-bath, dam, spruit, river or water-course;
  - (c) enter any bath or swimming-bath while suffering from an infectious or contagious disease or having an open wound on his body;
  - (d) perform any act that may detrimentally affect the health of any visitor to a public amenity.

#### **Structures**

7. No person shall, without the written consent of the council having first been obtained erect or establish in or on a public amenity any structure, shelter or anything else, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefore by notice.

#### **Liquor and food**

8. Subject to the provisions of sub-section (1) no person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice : provided that the preparation and cooking of food in or at a public amenity shall be done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health : provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

#### **Animals**

9. (1) No person shall bring any live animal, reptile, bird, fish or poultry into a public amenity except in accordance with the directions of the council, provided that different directions may be determined in respect of different public amenities and different types of animals, birds, fish and poultry.
- (2) The directions contemplated in sub-section (1) shall be made known by means of a notice.

**Use of public amenities**

10. (1) No person shall in or at a public amenity without the consent of the council, or contrary to any conditions which the council may impose when granting such consent –
- (a) arrange, present or attend any public entertainment;
  - (b) collect money or any other goods for charity or any other purpose from the general public;
  - (c) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work
  - (d) arrange, hold, address or attend any meeting;
  - (e) arrange, hold or attend a public gathering or procession, exhibition or performance;
  - (f) conduct any trade, occupation or business;
  - (g) display, sell or rent or present for sale or rent any wares or articles;
  - (h) hold or attend an auction;
  - (i) tell fortunes for compensation.
- (2) For the purposes of this by-law “public gathering or procession” shall mean a procession or gathering of 12 or more persons, and which is not regulated by national or provincial legislation.
- (3) Consent contemplated in sub-section (1), shall be refused only if the council is of opinion that –
- (a) it would give rise to –
    - (i) public rioting;
    - (ii) the disturbance of public peace;
    - (iii) the committing of an offence;
    - (iv) the committing of an indecent act;
  - (b) it would be detrimental to the public or the users of or visitors to the public amenity; or
  - (c) it would be detrimental to the public amenity concerned.

**Application and permission**

11. (1) Any person who wants to undertake a prohibited activity must make application in writing to the council for permission to do so, which application must be accompanied by the prescribed fee.



- (2) The council may, after receiving an application, request the applicant to provide additional information which the council reasonably requires in order to consider application.
- (3) The council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and if the prescribed fee has not been paid.
- (4) Subject to the provisions of sub-section (2) and (3), the council must consider the application within a reasonable time and must either –
  - (a) refuse the application or;
  - (b) grant permission in writing to the applicant subject to such conditions as the council may consider appropriate to best achieve the purposes of these by-laws.

### **Safety and order**

12. (1) No person shall, subject to sub-section (2), in or at a public amenity –
  - (a) damage or disfigure anything within such amenity;
  - (b) use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
  - (c) light a fire or prepare food, except at a place indicated for that purpose by notice;
  - (d) throw away any burning or smouldering object;
  - (e) throw or roll down any rock, stone or object from any mountains, koppie, slope or cliff;
  - (f) pull out, pick or damage any tree, plant, shrub, bulbs, vegetation or flower;
  - (g) behave in an improper, indecent, unruly, violent or unbecoming manner;
  - (h) cause a disturbance;
  - (i) wash, polish or repair a vehicle : provided that the foregoing provision of this paragraph shall not be applicable to the emergency repair of a vehicle;
  - (j) walk, stand, sit or lie in a flower bed;
  - (k) kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
  - (l) walk, stand, sit or lie on grass contrary to the provision of a notice;
  - (m) lie on a bench or seating place or use it in such a manner that other users or potential users find it impossible to make use thereof;

- (n) play or sit on play park equipment, except if the person concerned is a child under the age of 13 years; or
  - (o) swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.
- (2) The council may by way of notice and subject to such conditions as the council deems necessary and mentioned in the notice authorise any of the actions contemplated in sub-section (1).

**Water**

13. No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public amenity.

**Laundry and crockery**

14. No person may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

**Vehicles**

15. (1) No persons may bring into a public amenity any truck, bus, motorcar, motor cycle, motor tricycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the council, provided that different directions may be determined for different public amenities and for different such vehicles, craft or aeroplanes.
- (2) The council may determine the speed limit applicable in a public amenity, provided that different speed limits may be determined for different public amenities and for different such vehicles, craft or aeroplanes.
- (3) The directions contemplated in sub-section (1) and the speed limit contemplated in sub-section (2) shall be made known by the council by way of notice.

**Games**

16. No game of any nature shall be played or conducted in or on a public amenity by any person or persons except at places set aside for the purpose by notice and in accordance with the directions of the council and which is made known by way of notice.

**Improper or indecent behaviour**

17. No person may in or at a public amenity -
- (a) perform an act which is in the opinion of the council, indecent, or conduct himself/herself improperly by exposure of his/her person or otherwise, or make improper gestures of incite or urge someone to perform a disorderly or indecent act;
  - (b) Use foul, lewd, dirty or indecent language;

- (c) write, paint, draw or in any way make a filthy or immoral figure, writing, drawing or representation;
- (d) defecate, urinate or undress, except in such building or on a premises intended or indicated by notice for such purpose or enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex.

#### **Powers of a person in control**

18. A person appointed by the council to control a public amenity may -
- (a) in a public amenity at any time enter upon any place, land, premises or building and conduct an investigation thereat in order to determine whether the provisions of these by-laws are complied with;
  - (b) for the better exercising of any power or the performance of any function or duty assigned or granted to him, take along an interpreter who, while acting under the lawful order of such a person, shall have the same powers, functions and duties as such person.

#### **Penalties**

19. Any person who contravenes or fails to comply with a provision of this by-law, a notice issued in terms of this by-law, or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence in this by-law, shall be guilty of an offence and liable on conviction to fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R100,00 or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the council and served on the person concerned requiring the discontinuance of such offence.

#### **Short title and commencement**

20. This by-law is called the ***Mogalakwena Local Municipality: Public Amenities By-law*** and takes effect on the date of publication in the Limpopo Provincial Gazette.

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