

Mberengwa Rural District Council (Cemeteries) By-laws, 2023

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Arrangements of Sections

1. These regulations may be cited as the Mberengwa (Cemeteries) Regulations, 2023
2. These regulations shall apply to Cemetery A, the boundaries of which are defined in the First Schedule, Cemetery B, the boundaries of which are defined in Zimbabwe Notice No. 303 of 1962 and any other cemetery established or taken over by the Council in terms of the Cemeteries Act [Chapter 118].

3. In these regulations-

“adult” means any deceased person over the age of twelve years and any deceased person whose coffin exceeds the dimensions prescribed for a child’s grave sub-section (4) of section 11;

“allotment” means the area of ground set aside for the purpose of forming a grave;

“ashes” means the ashes resulting from the burning of anybody cremated in terms of the Burial and Cremation Act [Chapter 171];

“body” means any human dead body and includes the body of a still-born child, but does not include ashes;

“burial” means a burial in earth, interment or any other form of sepulchre of a body;

“child” means any deceased person twelve years of age or under whose coffin does not exceed the dimensions prescribed for a child’s grave in subsection (4) of section 11.

“Council” means the MBERENGWA Rural District Council;

“grave” means a burial place formed in the ground by excavation without any internal wall or brickwork or stonework or any artificial lining;

“memorial garden” means any area of land in a cemetery set aside by the Council for the disposal of ashes of deceased persons;

“memorial plot” means a plot of ground in a memorial garden, for which the Council has granted the right to any person to dispose of the ashes of a deceased person,

“memorial work” means any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected upon any grave;

“register” means the register required to be kept by the Council in terms of section 25 of the Cemeteries Act [Chapter 118];

“reserved” means reserved in terms of section 5 and “reservation” shall be construed accordingly;

“resident” means any person who at the time of death was normally resident within the area under the jurisdiction of the Council;

“responsible person” means the person to whom permission has been granted by the Council in terms of subsection (1) of section 10;

“still born” shall apply to any child which has issued forth from its mother after the twenty-eight week of pregnancy and which did not at any time after being completely expelled from its mother breathe or show any signs of life;

“superintendent” means the official for the time being hold in the appointment of cemetery superintendent and appointed by the Council;

“chief executive officer” means the duly appointed Chief executive officer of the Council and includes any other officer of the Council duly authorised by the Council to carry out the functions assigned to the Chief executive officer by these regulations;

“vehicle” includes any motor vehicle, bicycle, tricycle, jinrikisha or handcart;

“vault” means any protective masonry or other work carried out in a grave

4. (1) No person wishing to bury or cause any body or any ashes to be buried in a cemetery shall bury or cause such body or ashes to be so buried unless he has delivered to the superintendent the written permission of the chief executive officer to such burial.
- (2) Every application for such permission shall include the full names of the deceased person, his age, last address and religious denomination, the proposed time and date of burial and any other details which the chief executive officer may require.
- (3) Permission for such burial shall be given-

- (a) in the case of a body, upon the production of a burial order, issued in terms of the Burial and Cremation Act [Chapter 171] or regulations enacted there under , made out in the name of the person whose body is to be buried;
  - (b) in the case of ashes, upon the production of a certificate issued by the officer in charge of the cremation established in terms of the Burial and Cremation Act [Chapter 171] indicating that the ashes are those of the cremated body of the person named in the certificate
  - (c) (4) No person shall bury or cause any body or ashes to be buried in a cemetery unless the chief executive officer has allotted a grave and grave number for the particular burial.
  - (d) (5) No person shall dispose of any ashes of any deceased person in the memorial garden without the written permission of the chief executive officer.
  - (e) (6) The grave number allotted in terms of subsection (4) and the date of interment shall be entered by the superintendent in the register against the name of the person whose body is or whose ashes are to be buried
  - (f) (7) The superintendent shall fix to every grave a sign displaying the number allotted to that grave in the register.
5. (1) Any person wishing to reserve an allotment or memorial plot for his own future burial
- (g) or for that of any other person shall make application to the chief executive officer giving
- full names, address and religious denomination of the person for whom
- the reservation is to be made.
- (2) On the receipt of such application and the reservation fee prescribed in the Second Schedule, the chief executive officer shall reserve an allotment or memorial plot; assign a grave number in the register against the name of the person in respect of whom the allotment or memorial plot is reserved.
- (3) The effect of reserving such allotment or memorial plot shall be that, at any period within five years of making such reservation, the person in respect of whom the reservation is made may be buried in that allotment or his ashes placed in that memorial plot, as the case may be on payment of the interment fee and no other body may be buried within that allotment or ashes placed in that memorial plot during that period of five years.

(4) If that allotment or memorial plot reserved in terms of this section is not used for burial within five years of such reservation, the reservation shall lapse unless application is made to the town clerk for the extension of the reservation for a further five years.

(5) On payment of the fee prescribed in the Second Schedule to the chief executive officer for the renewal of the reservation, the allotment or memorial plot shall be reserved for a further period of five years.

(6) No person shall cede or assign his right to an allotment or memorial plot reserved in terms of this section without the permission of the Council.

(7) The area of an allotment shall be –

- (a) for an adult's body, 2m by 1m
- (b) for a child's body, 1m by 60cm;
- (c) for ashes in an urn, 60cm by 60cm

**6.** The Council, on receipt of an application by any person for the exclusive right of burial in a portion of a cemetery, may grant, sell or lease to such person the exclusive right of burial in a portion of a cemetery subject to such terms or conditions as it deems fit to impose.

**7.** (1) Burial shall take place on daily basis save with permission of the chief executive officer.

(2) All burials shall take place between the hours of 0900-1600hrs

**8.** (1) Subject to the provisions of section 11 of the Cemetery Act [Chapter 118], no person shall bury anybody or ashes within a cemetery or dispose of any ashes of a deceased person in a memorial garden unless he pays the fee prescribed in the Second Schedule.

(2) The burial fee for any burial permitted in terms of subsection (1) of section 7 shall be double the appropriate fee prescribed in the Second Schedule.

(3) The Council may, upon application being made by the person administering the estate of the deceased within six months of the date, refund the fee paid in terms of subsection (2) of section 5, but such fee will not normally be refunded unless the person for whom the allotment the allotment was reserved died outside the area under jurisdiction of the Council, in which case the fee shall be refunded to the deceased estate of that person.

(4) The Council may for good cause and upon application allow any burial free of charge

(5) The fees prescribed in the Second Schedule shall be paid to the Council at the council offices

**9.** The Council may by resolution assign sections of any cemetery for the exclusive use of any religious denomination.

**10.** (1) No person shall erect or cause to be erected any memorial work without the prior written permission of the Council and any application for such permission shall be accompanied by a plan showing full details of the memorial work it is proposed to erect.

(2) The Council refuse to permit the erection of any memorial work until the burial fee for the particular grave has been paid in full.

(3) Any person erecting or causing any memorial work to be erected shall pay a prescribed fee or an equivalent of the currency in use subject to review by Council resolution.

(4) No memorial work shall exceed-

(a) in the case of an adult's grave , 2,438m in length or 1,219m in width

(b) in the case of a child's grave, 1,20m in length or 70cm in width

Provided that, in the case of an allotment of two or more allotments to a single family, the chief executive officer may approve a memorial work exceeding 1,219m width.

(5) Except with the written permission of the Council, the only materials which may be used for memorial work shall be hard stone, concrete of a mixture not leaner than five parts stone, three parts sand and one part cement and or well burnt bricks rendered on all exposed surfaces with cement plaster of a mixture not leaner than two parts sand and one part cement.

(6) Any person constructing any memorial work in a cemetery shall-

(a) securely cramp from the outside with suitable cramps all head and border stones;

(b) use suitable cramps, pins or dowels of a thickness approved by the superintendent and of a length sufficient to fit holes of not less than two inches deep wherever any part of any memorial work is joined to any other part.

(c) securely attach to the base all memorials or headstones to the satisfaction of the superintendent;

(d) place on a slab or concrete foundation-

(i) measuring 2.4m by two wide by 30cm, any gravestone or monument exceeding 40kg, in weight;

(ii) measuring 90cm by 30cm wide by 30cm deep any gravestone or monument not exceeding 40kg in weight;

(e) make the line of all memorial work correspond correctly to a line drawn between iron pegs placed in the various sections of the cemetery for that purpose.

(7) The responsible person shall keep the memorial work erected in terms of subsection (1) in good order and repair after its erection.

(8) Any person in charge of work within any cemetery shall, upon demand at any time by the superintendent or his duly appointed deputy, produce his written permission to carry out such work.

(9) No person shall erect any memorial work in a memorial garden other than erection of plaques made of brass, bronze or aluminium and such plaques shall not be larger than eleven inches in size and shall be securely attached to the concrete kerb adjacent to the memorial plot.

**11** (1) Every grave, other than a grave for the reception of ashes, shall be dug to a depth of not less than seven feet below the surrounding ground level and there shall be at least four feet of earth between a coffin and the surrounding ground level.

(2) No person shall cause or permit more than two bodies to be placed in any grave unless at the first opening the grave has been made to an extra depth.

(3) No person shall cause or permit any body or coffin to be removed from any grave with a view to making room for a new burial.

(4) Every grave for an adult shall be seven feet long by two feet six inches wide and for a child shall be five feet long by one foot six inches wide:

Provided that any person requiring an aperture of larger dimensions for any burial shall, together with the notice of the burial, give notice to the superintendent of the additional dimensions required.

(5) No person shall permit any exhumation except at such time as shall be specified by the superintendent.

**12.** (1) Subject to the provisions of the Inquests Act [Chapter 12], no body which has been buried shall be exhumed within two years after the date of burial.

(2) Any person wishing to exhume a body which has been buried in a cemetery for reburial in another place shall make application to the Council for permission to do so, giving not less than two weeks' notice of the proposed exhumation.

(3) Any exhumation sanctioned by the Council shall be subject to such conditions as the Council may stipulate.

(4) No person shall open any grave within two years after the date of any burial therein without the prior written permission of the Council.

(5) No person, other than the superintendent and those employed at a cemetery, shall open or close any grave in such cemetery.

**13.** No buildings of any description shall be erected within a cemetery without the consent of the Council.

**14.** (1) Every cemetery shall be open to the public during such hours as the Council may from time to time determine, and no person except those authorized shall be in a cemetery at any other time.

(2) No person shall enter or leave a cemetery except by the entrance gates.

**15.** (1) No persons shall-

(a) carry out the hewing or dressing of stone or carry out like operations within a cemetery without the written permission of the Council; or

(b) exhibit or distribute or leave any business card or advertisement within a cemetery; or

(c) use a cemetery or any road or walk therein for the conveyance of goods or other material unless such goods or material are required for use in such cemetery; or

(d) sit, stand or climb upon or over any memorial work, gate, wall, fence or building in a cemetery; or

(e) hinder, obstruct or resist the superintendent in the course of his duty; or

(f) place any floral tribute, flowers, vases or any other container within the memorial garden; or

(g) plant any tree on any grave.

(2) No person having charge or control of a vehicle shall cause or permit such vehicle to be brought into a cemetery:

Provided that this subsection shall not apply to hearses or to vehicles used for the conveyance of infirm persons.

**16.** Any person who contravenes any provision of these regulations shall be guilty of an offence and shall be liable to a fine or to imprisonment for a period not exceeding three months.

### ***Offences and penalties***

**17.** Any person who contravenes any of the provisions of these by-laws shall be guilty of an offence and liable to a Level two fine, or, in the case of a continuing offence, a Level three fine and, if the offence has continued for more than twenty-five days, a Level One fine for each day during which the offence has continued.

