

LOCAL GOVERNMENT ACT
(Cap. 40:01)

KGATLENG DISTRICT COUNCIL (CEMETERY) BYE-LAWS, 2016
(Published on 4th March, 2016)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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IN EXERCISE of the powers conferred by section 44 and 45 of the Local Government Act, and with the approval of the Minister of Local Government, the Kgatleng District Council hereby makes the following Bye -Laws —

1. These Bye-laws may be cited as the Kgatleng District Council (Cemetery) Citation
Bye-laws, 2016.

2. In these Bye-laws, unless the context otherwise requires — Interpretation

“authorised official” means the Council Secretary or any employee duly authorised thereto;

“Bye-law enforcement officer” means a Local Government officer serving in the Council;

“caretaker” means the person designated by the District Council as such;

“cemetery” means any designated area established as a cemetery under Bye-law 3;

“child” means any person under the age of 18 years of age;

“Council” means the Kgatleng District Council;

	<p>“Council area” means the area of jurisdiction of Kgatleng District Council so designated for the purpose of these Bye-laws;</p> <p>“memorial work” means any gravestone, monument epitaph, tabled or monumental inscription and any work ancillary thereto.</p>
Establishment of cemeteries	<p>3. The Council shall establish and designate areas within the of cemeteries jurisdiction of the Council area as cemeteries.</p>
Burial in cemetery	<p>4. (1) A person shall not bury or cause to be buried, a body in a place other than a cemetery.</p> <p>(2) Without prejudice to sub bye-law (1), the Council may in special circumstances authorise burial in other places other than the designated cemetery.</p>
Permit for burial	<p>5. (1) A person shall not bury or cause to be buried, a body in a cemetery unless a permit for the burial of that body has been issued by the Council or the caretaker of the cemetery and upon payment of the fees prescribed in bye-law 6.</p> <p>(2) A person who contravenes this bye-law commits an offence and is liable to the penalty prescribed under bye-law 21.</p>
Application for burial permit	<p>6. (1) Every application for a burial permit under these Bye-laws shall be in Form A set out in the First Schedule and, shall be accompanied by —</p> <p>(a) a death certificate signed by a medical practitioner or a certified copy thereof, or a letter certifying the deceased’s death from Kgosi, of the tribal territory; or</p> <p>(b) by the written sanction of a magistrate or administrative officer authorising the burial.</p> <p>(2) A person making an application for a permit under sub bye-law (1) shall state —</p> <p>(a) the name, age and sex of the deceased;</p> <p>(b) the religious denomination, if any, of the deceased;</p> <p>(c) national identity card number or passport number if it is a non-citizen;</p> <p>(d) the place of death; and</p> <p>(1) the relationship to deceased person by the applicant.</p>
Fees	<p>7. (1) Subject to this bye-law, the fees specified in the Second Schedule, shall be paid for every burial permit issued.</p> <p>(2) Where any authorised official is satisfied that any fee payable under these Bye-laws cannot, by any reason, be paid, he or she may —</p> <p>(a) waive the fee either wholly or in part;</p> <p>(b) direct that the fee, or so much of the fee as that he or she has not waived under paragraph (a), shall be paid in installments of such amounts and at such times as he she shall specify; or</p> <p>(c) be canceled by exempting such transaction.</p>
Issue of permit	<p>8. (1) The Council shall issue a burial permit where the applicant satisfies the provisions of bye-law 6 and 7.</p> <p>(2) The burial permit shall be in the Form set out in the First Schedule.</p>
Dimensions of grave	<p>9. Unless where the Council otherwise directs, no person shall bury or cause to be buried a body in a cemetery unless the grave has the dimensions specified in the Third Schedule.</p>
Body to be buried in a coffin	<p>10. Subject to sub bye-law (2), a person shall not bury or cause to be buried a body in a cemetery unless the body is enclosed in a coffin of solid and sound construction.</p>

(2) Notwithstanding sub bye-law (1), a body may be buried in other ways where such burial is in accordance with well known and accepted religious rites or traditions of the deceased's religion and custom.

11. The family of the deceased shall ensure that as soon as the coffin is placed in a grave, it is covered with earth until the grave is filled.

Coffin to be covered

12. (1) Every grave in a cemetery shall be allocated a number and the particulars of every burial shall be recorded in a register kept by the Council Secretary or an authorised official.

Graves to be numbered and burial registered

(2) The register referred to in sub bye-law (1) may be inspected by members of the public during working hours.

13. (1) Subject to sub bye-law (2), it shall be the responsibility of the Council in designated cemetery areas, to dig graves, upon receipt of payment of fees required under bye-law 7.

Digging of graves

(2) Notwithstanding sub-bye-law (1), the Council Secretary may waive the payment of such fees in whole or in part when the person responsible for the burial wishes to dig the grave himself.

(3) A person may dig a grave only after he receives authorisation from the Council Secretary and undertakes to abide by the conditions of bye-law 9 and as may be fixed from time to time by the Council.

14. (1) A person shall not erect on any grave, memorial works unless with the written permission of the Council Secretary, and the erection is carried out in accordance with dimensions of graves provided for under bye-law 9.

Restrictions on erection of memorial works on graves

(2) A person making an application to the Council Secretary or authorised official for his permission to erect any memorial work on a grave shall furnish the Council Secretary or authorised official with plans or diagrams in such degree of detail as to the manner in which the work is to be executed, as it may be required.

(3) The Council Secretary or authorised official may refuse to grant permission for the erection of any memorial work on a grave if he is of the opinion that the memorial work would be unsightly or offensive or if it would not be of a permanent and durable nature, but any person aggrieved by such a refusal to grant permission may appeal to the Minister.

(4) The Council may take down and remove any memorial work erected on a grave with a cemetery without the council permission or which is not maintained in an adequate state of repair and any cost incurred by the Council in so doing may be recovered from the person who erected the work.

15. Subject to the provisions of the Inquest Act, no person shall cause any body to be exhumed within a cemetery or re-open any graves without the written consent of the Council.

Exhumations and re-opening of grave Cap.07:01

16. A person shall not bury or cause to be buried in a cemetery more than one body of a person who is not a child or more than two bodies of children in one grave unless with the written permission of the Council Secretary or authorised official.

Restriction on number of bodies in one grave

(2) Notwithstanding regulation (1), the body of a still born child may be buried with the body of its mother in one grave without the permission of the Council Secretary or authorised official.

Hours of opening of cemetery

17. Every cemetery shall be open to the public between 5:30 am and 6:30 pm daily;

Provided that —

- (a) the Council Secretary or authorised official or the caretaker of the cemetery may from time to time authorise an earlier opening or a later closing of the cemetery.
- (b) nothing in this bye-law shall authorise members of the public to enter any building or enclosed space within the cemetery; and
- (c) children, unless accompanied by a responsible adult or authority may be excluded from the cemetery.

Closing of cemetery

18. The Council may close any cemetery, but any cemetery so closed shall continue to be a cemetery except that no burial may take place in it except on the authority of the Council.

Exercise of control by caretaker

19. (1) Every person within a cemetery shall be subject to the direction and control of the caretaker of the cemetery.

(2) A caretaker of a cemetery may give such reasonable direction as he thinks fit for the arrangement of funerals or a particular funeral.

(3) A person shall not resist or obstruct the caretaker of a cemetery in the performance of his or her functions or disobey any lawful direction given by the caretaker.

Offences within cemetery

20. A person shall not —

- (a) enter or remain in any cemetery other than when the cemetery is open to the public in accordance with bye-law 17;
- (b) destroy, or damage any building, wall, fence, tree or plant within a cemetery;
- (c) put any bill board, wall or fence in a cemetery;
- (d) destroy, or damage any memorial work within a cemetery;
- (e) play any game or sport in a cemetery;
- (f) discharge a firearm in a cemetery, unless he is lawfully ordered to do so as part of a military, police or prison funeral;
- (g) disturb or annoy any person attending a funeral in a cemetery;
- (h) shout, scream or behave in a disorderly, indecent, immodest or irreverent manner in or immediately adjacent to a cemetery;
- (i) enter a cemetery, which is enclosed, by a fence or wall other than through a gate or door;
- (j) permit or allow any dog or livestock to enter or remain in any cemetery;
- (k) smoke tobacco or any unauthorised or prohibited drugs in a cemetery;
- (l) drink alcoholic beverages in the cemetery; or,
- (m) throw litter in the cemetery.

Penalties

21. Any person who contravenes the provisions of these Bye-laws commits an offence and is liable to a fine not exceeding P1000, or in default of payment, to imprisonment for a term not exceeding six months or to both and, or in the event of a second or subsequent conviction, to a fine not exceeding P2000 or in default of payment, to imprisonment for a term not exceeding one year or to both.

SCHEDULE 1

FORM A
(Bye-law 6)

APPLICATION FOR BURIAL PERMIT

Kgatleng District Council

Application for Burial Permit No. Nomore ya phitlho

Particulars of Applicant

- 1 (a) Name of Applicant
(Leina la mokopi) Identity/Omang
- (b) Address of Applicant
(Aterese ya Mokopi) Location
- (c) National Identity of the Deceased
(Omang/Passport)
- (d) Relationship to the deceased person by the applicant
- Age Sex
(Dingwaga) Ke mong?

Particulars of Deceased

- 2 (a) Name of Deceased
(Leina la Moswi)
- (b) Place of death Date of death
(Felo ga Loso) Letsatsi la loso
- (c) Death Certificate (issued where, by whom and when?)
(Sesupo sa loso)
- Felo ga phitlho
- Location of burial
- (d) Religious Denomination
(O wa Tumelo efe?)
- *The answer is optional
* Ga o patelesege go araba potso e

SCHEDULE 2

BURIAL FEES

- (a) P10 in the case of the burial of an adult
- (b) P5.00 in the case of the burial of a child

THIRD SCHEDULE

(Bye-law 9)

Dimension of graves

- (a) In the case of an adult:—

Length	2.128m
Width	0.912m
Depth	1.824m

- (b) In the case of a child:—

Length	1.524m
Width	0.912m
Depth	1.524m

MADE this 8th day of February, 2016.

Council Secretary,
Kgatleng District Council.

Approved this 10th day of February, 2016.

SLUMBER TSOGWANE,
*Minister of Local Government and
Rural Development.*