

LOCAL GOVERNMENT ACT
(Cap. 40:01)

SOUTH-EAST DISTRICT COUNCIL (CEMETERY) BYE-LAWS, 2021

(Published on 5th November, 2021)

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, after consultation with the community living within the council area, and with the approval of the Minister of Local Government, the South-East District Council hereby makes the following Bye-Laws —

1. These Bye-laws may be cited as the South-East District Council Citation
(Cemetery) Bye-laws, 2021.

2. In these Bye-laws, unless the context otherwise Requires — Interpretation
“authorised official” means the Council Secretary or any employee duly
authorised thereto;

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

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

“Council” means the South-East District Council;

“Council area” means the area of jurisdiction of South-East District Council
so designated for the purpose of these Bye-laws;

“memorial work” means any gravestone, monument epitaph, tabled or
monumental inscription and any work ancillary thereto.

Establishment of cemeteries	<p>3. The Council shall establish and designate areas within the 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 the form A set out in Schedule 1 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 <i>Kgosi</i>, 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's a non citizen;</p> <p>(d) the place of death; and</p> <p>(e) the relationship to deceased person by the applicant.</p>
Fees	<p>7. (1) Subject to this bye-law, the fees specified in Schedule 2, 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 Form B set out in the Schedule 1.</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 Schedule 3.</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> <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.</p>

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 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 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 detailed 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 or she 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 written permission of the Council Secretary or which is not maintained in an adequate state of repairs 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.

Restricted number of bodies in one grave

(2) Notwithstanding bye-law (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.

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

Hours of opening of cemetery

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 caretakers

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

(2) A caretaker of a cemetery may give such reasonable directions as he or she 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 directions given by the caretaker.

Offences within a 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. (1) 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

(2) 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

South-East District Council

Application for Burial Permit No-----Nomore ya Phitlho-----

Particular 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 and by whom and when)
(Sesupo sa Loso)-----

Felo ga Phitlho -----

Location of Burial-----

(d) Religious Denomination
(O wa Tumelo efc)-----

*The answer is optional

* (Ga o patelesege go araba potso e)

I certify that the information given is true in every respect.
Mafoko otlhe a ke a buileng ke boammaruri.

Signature of Applicant
(Boitlamo jwa Mokopi)

FOR OFFICIAL USE ONLY.
(Ga Tiriso ya Babereki Fela)

Death Register Number **Fee**
(Nomoro ya loso) *----- **Tuelo** -----

Official Reciept No.
(Nomoro ya Sesupo sa Tuelo) -----

Grave Number
(Nomore ya Lebitla)-----

FORM B
(Bye – law 8)

BURIAL PERMIT
(TESELETSO YA PHITLHO)

Burial is hereby permitted
Phitlho e letleletswe

Council Secretary/Caretaker
Mokwaledi wa khansele/motlhokomedi

Date
(Letsatsi) -----

SCHEDULE 2

BURIAL FEES

- (a) P100.00 in the case of a burial of an adult;
- (b) P50.00 in the case of a burial of a child;
- (c) P200.00 in the case of a burial of an expatriate adult; or
- (d) P100.00 in the case of a burial of an expatriate 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 21st day of October, 2020.

*Council Secretary,
South-East District Council.*

APPROVED this 12th day of October, 2021.

ERIC MOTHIBI MOLALE,
*Minister of Local Government and
Rural Development.*