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# **CEMETERIES AND CREMATORIA BY-LAW**

**Approved by Council for public  
comments**



**OC62/2019**

**FETAKGOMO TUBATSE LOCAL MUNICIPALITY**

## CEMETERIES AND CREMATORIA BY-LAW, 2019

Fetakgomo Tubatse Local Municipality by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic, of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-Law set out in the schedule below:

### APPLICATION AND PURPOSE OF THIS BY-LAW

This by-law shall apply to all public and regional cemeteries under the control of the municipality and to private and traditional cemeteries, crematoria and funeral undertakers' premises located within the municipal area. This by-law is intended inter-alia

- To provide for cemeteries for the burial of dead bodies and cremation of deceased persons
- To provide for procedures, methods and practice to regulate funeral undertakers to perform the burial, cremation and exhumation of dead bodies, the provision of plots and maintenance thereof.

This by-law shall be applicable in the municipal area of the Fetakgomo Tubatse Local Municipality herein refers to as FTLM

### DEFINITIONS

- In this by-law, unless the context indicates otherwise, words used in the masculine gender include the feminine, the singular includes the plural and vice versa.

**“Ashes”** means the cremated remains of a body/corpse;

**“Regional Cemetery”** mean a public in use cemetery situated within the area of jurisdiction of the municipality and includes the buildings and fixtures within that cemetery.

**“Berm”** -means a concrete strip laid by the Municipality on a grave plot, on which a memorial stones if any is to be erected. A concrete base laid at the head of a grave on which a memorial stone if any is to be erected

**“Body”** shall mean any dead human body, including the body of any stillborn child;

**“Burial”** means burial in the earth or some other form of internment and shall include 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 51 of 1992);

**“Burial Place”** mean any burial-ground whether public or private or any place whatsoever in which one or more bodies is/are buried, interred, cremated or otherwise disposed of or where it is intended to bury inter ,cremate or otherwise dispose of a body.

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

**“Caretaker”** means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery.

**“Cemetery”** means any burial place which, as contemplated in section 3, has been duly set apart by the municipality for the burial or disposal of bodies within the municipal area of Lim 476.

**“Cemetery services’** means services related to the management, administration, operation and maintenance of an active cemetery.

**‘Crematoria”** means all the crematoria under the management and control of the municipality;

**“Cremation”** mean the process whereby the corpse is disposed of by fire.

**“Crematorium”** means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Ordinance No 18 of 1965) and includes the building in which the ceremony is conducted and the cremation is carried out and any structure which in any special circumstances the MEC for health in the Province may approve as a crematorium.

**“Crematory** “means the room in the crematorium which houses the cremation refractory

**“Cremate”** means to reduce any human remains to ashes and **“cremation”** has a corresponding meaning;

**“Cremator”** means the refractory in which the process of cremation of the coffined body is carried out.

**“Crematorium Section”** means a section of a cemetery or crematorium set aside by the Municipality for burial of ashes.

**“Child”** means a person who is not an adult and where the word is used to define a **“Corpse”**, means a deceased person whose coffin will fit into the grave opening prescribed for children and includes the corpse of a stillborn child.

**“Corpse”** means the remains of a deceased person and includes a stillborn child.

**“Coffin”** means any form of opaque outer shell which completely encloses the body and is of sufficient strength to bear the weight of a body without collapsing;

**“Code of Practice”** means the obligation and responsibilities of the authorities to the dignified handling and disposal of the deceased.

**“Council”** means:

(a) the Fetakgomo Tubatse Council/LIM 476

(b) a structure or a person exercising a delegated power or carrying out an instruction, where any power in this by-law has been delegated or sub delegated or an instruction given as contemplated in section 59 of the Local Government: Municipal System Act (Act No 32 of 2000) or

(c) a service provider fulfilling a responsibility under these by-laws, assigned in terms of section 81 of the Local Government: Municipal System Act (Act No 32 of 2000) or any other law as the case may be.

**“Columbarium”** means a the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

**“Exhumation”** means the removal of a body from its grave in which they are placed for burial;

**“Existing Funeral Undertaker’s Premises”** means existing funeral undertaker’s premises which are legally used as such on the date of commencement of this by-law.

**“Funeral Undertaker’s Premises”** means premises that are used or will be used for the preparation of corpses

**“Full Capacity”** means that all existing space for interment has been used so that it is no longer reasonably practicable, whether for economic, aesthetic, physical or any other good reason for the erection of memorial work.

**“Garden of Remembrance”** means a section of a cemetery or crematorium set aside for the erection of memorial work

**“Grave”** means a piece of land excavated for the burial of a corpse within a cemetery or heritage site and includes the headstone, number or marker of and a structure on or associated with such place

**“Hero”** means a person who performed a heroic act for the country and is given the status of a hero by the council

**“Heroes Acre”** means an area of land set aside for the burial of a hero.

**“Holder of Reservation Certificate”** means a person to whom a certificate has been issued or transferred in terms of section 12 or issued in terms of section 11.

**"Human remains"** means any human corpse or any tissue or bone which is identifiable as having formed part of a human corpse, but does not include the ashes remaining after a human corpse has been cremated;

**"Indigent Person"** means a destitute person who has died in indigent circumstances or if no relative or other person, welfare organisation or non-governmental organisation can be found to bear the burial or cremation costs of such deceased person and includes a pauper.

**"Indigent Relief"** means an indigent person who has received assistance for burial or cremation from another person, welfare organisation or non-governmental organisation.

**"Inhumation"** means the burial of human remains

**"Interment"** means to inter/commit the human remains into its final place (see burial)

**"Medical /Environmental Health Practitioner"** mean a qualified health practitioner appointed by the District Municipality or any other government department who is authorise to perform such function.

**"Memorial gardens"** means any lawned or landscaped section or similar section cultivated in a cemetery for the purposes of commemorating any deceased;

**"Memorial Section"** means a section of a cemetery set aside for erection of memorials.

**"Memorial Wall"** means a wall in a cemetery or crematorium section provided for the placement of inscribe tables commemorating deceased persons.

**"Memorial Work"** means any headstone ,monument, plaque or other work or object erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person and includes a kerb demarcating a grave and a slab covering a grave.

**"Municipal Area"** means the jurisdiction of Fetakgomo Tubatse Municipality area described in Clause 2(1) of the Establishment Notice published under Provincial Notice 487 dated 22 September 2000;

**"Municipality"** means the Municipality of Fetakgomo Tubatse established in terms of Section 12 Notice of the Municipal Structures Act, 117 of 1998,

**"Municipal Manager"** means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“**Name**” shall be the name of the deceased and includes any identifying description of a deceased human being who possessed no name or whose name is unknown at the time of death.

“**Regional Cemetery**” means a public cemetery which is developed or set aside for development by the municipality and which is or may become an active as contemplated in section 2B of this by-law.

“**Niche**” means a compartment in a columbarium or garden of remembrance for the placing of ashes.

“**Normal Operational Hours**” means Monday to Sunday 07h00 to 17h00

“**Office Hours**” means Monday to Friday 07h30 to 16h00 excluding Saturday, Sunday and Public Holidays

“**Office -in -Charge**” means the registrar of a crematorium or a person authorised by the municipality to be in control of any cemetery appointed in terms of Regulation 21 of the Regulations relating to crematorium and cremations.

“**Ordinance**” means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

“**Pauper**” mean a person who has died as an unknown person or if no other relative or other person, welfare organisation or non-governmental organisation can be found to bear the burial or cremation costs of such deceased person.

“**Pauper burial**” means the burial of any person by the Municipality through an undertaker contracted by the Municipality for that purpose due to the identity or the next of kin of such person being unknown to the Municipality, and “**pauper**” has a corresponding meaning;

“**Plot**” means any area laid out in a cemetery for not less than 2 and not more than 3 graves adjoining each other in any direction, in respect of which the exclusive right to inter has been acquired in terms of this by-law.

“**Preparation**” means any action aimed at the preparation of a corpse for a funeral or for cremation; export or other disposal and includes the embalming of such corpse for the said purpose and prepare and any other word derived there from has a corresponding meaning; preparation shall not include the embalming of or incision into a corpse.

“**Prescribe Fee**” means a fee determined by the municipality in terms of section 10G (7)(a)(ii) of the Local Government Transition Act, 1993 (Act No 209 of 1993) or any other applicable legislation

“**Private Cemetery**” means any cemetery which is not a public cemetery

“**Public Cemetery**” means any cemetery which is owned, regulated, established by or control of which is legally vested in the municipality

**“Refugee”** means any person given refuse status

**“Resident”** means a person who at the time of death ordinarily resides within the boundaries of the municipality.

**“Service Area”** mean the area of jurisdiction of the municipality

**“Service Delivery Agreement”** means an agreement between the municipality and a service provider in terms of which the service provider is required to provide services

**“Service Provider”** mean any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the System Act.

**“System Act”** means the Local Government: Municipal System Act, 2000 (Act 32 of 2000)

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998(Act 117 of 1998)

**“Still -Born Child”** means a human foetus that has had at least 26 weeks of intra-uterine existence but who was born dead in the sense of showing no sign of life after a complete birth

**“Strewn”** mean the dignified scattering of ash in the garden of remembrance

**“Supervisor”** means a person appointed from time to time by the municipality to supervise any cemetery in accordance with section 3(1) of this by-law.

**“Tariff”** means the charge levied for rendering cemetery services determined and promulgated by the municipality in terms of the municipality’s tariff policy by-law adopted under section 75 of the System Act.

**“Tomb”** means an above ground burial vault

**“Undertaker”** means a person registered to undertake the dignified preparation of a human body for burial or cremation and is in possession of the Council’s and Legislature’s certificate of competence.

## **PRINCIPLES AND OBJECTIVES.**

The purpose of this By-law is to control funeral undertaker’s premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a

corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

The municipality acting under the powers granted to it by National and Provincial Legislation, including the Regulations relating to funeral undertakers' premises made by the Provincial MEC for Health and Social Development and aware of the dignity of its residents and the need to preserve that dignity and aware that a corpse is to be granted respect, and that all its residents have the right to enter a corpse in a cemetery or to cremate a corpse in a crematorium hereby adopt by-law to control funeral undertakers' premises,, to develop and maintain new, existing and regional cemeteries.

## **ESTABLISHMENT**

1. The Municipality may set apart any area as a cemetery for the burial of the dead of any religious denomination or other body or community provided that such setting apart shall not entitle any person to be buried in any particular place in a cemetery.
2. The Municipality may from time to time set aside, acquire or develop any ground for the purpose of establishing a cemetery.
3. The Municipality must at all times ensure that sufficient burial space is available for the burial of bodies within the service area
4. The Municipality is responsible for the maintenance and repairs of all damage to all cemeteries under its control other than the maintenance and repair of memorial work.
5. The cemetery service may be suspended by the municipality for the maintenance or repair but only after reasonable notice has been given by it of its intention to do so in a newspaper, published in an official language circulating in the municipal area and specifying that an objection to the suspension may be made in writing to the Municipal Manager within 30 days of the publication of the notice in the local newspaper. Suspension may not be made unless there is another regional cemetery in the same category that is available to the public in the service area as an adequate temporary substitute.

## **MANAGEMENT AND CONTROL**

Cemeteries and crematoria shall be under the control of the Municipality except privately owned

## **AUTHORITY FOR BURIAL**

1. No person shall bury anybody in the earth or cause such body to be so buried within the municipal area except in the case of traditional leaders.
2. (a) No body shall be buried in the earth in the cemetery within the municipal area without permission of the municipality.



(b) Such permission shall be given without a burial order authorising such burial and payments of the fees determined by the municipality. If the grave plot has been reserved in terms of section 11, the certificate concerned shall be produced in lieu of payments of the relevant fees.

3. The municipality may at its discretion in such manner as it may deem fit; allow the burial of anybody without charge in that portion of a cemetery set apart for such purpose.

### **HOURS OF BURIALS**

1. Subject to paragraph (2) below, burial should as reasonably as possible starts at 06h00 and 17h00
2. The officer-in-charge may on such conditions as he or she may determine and on payment of the prescribe fee, give permission to bury outside the stipulated hours.

### **REGISTER OF BURIALS**

1. The municipality shall keep a register of burials and of graves and such records must contain:
  - (a) the particulars of the person who requested the burial
  - (b) particulars of the corpse to be buried, such as the name, address, ward, village, section, cemetery name, and identification number
  - (c) the date of the burial and the name of the funeral undertaker
  - (d) the grave number in which the corpse is buried
2. Such register shall be completed as far as possible immediately after a burial has taken place.

### **DEMARCATION OF GRAVE PLOTS**

The municipality shall demarcate grave plots in accordance with an approved layout plan.

### **RESERVATION OF GRAVE PLOTS**

- (1) (a) Except in the case of grave plots reserved in terms of subsection (2), every grave plot in respect of which a burial has been authorised in terms of this by-law shall be reserved in the name of the next of kin, and, in the event of there being no known next of kin, in the name of the person applying for the grave.
- (b) Where a burial has been authorised upon application received from a body or an association or institution or the government, the plot allotted for such burial shall be reserved in the name of such body, association or institution or the Government, as the case may be.

(2) A grave plot for a person of the age of nine years or over as specified in section 15(1) may in the discretion of the municipality be reserved in advance upon application submitted to the municipality and upon payment of the respective grave plot charges as determined by the municipality, provided that no reservation effected in terms of this subsection shall confer the right for the body of a person who at the time of his death was liable for the payment of the additional charges, as determined by the municipality, to be buried in the grave plot in respect of which such reservation was effected, unless such additional charges shall have been paid.

(3) The reservation of a grave plot in terms of sub-section (2) must be re-confirmed by the applicant after 20 years from the date of first reservation. Failure to do so will result in the cancellation of the reservation.

(4) A certificate of reservation in the form prescribed in the first schedule to this by-law shall be issued in respect of every grave plot reserved in terms of this by-law.

#### **PROVISIONS RELATING TO THE TRANSFER OF CERTIFICATES OF RESERVATION**

(1) A certificate of reservation in respect of any grave plot may be transferred, assigned or alienated with the written consent of the municipality in the form prescribed in the second schedule to this by-law.

(2) All particulars in regard to every reservation and transfer in terms of subsection (1) shall be entered and shown in the register of burial and graves.

(3) At the request of any religious denomination, the municipality may in such manner as the municipality may deem fit, set apart within a cemetery such area of land as the municipality may deem necessary for the burial of the bodies of persons belonging to such de-nomination and for the use of persons belonging to such denomination for such other purpose as may in the discretion of the municipality be incidental to the purpose of the cemetery; provided that the municipality may at its discretion utilise the land so set apart for other purposes.

4) No persons shall acquire any title to or ownership of any grave plot reserved in terms of section 10 or any land set apart in terms of subsection (3), and no person shall acquire any right to or interest in any such grave plot or land in any cemetery other than such rights or interest as may be permitted under this by-law.

#### **NOTICE OF BURIAL**

(1) Except in urgent cases, the municipality shall be notified of any burial at least one working day before the time set for such burial; provided that for a burial on a Saturday, Monday or public holiday, at least two working days' notice shall be given. If a burial

will take place on the day after a public holiday or a weekend, the requirement of two working days' notice shall also apply.

(2) Every such notice shall be accompanied by the fees determined by the municipality and, in the case of the prior reservation of a grave plot, also by the certificate of reservation or transfer concerned, as the case may be.

(3) The municipality shall, as soon as possible, issue the necessary authority for such burial.

## **GENERAL PROVISION RELATING TO CEMETERIES AND BURIALS/CARE OF GRAVE AND CREMATORIA**

1. No person under the age of 12 years shall enter any cemetery or crematorium unless he is in the care of an adult or he does so with the approval of the municipality

2.No person shall enter or leave any cemetery or crematorium except by the gates provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery /crematorium except on business

3. No person shall carry on any trade or solicit any business or exhibit, distribute or leave any business card or advertisement, within any cemetery or crematorium except on site specifically determined and set apart for such purposes.

4. No person shall sit, stand or climb upon any grave, tombstone, work, gate, wall, fence or building in any cemetery or crematorium.

5. No person shall bring or cause to be brought any animal into any cemetery or crematorium without the permission of the municipality

6. No person shall obstruct, resist or oppose the municipality or any employee of the municipality in the course of his duty or refuse to comply with any other or request which the municipality may give or make under this by-law

7.No person shall destroy or do or cause to be done any damage to or shall mark or draw or erect any advertisement, bill or placard upon or an any other way deface any grave, tombstone, monument, wall, building, fence, railing or other structure or any road in any cemetery or crematorium

8. Except where it is expressly permitted by this by-law or the consent of the municipality has been obtained, no person shall disturb the soil or plant or uproot any plant, shrub or flowering plant or in any way interfere with any grave or structure in any cemetery.

9. No person shall play any game or take part in any sport or fire any firearm or discharge any airgun or catapult or disturb or interfere with any person in any cemetery.

10. destroy or do or cause to be done any damage to, or shall mark or draw or erect any advertisement, bill or placard upon, or in any other way deface any grave, tombstone, monument, wall, building, fence, railing or other structure or any road in any cemetery or crematorium;

(11) disturb the soil, or plant or uproot any plant, shrub or flowering plant, or in any way interfere with any grave or structure in any cemetery or crematorium.

(12) play any game or take part in any sport or fire any firearm, except as a salute in a military funeral, or discharge any airgun or catapult, or disturb or interfere with any person in any cemetery or crematorium;

(13) use any part of a cemetery or crematorium, or any road or footpath therein for hawking or conducting of any other business without the written consent of the municipality;

(14) leave or deposit any rubbish, loose soil, stone or other debris within a cemetery or crematorium other than at a place provided for that purpose;

(15) overnight in, trespass on or enter and remain in any cemetery unless for the purposes of a burial or visiting a grave in such cemetery;

(16) use a cemetery or crematorium, or any road or footpath therein, for the conveyance of goods, parcels or other materials or as a thoroughfare or short cut;

(17) play or perform any music in a cemetery or crematorium without the permission of the municipality;

(18) hold or take part in any demonstration for any purpose in a cemetery or crematorium without the prior consent of the municipality;

(19) enter and drive in a cemetery with a vehicle except in accordance with the terms and conditions determined by the municipality;

(20) bring intoxicating liquor or any dependence-producing substance into a cemetery or crematorium, or be in possession of such liquor or dependence-producing substance in a cemetery or crematorium, without the consent of the municipality;

(21) expose or convey a body in an unseemly manner in a cemetery;

(22) pick or in any way interfere with plants, shrubs, flowers or trees in a cemetery;

(23) plant a tree or shrub on a grave or plot or in any other place in a cemetery without the permission of the municipality, and for these purposes, the municipality shall be entitled to prune, cut down or remove any shrub, plant, flower or tree in a cemetery and the municipality shall not be liable to any person who may suffer damages as a result of such pruning or removal;

(24) disturb or annoy any person lawfully present in a cemetery or crematorium;

(25) knowingly make any false statement under this by-law or wilfully conceal any fact or any document required by this by-law.

(26) The maximum speed limit in a cemetery is 20 km/h or as otherwise determined by the municipality.

(27) The driver of a vehicle within a cemetery passing in close proximity to any point where a funeral service is being conducted, must pay the necessary respect by driving in an orderly and dignified manner.

(28) Persons entering the municipality's cemeteries and crematoria do so at their own risk and the municipality shall not be liable or accept any responsibility for damage, loss or injury to any person or property howsoever arising, except where such loss, damage or injury is proved to be due to the wilful misconduct of municipal employees acting in the course and scope of their employment.

(29) Every cemetery and crematorium shall be open to the general public from 09:00 to 17:00. No person may be present in a cemetery or crematorium outside these hours, except with the permission of the municipality.

(30) Where offices are operated within the cemeteries and crematoria, it shall be open during the hours as determined by the municipality.

### **OFFENCES AND PENALTIES**

31. Any person contravening or fail to comply with any of the provisions of this by-law shall be guilty of an offence and liable on conviction to -

(1) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment;

(2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and

(3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

(4) fails to comply with any lawful instruction given in terms of or for the purpose of this by-law

(5) fails to comply with any notice or order issued or condition imposed in terms of or for the purpose of this by-law

(6) who obstruct or hinders any authorised representative or employee of the municipality in the execution of his/her duties under this by-law is guilty of an offence and liable on conviction to a fine or in default of payments to imprisonment for a period not exceeding 6months and in the case of any continued offence, to a further fine not exceeding R100-00 or in default of payment, to imprisonment for a period exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and serve on the person concerned requiring the discontinuance of such an offence

32. No person shall be liable to imprisonment if he/she is unable to afford to pay a fine and shall instead be liable to a period of community service

33. Any person committing a breach of the provisions of this by-law shall be liable to recompense the municipality for any loss or damaged suffered or sustained by it in consequence of the breach.

34. The municipality may at any time order any person who does not comply with this by law in the cemetery or disturbs the sacred atmosphere in the cemetery in any manner to leave the cemetery immediately in which event that person must forthwith comply with the order

#### **PROVISIONS RELATING TO FUNERALS**

(1) No person shall, without prior permission of the municipality, conduct any religious ceremony or service according to the rites of any denomination in any portion of any cemetery which in terms of section 11 (3) has been set apart by the municipality for the use of any other denomination.

(2) No person shall cause any hearse, while a cemetery, to leave the roads, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.

(3) Every person taking part in any funeral procession or ceremony shall comply with the directions of the municipality as to the route to be taken within the cemetery.

#### **PROVISION RELATING TO EXHUMATION**

1. No person shall unless authorises thereto by written order by the appropriate authority exhume or cause to be exhumed any body

2. Any person duly authorised to exhume a body in terms of subsection (1) shall hand the order in respect thereof to the municipality and shall give him not less than eight working hours' notice of the date and time proposed for the exhumation of such a body and shall at the same time pay the fees determine by the municipality in consultation with concerned provincial department or district municipality

3. No person shall exhume or remove any body unless the employee of the municipality who is responsible for cemeteries is present, No exhumation or removal of anybody or human remains shall take place unless the Environmental Health Inspectors and a member of the South African Police Services are present

4. The grave from which anybody is to be removed shall if the municipality requires be effectively screened from view during exhumation

5. Permission for exhumation and interment of mortal remains should be made through an application forms from the municipality. Once completed the following conditions shall apply without any deviation or exemption:

- Handling of the mortal remains must be done by a registered funeral undertaker and disinfectants used freely

- Under no circumstance must the coffin be opened. It must be sealed in a airtight container, be placed in a sturdy non-transparent coffin and buried in a new grave as soon as possible
- The proceeding must take place in a manner that there is no danger to the public health
- All the activities must be done in the presence of the Medical Health Practitioner from Sekhukhune District Municipality and authorised representative of SAPS
- Any regulation promulgated by the Cemetery Authority must be complied with.

#### **PROVISION RELATING TO MEMORIALS STONES OR MONUMENTS**

1.No person shall bring or cause to be brought any material into any cemetery for the purpose of carrying out any work in connection with a memorial stone or brickwork or stonework upon any grave and no person shall erect or place in position any tombstone, kerbing or monument or any structure whatsoever on any grave unless and until:

(a) the grave plot shall have been reserved in terms of this by-law in the name of the person authorising such work

(b) a drawing with dimension and figures

thereon showing the position of the proposed work together with a specification of the material to be used and a copy of any proposed epitaph or ornamentation have been handed to the municipality not less than three working days before it is intended to bring such material into the cemetery

(c) all fees determined by the municipality which are due in respect of such work shall have been paid,

(d) the municipality's written approval of the proposed work shall have been given to the holder of the certificate of reservation or his authorised representative

2.The municipality may refuse to approve any propose work with regard to a memorial stone or monument, the plan and specification of which reveals that it will disfigure any cemetery or which bears any epitaph which cause offence to users to the cemetery or visitors to it.

3. No person shall convey any stonework or brickwork or monument or any portion thereof within any cemetery upon any vehicle or truck which is not fitted with wheels having pneumatic tires and which is a kind likely to cause damage to the roads and grounds of such cemetery.

4.No person engaged in work in connection with any memorial stone or monument shall at any time disturb any adjacent grave plot or on completion of the work, leave the grave plot before it is in a clean and tidy condition

5. All work in connection with a monument which is carried out within any cemetery shall be completed in accordance with the drawing and specification approved in terms of subsection

6.Any person carrying out any work in connection with any memorial or monuments shall comply with the following provisions -

(a) The various parts of any memorial stone or monument, other than masonry, shall be affixed by copper or galvanised iron dowel pins of a length and thickness sufficient to ensure the permanent stability of the work;

(b) any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;

(c) the underside of every flat memorial stone made of stone and the base or foundation of every monument or headstone shall be set at least 50 mm below the natural level of the ground;

(d) every headstone shall be securely attached to the base;

(e) the base shall consist of one solid piece in the case of a single grave plot;

(f) all kerbing or monuments on single grave plots shall be erected on concrete foundation at least 610 mm wide and 205 mm deep over the full width;

(g) all kerbing on plots larger than single grave plots shall be fixed to a solid concrete surface at the four corners and wherever joints occur;

(h) the municipality may require any concrete foundation on any grave plot to be reinforced where, owing to the mass of the monument or headstone, it is necessary in the interests of safety

(7) (a) No person shall erect any memorial stone within any cemetery unless the number and section letter of the plot upon which such work is to be placed are indelibly engraved thereon in such a position as to be legible at all times from a pathway.

(b) With the consent of the registered certificate holder, the name only of the maker of such memorial stone may appear on the base.

(8) No person shall, without municipality's permission, bring any memorial stone or material into a cemetery nor do any work in connection with any memorial stones or monuments within any cemetery from twelve noon on a Friday until the opening hour on the following Monday.



(9) Any person carrying out work within any cemetery shall in all matters comply with the directions of the municipality.

#### **GRAVE PLOTS SUPPLIED WITH A BERM**

1. Notwithstanding anything to the contrary contained in this by-law, a grave plot which is supplied with a berm shall be subject to the following conditions -

(a) No kerbing shall be erected on such a plot.

(b) The base of a memorial stone shall not be larger than 610 mm by 260 mm; provided that the base of a memorial stone which is erected over two adjoining grave plots may be 1 220 mm by 260 mm.

(c) A memorial stone which is erected shall not protrude beyond the base and shall be at least 120 mm from the front edge of the berm.

#### **MAINTENANCE OF GRAVES AND MEMORIAL WORK**

(1) (a) Any memorial stone or monument erected upon any grave shall at all times be maintained in good order and condition by the holder of the reservation certificate in respect of such grave.

(b) If any such memorial stone or monument is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the municipality may, by written notice sent by registered post to the holder of the reservation certificate at his last-known postal address, require him to effect such repairs as may be necessary.

(c) Failure on the part of the holder of the reservation certificate to effect the required repairs within one month of the date of such notice shall be a breach of this by-law and the municipality may have the repairs effected or may have the memorial stone or monument removed, as it deems fit, and may recover the expense of such repairs or removal from the holder of the reservation certificate.

(2) (a) Any memorial stone or monument dismantled for the purpose of a further burial shall be either re-erected or removed from the cemetery by the holder of the reservation certificate within two months of date of such dismantling.

(b) Failure to do so shall constitute a breach of this by-law.

(c) In the event of such failure, the municipality shall be entitled to remove any such dismantled memorial stone or monument from the cemetery without further notice to the holder of the reservation certificate and recover from him the cost of such removal.

3) The municipality shall not be liable for any loss of or damage to any memorial stone, monument or any article placed upon any grave plot which may occur at any time from

any cause whatsoever, nor for any compensation in respect of any memorial stone or monument repaired or removed in terms of subsections (1) and (2).

4) (a) No person shall without the prior permission in writing of the municipality plant any tree, shrub, bush or any other plant on any grave plot, nor shall any such tree, shrub, bush or plant be planted upon any portion of such plot other than that indicated by the municipality.

(b) No holder of a reservation certificate shall allow any shrub, bush or plant to overhang or extend beyond the boundaries of such grave plot.

(5) The municipality shall have the right to remove, trim or prune any plant which extends beyond the boundaries of the grave plot upon which it is planted or which is untidy.

(6) No person shall at any time leave any rubbish, soil, stone or other debris within cemetery or in any way damage or deface any part of any cemetery or anything contained in it

#### **PROVISIONS RELATING TO PERSONS DYING/BURIAL OF DECEASED PERSONS OUTSIDE THE MUNICIPAL AREA**

(1) The provisions of this by-law shall apply *mutatis mutandis* to any burial within the municipal area of the human remains of any person who has died outside such area.

(2) Every application and every document relating to any burial shall be marked with a number which corresponds with the number in the register referred to in section above and shall be filed in order and kept by the municipality for a period of not less than 10 years.

(3) Subject to municipal manager's approval, the municipality may at its discretion permit the burial of a deceased person who was resident outside the municipal area

(4) When a person has been granted a right in terms of section 17,19 and 20 of the Births and Deaths Registration act 51 of 1992, the municipality must permit the burial at that person even if he was outside the municipal area at the time of death

#### **FEES PAYABLE AND CHARGES**

1. All fees payable in respect of burials and cremations shall be determined by the municipality from time to time.

2. The fees payable to the Municipality for interments, grave sites and plots, and for other services and facilities supplied by the Municipality are as prescribed by the Municipality in the Tariff By-law.

(3) All such fees and charges, unless previously paid, as may be due must be paid at the time an application for burial is made.

(4) Pauper burials and the burial of persons whose immediate families qualify as indigent in terms of the criteria adopted by the Municipality are exempt from payment of any fees or charges referred to in this section.

## **CREMATORIA**

### **Application for cremation**

A person intending to cremate must submit the prescribe and duly completed application form supplied by the municipality for approval not later than 16h00 a day before the intended date of cremation

(1) Applications for cremations must be made upon such terms, at such times and places and upon payment of such fees as determined by the municipality.

(2) A person may only cremate or cause to be cremated any body within any crematorium after -

(a) complying with applicable legislation;

(b) obtaining the approval of the municipality; and

(c) complying with all the conditions as determined by the municipality.

3. If all the above requirements are met, the Director Community Services must approve such application

4. The cremation may only take place in a crematorium

## **CREMATIONS**

(1) Where application has been made for cremation, the applicant or his or her representative must provide bearers for the purpose of carrying the coffin into the crematorium.

(2) Where a member of the public desires to be present in a crematory, a request to that effect must be made to the municipality, which will consider the request as it deems fit.

(3) Any body which contains a cardiac pacemaker or radio-active implant of any kind or any other material which may result in an explosion or harmful emissions when incinerated, may not be cremated unless it is removed.

(4) Subject to the provisions of section above, the fees for cremations and charges relating to memorials must be in accordance with the tariffs and charges published by the Municipality from time to time.

### **COFFINS AND PREPARATION OF GRAVES**

- (1) When cremated, a body must be contained in a coffin.
- (2) A coffin must conform to the specifications as determined by the municipality.
- (3) No body may be removed from any coffin for the purpose of incineration and a coffin may not be opened in the crematorium except when directed by the municipality.
- (4) All graves shall be prepared under the supervision of the municipality
- (5) A body intended for burial at a cemetery or cremation in a crematorium must be sealed in a body bag inside a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or of the applicant
- (6) A coffin not constructed of perishable material shall not be placed or caused to be placed in a grave without the written consent of the municipality but any attachments that normally form part of a coffin need not to be made of perishable material.
- (7) Only one body in a coffin is allowed for burial or cremation
- (8) Burial of more than one coffin may be allowed if application is made to and approved by the Municipality and the prescribed fee has been paid
- (9) If there is more than one body in a coffin each body must be contained in a separate body bag.
- (10) Where more than one body is buried, the user will be liable to pay the tariff prescribed for each of the bodies

### **PAUPER AND INDIGENT BURIAL OR CREMATION**

The body of a pauper or indigent person must be buried or cremated at the cost of the municipality at a cemetery/crematoria to be determined by the municipality.

### **DISPOSAL OF ASHES**

- (1) Ashes must be disposed of as requested by the applicant for cremation or his or her representative.
- (2) Directions as to the disposal of ashes must be given by the applicant or his or her representative at the time of application for cremation.
- (3) Notwithstanding the above, the municipality has the right to dispose of the ashes in accordance with applicable legislation.
- (4) Unless the ashes are to be buried by the municipality the person who applied for the cremation must provide a receptacle on which the full names of the deceased person is indicated, for receiving the ashes
- (5) A person may deposit ashes in a grave, niche in a columbarium, wall of remembrance, memorial work or garden of remembrance.
- (6) A person must obtain the consent from the municipality if he/she wishes to bury ashes in a grave or exhume ashes from a grave or scatter ashes

- (7) The municipality must on receiving payments of the prescribe fee give written consent to the applicant to bury, exhume or scatter the ashes and in the instance of burial or exhumation, prepare the grave for burial.
- (8) A grave for the burial of ashes or a niche in a columbarium must measure 610mm in length and 610mm in width

## CREMATION CERTIFICATE

1. On completion of a cremation, the municipality must supply a cremation certificate to the person who applied for the cremation
2. The municipality may on application and after receipt of the prescribed fee issue a duplicate cremation certificate to a person other than the one who applied for the cremation

## REPEAL

Fetakgomo Municipality: Cemeteries and Crematoria By-Law as published in the Limpopo Provincial Gazette No.1767, Notice Number 58 dated 07 April 2010 be repealed

## SHORT TITLE AND COMMENCEMENT

This by-law shall be called Fetakgomo Tubatse Local Municipality Cemeteries and Crematoria by-law and comes into operation on the date of publication in the Provincial Gazette

## BY-LAW REVIEW

- ❖ The Department of Community Services shall submit proposed changes to the Executive Committee, the relevant Portfolio Committees and Council.
- ❖ The Policy review shall be reviewed every three years.
- ❖ The reviewed by-law shall be subjected to approval by Council of Fetakgomo Tubatse Local Municipality.

**ANNEXURE A1**

**APPLICATION FOR EXHUMATION AND / OR RE- INTERMENT OF HUMAN REMAINS IN TERMS OF NATIONAL HEALTH ACT, 2003 (61/2003) REGULATION NO. R 363 DATED 22 MAY 2013**

**1. PARTICULARS OF APPLICANT**

Full names :..... Title.....

Address:.....  
.....

Tel No:.....

E- Mail Address:.....

**2. PARTICULARS OF DECEASED**

Full names:.....

Date of death..... Age at death:.....

Place where human remains are exhumed:.....

..... Date and time of exhumations.....

Place where human remains are to be re-interred:..... Date and time of re-internment .....

Receptacle in which human remains will be placed and manner in which it is to be removed:.....  
.....  
.....

Names and address of funeral undertaker responsible for rendering the services:.....  
.....  
.....

Precautions which will be taken to prevent any danger to health or cause for offence:.....

.....  
.....  
.....

\_\_\_\_\_

**SIGNATURE OF APPLICANT**

\_\_\_\_\_

**DATE**

*NB: Please attach particulars of the undertaker including certificates and an affidavit indicating your relationship with the deceased. The applicant is responsible for arrangement of a grave for reburial/internment.*

**ANNEXURE A2**

**FROM: Community Services Department**

DATE:

TO: \_\_\_\_\_ (Applicant)

Address and Contact

**SUBJECT: PERMISSION FOR EXHUMATION AND INTERMENT OF MORTAL REMAINS**

1. The above matter refers

2. With special reference to your letter dated 11 December 2017 regarding your application for exhumation and interment of mortal remains of the late (Deceased) from (Village and Ward number) and be reburied on (Name of the cemetery, plot number and grave number)

3. The Municipality has no objections to the exhumation of the mortal remains

4. The following are the conditions to be complied with:

- Handling of the mortal remains must be done by a registered funeral undertaker and disinfectants used freely.
- Under no circumstance must be the coffin be opened. It must be sealed in a airtight container, be placed in a sturdy non-transparent coffin and buried in a new grave as soon as possible.
- The proceeding must take place in a manner that there is no danger to the public health
- All the activities must be done in the presence of the Medical Health Practitioner from Sekhukhune District Municipality and authorised representative of SAPS
  
- Kind Regards

\_\_\_\_\_  
Phala NW

Municipal Manager

\_\_\_\_\_  
Date



**ANNEXURE A3**

**NOTICE OF EXHUMATION, RELOCATION AND RE-BURIAL OF (MR/S NAME OF THE APPLICANT)**

**TO; STATION COMMANDER**

**APEL/BURGERSFORT STATION**

1. You are hereby informed in terms of Section 27(a) and (b) of the National Health Act, 2003 (Act No. 16 of 2003) Regulations relating to the management of human remains (R. 363 dated 22th May 2013) that permission has been granted to (Mr Applicant) for exhumation of the remains of (Name of Deceased) at Mphanama ward 37 on the 26 March 2018 and re-burying of his remains at Mohlaletse Village on the 06 April 2018.

Your presence during the exhumation on the 06 April 2018 at 10h00 at Mohlaletse Village will be of utmost importance

**Yours Sincerely**

\_\_\_\_\_

**Phala NW**

**Municipal Manager**

\_\_\_\_\_

**Date**