GOVERNMENT NOTICE NO. 95

LOCAL GOVERNMENT ACT

(CAP. 22:01)

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS, 2018

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IN EXERCISE of the powers conferred by section 103 of the Local Government Act, the Lilongwe City Council make the following By-laws—

PART I—PRELIMINARY

Citation

1. These By-laws may be cited as the Local Government (Lilongwe City Council) (Public and Private Cemeteries) By-laws, 2018.

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

"body" means dead body of a human being;

"burial" means burial in earth, interment or any other form of sepulchre;

"class 'A' public cemetery" means a public cemetery that requires the payment of a fee for a grave space and other services;

"class "B" public cemetery" means a public cemetery that does not require the payment of a fee for a grave space;

"Council" means the Lilongwe City Council;

"grave space" means a plot of ground measuring 2.75 metres long and not less than 1.80 metres wide set apart for burial of one or more bodies;

"private cemetery" means any cemetery established by a religious denomination and which has been declared to be a cemetery in terms of section 114 of the Public Health Act; and Cap. 34:01

"public cemetery" means any cemetery established and maintained by the Council under section 75 of the Public Health Act and which has been declared to be a cemetery in terms of section 114 of the Public Health Act. Cap. 34:01

3. These By-laws shall apply within the area of jurisdiction of the Lilongwe City Council. Application

PART II—GENERAL PROVISIONS

4.—(1) Subject to the provisions of section 113(1) of the Public Health Act, the Council shall establish public and private cemeteries within its area of jurisdiction. Establishment of cemeteries Cap. 34:01

(2) The cemeteries established under paragraph (1) shall be as prescribed in the First Schedule hereto, and shall include the following categories—

(*a*) public cemeteries—

(i) class "A" public cemetery; and

(ii) class "B" public cemetery; and

(*b*) private cemetery.

(3) A person shall not establish a private cemetery, unless he has first obtained a written permission, as prescribed in Part II of the Second Schedule hereto, from the Council which has the right to impose any condition as to the siting and the use of the cemetery as it deems fit.

(4) An application for a permit to establish a private cemetery shall be made in the Form as prescribed in Part I of the Second Schedule hereto, and shall be accompanied by a non-refundable fee, as prescribed in the Third Schedule hereto.

Burial of a body

5.—(1) A person shall not dump or bury a dead body on or in any other place other than in an established public or private cemetery.

(2) The provisions of paragraph (1) shall not apply to a burial, authorized by the police, of a dead body so decomposed that it is not possible to move it to be buried in an established cemetery.

Portions of public cemetery to be designated for various denominations

6. A Public cemetery may be portioned to be designated for exclusive use by certain religious denominations and each portion so designated shall, in so far as religious burial ceremonies are concerned, be under the control of the religious denomination concerned, subject to compliance with these By-laws and terms of a burial permit issued under By-law 8, where applicable.

Burial fee payment required for class 'A' public cemeteries

7.—(1) A person shall not cause a burial to take place in a Class "A" public cemetery unless he has paid to the Council a fee as specified in the Third Schedule hereto.

(2) The fees shall be exclusive of any additional costs or charges which the Council may, in its discretion, fix or levy in respect of other services rendered by the Council as specified in the Third Schedule hereto.

Burial permit for class "A" public cemetery

8.—(1) A person shall not cause a burial to take place in a Class "A" public cemetery without a written permit from the Council, and any burial in such cemetery shall take place in strict conformity with the terms of such permit which shall prescribe the position of the grave to be used for the burial.

(2) For the purpose of this by-law, the Council shall maintain a plan of every Class "A" public cemetery on which all grave spaces shall be marked and numbered and the burial permit shall prescribe the position of the grave by quoting the number of the grave space as shown on the plan.

Reservation of grave space in class 'A' cemetery

9.—(1) The Council may, at its discretion and upon payment of the prescribed fee, grant any person the right to the reservation and use of a grave space as a private grave space in any Class "A" public cemetery.

(2) A person desiring to reserve a grave space under paragraph (1) shall make an application, in writing, to the Council and upon payment of the prescribed fee, such a grave space shall be reserved and held for use by that person.

(3) A person who has reserved a grave space in accordance with paragraph (1) shall pay an annual fee to the Council, as specified in the Third Schedule.

(4) Where a person fails to pay the annual fee as required under paragraph (3), the Council shall repossess the grave space and all fees paid previously shall be forfeited.

(5) A person shall not sell, transfer or assign to any other person his right to the use of a private grave space granted under paragraph (1) without prior written consent of the Council.

Cancellation of reservation of grave space

10. A person for whom the Council has reserved a private grave space under By-law 9 hereof, may relinquish his right to such grave space by

notifying the Council, in writing, of his intention to do so and all fees paid previously shall be forfeited.

Register of grave spaces in Class 'A' Public cemetery

11.—(1) The Council shall keep and maintain a register in the Form specified in the Fourth Schedule hereto, in respect of every grave space in a Class "A" public cemetery.

(2) The Council shall keep and maintain a record of every grave space in a Class "A" public cemetery.

Digging of grave

12. A grave shall be dug only in the regular line of excavation and, as near as possible, in the middle of the grave space.

Depth of grave

13.—(1) A grave in a private or public cemetery intended for the burial of a body of a person aged above 6 years shall be of a perpendicular depth of not less than 1.80 metres throughout its entire area.

(2) A grave intended for the burial of a body of a child of 6 years of age or under shall be of a perpendicular depth of not less than 1.3 metres.

(3) Where more than one body is intended to be buried in one grave, such a grave shall be of a perpendicular depth of not less than 2.25 metres.

Provision of grave digging services

14. A person may request the Council to dig a grave in any cemetery and to provide attendant services at a fee as prescribed in the Third Schedule hereto:

Provided that an application to that effect shall be made to the Council at least 24 hours before the intended time for burial.

Number of bodies in a grave and manner of burial

15.—(1) Except with the special permission of the Council, not more than two bodies shall be buried in any one grave in a public or private cemetery.

(2) Where two bodies or coffins, as the case may be, are buried in one grave, the second body or coffin shall be effectively separated from the other body or coffin in the grave by means of a layer of earth at least 0.05 metres thick.

Filling of graves

16. Except with a special permission from the Council, immediately after a burial has taken place in any private or public cemetery, the grave shall be filled with earth to a height of not less than 30 cm.

Opening hours for public cemetery

17.—(1) A public cemetery shall be open to the public between the hours of 7:30 am and 4:30 pm every day.

(2) A person shall not enter, or remain, in any public cemetery beyond the opening hours specified in paragraph (1) unless he has a special permit from the Council.

Erection and disposition of tombstone

18.—(1) A person shall not erect or deposit in any public cemetery any tombstone, kerb or other structure of whatever description, without the prior written permission of the Council or otherwise than in strict compliance with the terms of such permission and will be required to pay a fee as specified in the Third Schedule for Class "A" cemetery.

(2) Where any tombstone, kerb or other structure is erected in contravention of paragraph (1) or if any tombstone, kerb or other structure is displaced, dilapidated, ruined or unsafe, the Council may order that the same be removed, replaced or repaired, and in cases where the Council has incurred any expenses in the removal, replacement or repair of the structure, the estate or the next of kin of the deceased shall bear the cost.

Maintenance of graves, tombstone, etc

19. The Council shall not be held liable for the care, custody or maintenance of any grave space or of any tombstone, monument or other structure erected on any grave in any cemetery:

Provided that the Council may, where a grave space has, in its opinion, become unsightly by reason of overgrown vegetation, carry out any necessary clearance work.

Detention of stray animal

20. An animal found straying in any cemetery shall be dealt with in accordance with the Local Government (Lilongwe City Council) (Control of Animals) By-laws.

Prohibited acts in a public cemetery

21. A person shall not, in any public cemetery—

(*a*) trespass upon a grave;

(*b*) enter or leave the cemetery, except by the designated entrance gates;

(*c*) commit any nuisance;

(*d*) bring into or allow a dog or any other animal listed in part 1 of the First Schedule of the Local Government (Lilongwe City Council) (Control of Animals) By-laws, 2018.

(*e*) injure, pluck, uproot, or remove any flower, plant, shrub or tree;

(*f*) mark, deface or damage any tombstone, monument, railing chain, decoration, ornament structure or other improvement;

(*g*) create a disturbance or otherwise behave in an unseemly, indecent or irreverent manner;

(*h*) erect or place any advertisement or sign board or solicit any business order or exhibit, distribute or leave any tract, pamphlet or business card or use any road or path for the conveyance or sale of any goods or materials except such as are intended for use in such a cemetery;

(*i*) hold or take part in any demonstration; or

(*j*) wilfully obstruct or impede any person employed by, or acting on behalf of, the Council in the performance of his duties.

PART III—OFFENCES AND PENALTIES

Offences and penalties

22. A person who contravenes a provision of these By-laws or fails to comply with any condition imposed by the Council under these By-laws commits an offence and shall be liable to the following penalties—

(*a*) a fine of K2,000.00, payable to the Council, upon being notified of the contravention for the first time by an official of the Council; and

(*b*) where the contravention continues, to a further penalty of K200.00 for each day during which the offence continues or a term of imprisonment of six months or both such fine and imprisonment.

FIRST SCHEDULE (by-law 4(2))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS

PART I—PUBLIC CEMETERIES

A.—CLASS "A" PUBLIC CEMETERIES

1. Plot No. 1 in Area 30
2. Plot No. 3053 and partly on plot 3054 along Glyn Jones Road in Area 3

B.—CLASS "B" PUBLIC CEMETERIES

1. Part of plot No. 1 delineated as a class "B" public cemetery in Area 30
2. Kawale II Cemetery, Area 7
3. Kaliyeka Cemetery, Area 21
4. Area 23 Cemetery
5. Area 47 Cemetery
6. Area 49 Cemetery
7. Area 25 Cemetery
8. Lumbadzi Cemetery, Area 53
9. Dedza Road Cemetery, Area 8 adjacent to Lilongwe Girls Secondary School (as subdivided to provide areas for Catholics, Muslims and other denominations)
10. Chilinde Cemetery
11. Kabwabwa Cemetery
12. Mgona Cemetery
13. Senti Cemetery
14. Chimoka Cemetery
15. Area 36 Cemetery

PART II—PRIVATE CEMETERIES

1. Poor Clara's Private Cemetery, Plot No. 4001, off Kamuzu Procession Road.
2. Hindu/Sikh Cemetery and Crematorium, Plot No. 2016, along the Kamuzu Procession Road.

SECOND SCHEDULE (by-law 4 (3&4))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS

PART I—APPLICATION FOR ESTABLISHMENT OF A PRIVATE CEMETERY

A.—DETAILS OF APPLICANT

(1) Name: .....

(2) Area: ..... Plot No.: ..... Street: .....

(3) Address: .....

Telephone: ..... Cell.: .....E-mail: .....

(4) Proposed location: ..... Plot No.: .....

(5) Landlord for the area: .....

(6) Signature of applicant: ..... Date: .....

B.—FOR OFFICIAL USE ONLY

(1) Date of inspection: .....

(2) Comments/Remarks: .....

.....

.....

(3) Amount paid: ..... Receipt No.: .....

(4) Name of cashier: ..... Signature: .....

(5) Name of Official: ..... Signature:.....

Designation: ..... Date: .....

PART II—LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS

PRIVATE CEMETERY PERMIT

Permission is hereby granted to ..... of .... to establish a private cemetery, as detailed below, in accordance with the Local Government (Lilongwe City Council) (Public and Private Cemeteries) By-laws, 2018.

Permit No..... Plot number .....

Location .....

Landlord .....

GIVEN under my hand at LILONGWE this .....day of .....Two Thousand.....

.....

Chief Executive Officer

THIRD SCHEDULE (by-laws 4(4), 7(1&2), 9(3), 14 & 18))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS

BURIAL AND OTHER SERVICE FEES

1.	Burial for an adult in Class "A" cemetery	K25,000.00
2.	Burial for a child of 6 years or under in a Class "A" public cemetery	K15,000.00
3.	Digging of a grave in a private or public cemetery for an adult	K 20,000.00
4.	Digging of a grave in a private or public cemetery for a child of 6 years or under	k12,500.00
5.	Hire of lowering machine	K15,000.00 per day
6.	Tomb construction at Class "A" cemetery	50% of current burial fee
7.	Hire of hearse within the City boundary—	
	(*a*) Category A hearse (>16 seater)	K150,000.00 per day
	(*b*) Category B hearse (<16 seater)	K75,000.00 per day
8.	Hire of hearse outside the City boundary—	
	(*a*) category A hearse (>16 seater)	K150,000.00 per day plus K600 per km, excluding driver's allowance
	(*c*) category B hearse (<16 seater)	K75,000.00 per day plus K600 per km, excluding driver's allowance

9.	Hire of hearse outside Malawi	K200,000 per day plus K600 per km, excluding drivers allowance
10.	Wreaths (Fresh—)	
	(*a*) category A—	
	(i) large	K6,000.00 per wreath
	(ii) medium	K5,000.00 per wreath
	(iii) small	K4,000.00 per wreath
	(*b*) Category B —	
	(i) large	K4,500.00 per wreath
	(ii) medium	K3,500.00 per wreath
	(iii) small	K2,500.00 per wreath
11.	Undertakers	K20,000.00
12.	Grave space reservation	K100,000.00 per plot and renewable yearly at K20,000
13.	Exhumation charges (upon production of a court order) —	
	(*a*) exhumation fee	K300,000.00
	(*b*) grave tracing	K15,000.00
	(*c*) exhumer allowance	K30,000.00 per digger
	(*d*) senior exhumer allowance	K50,000.00
14.	Burial certificate	K5,000.00
15.	Application fee for establishment of private cemetery	K5,000.00
16.	Inspection fee	K30,000.00
17.	Fees payable on issuance of a Private Cemetery Permit . .	K50,000.00

FOURTH SCHEDULE (by-law 11)

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (PUBLIC AND PRIVATE CEMETERIES) BY-LAWS

REGISTER OF GRAVES IN CLASS "A" PUBLIC CEMETERIES

1 Cemetery: .....

2 Grave No.: .....

3 Surname: .....

4 Forename and or other names: .....

5 Last address: .....

6 Occupation: .....

7 Date of death: .....

8 Place of death: .....

9 Date of burial: .....

10 Religion: .....

11 Age: .....

12 Sex: .....

13 Nationality: .....

14 Officiating clergy: .....

15 Next of Kin and contact details: .....

16 Legal representative (if any): .....

17 Remarks: .....

Made this 13th day of July, 2018.

M. M. ZELEZA
Chief Executive Officer

COUNCILLOR D. BIKOKO (PhD)
Mayor

Approved this 10th day of December, 2018.

K. NANKHUMWA
Minister of Local Government and Rural Development

(FILE NO: LG/1/13/25)