

# MUNICIPALITY OF MALUTI-A-PHOFUNG:

## CEMETERY BY-LAWS

### CHAPTER 1

#### GENERAL

##### 1. In these by-laws, unless inconsistent with context-

**“adult”**( when the word is used to describe a body) means any deceased person over the age 12 whose covered body will fit into the grave opening prescribed for adults in section 15;

**“ashes”** the remains of a human corpse after it had been cremated;

**“body”** means the remains of any deceased person.

**“burial order”** means an order issued in terms of the Births, Marriages and Deaths Registration Act, 1963 (Act 81 of 1963).

**“caretaker”** means the official appointed from time to time by the municipality in a supervisory capacity with regard to any cemetery and includes the superintendent;

**“cemetery”** means any piece of ground not apart by the municipality as public cemetery;

**“child”** (where the word is used to describe a body) means any deceased person of the age of 12 years or under whose covered body will fit into the grave opening prescribed for children in section 15;

**“contractor”** means the person who has paid or caused any of the charges prescribed in terms of Schedule A hereto to be paid or who has obtained the right to have any memorial work erected or constructed or interests referred to or mention in these by-laws;

**“council”** means the council of the Municipality of Maluti-a-Phofung;

**“cremation”** disposal of a human body by means of incineration;

**“manager”** means the person appointed by the municipality as manager of Parks and Recreation or his authorized representative;

**“grave”** means any piece of land laid out for the interment of one of two bodies within any cemetery;

**“Director Community Services”** means the Director Community Services of the municipality or any officer authorized by him;

**“memorial plate/plague”** a plate measuring 300 mm X 200 mm made of granite, marble, bronze or stainless steel;

**“memorial work”** means any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected or which may be erected or any grave to commemorate a deceased person and includes a kerb demarcating any grave;

**“municipal area”** means the area under the control and jurisdiction of the council determined in terms of the Local Government: Municipal Demarcation Act, 1998;

**“municipal manager”** means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person-

- a) acting in such position; and
- b) to whom the municipal manager has delegated a power, function or duty;

**“niche”** space measuring 300 mm X 260 mm (outside) 225mm X 175 mm (inside) in the wall of Remembrance for the preservation/ storage of ashes;

**“non-resident”** means any person who at the time of his death was not a resident and who further complies with the requirements in terms of the Council’s policy determined from time to time;

**“Registrar of Deaths”** means a person appointed by the Government to register deaths;

**“resident”** means a person who, at the time to death, ordinarily resident within the municipality or any person who, at the time of death, shall have been the owner or fixed property within the municipality for a period of at least six months immediately prior to death: Provided that unless otherwise qualified, the term does not include inmates of hospitals, institutions or other persons temporarily resident within the municipality. In case where the right to a grave has been purchased prior to such purchaser has taken up residence outside the municipality, the charges applicable in respect of burial or residents shall apply;

**“tariff”** means the charges as determined by the council from time to time;

**“wall” of remembrance** means the section of the cemetery designated by the Council for the storage of ashes.

## **Establishment of cemeteries**

1. The Council may from time to time set apart any ground for the purpose of a cemetery and no person shall inter or cause any body to be interred in any other place in the municipality.

### **2a. Wall of Remembrance**

- (1) No person shall dispose of a body in any other manner than by interning it in a cemetery or having it cremated in a crematorium approved in terms of the provisions of the Crematorium Ordinance, 1965.
- (2) The remains of a body cremated at a crematorium within or outside the boundaries of the municipality may be interned in the wall of Remembrance on payment of the charges prescribed in the tariff.
- (3) The ashes of more than one person may after payment of the fees as prescribed in the tariff be stored in the same niche.
- (4) A memorial plate/ plaque must be erected for each niche used. The erection of the plate is subject to the provisions for Chapter V1 of these by-laws.
- (5) The provisions of sections 13, 14, 16 and 17 are mutatis mutandis applicable to the storage of ashes.

## **Hours of Admission for Visitors**

2. (1) Every cemetery shall be open to the public at all hours. Provided that the Council shall have the power to close to the public any cemetery or part thereof for such period as it may deem fit if it is, in the opinion of the council, in the interest of the public.
- (2) No person shall be or remain in any cemetery or part thereof before or after the hours mentioned in subsection (1), or during any period when it is closed to the public.

## **Children**

3. No person under 12 years of age may enter any cemetery, unless such person is under the care of a responsible person.

## **Keeping to Paths**

4. All persons shall enter or leave any cemetery, except by the gates provided for that purpose, and no person shall enter any office or fenced place in a cemetery except in connection with lawful business.

## **Entrances to and Exits from Cemetery**

5. No person shall enter or leave any cemetery, except by the gates provided for that purpose, no person shall enter any office or fenced place in a cemetery except in connection with lawful business.

## **Prohibited Acts within Cemeteries**

6. No person shall-
  - (1) Commit any nuisance within any cemetery.
  - (2) Ride any animal or cycle within any cemetery.
  - (3) Bring any dog, cat, fowl or other animal or bird into a cemetery or allow it to wander therein. Any dog, cat, fowl or other animal or bird found in any cemetery may be destroyed by the Council without paying any compensation to the owner thereof.
  - (4) Plant, cut, pick or remove any plant, shrub or flower without the permission of the caretaker.
  - (5) Hold or take part in any demonstration in any cemetery.
  - (6) Obstruct, resist or oppose the caretaker or any official, workman or labourer employed by the council in any cemetery in the course of his duty or refuse to comply with any order or request which the caretaker is entitled to make under these by-laws.
  - (7) Use or cause any cemetery to be used for any immoral purpose.
  - (8) Mark, draw, scribble, erect advertisements or objects on any wall, building, fence, gate, memorial work or other erection within any cemetery or in any way deface them.
  - (9) Sit, stand, walk or climb upon or over any grave, memorial work, gate, wall, fence or building in any cemetery.
  - (10) Solicit any business, order or exhibit, distribute or leave any tracts, business cards or advertisements within any cemetery.
  - (11) Use any road, walk or turfed path in a cemetery for the conveyance of any goods, parcels or other material, except when intended for such use in such cemetery.

## **Complaints**

7. Any person wishing to lodge a complaint shall be lodge such complaint in writing with the Director Community Services.

## **Charges**

8. The charges got forth in “the tariff” in respect of the various items therein contained, shall be paid to the council in advance.

## **Rights on graves**

9. No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interest as may be obtainable in terms of these by-laws.
10. Any written consent, notice or other order issued by the Council in terms of these by-laws, with the exception of a consent in terms of section 33 shall be signed by the Director or any officer authorized by him and shall be prima force evidence of the contents of such a signed consent, notice or other order.

## **CHAPTER 11**

### **INTERMENTS**

- 11.(1) No person shall inter or cause any body to be interred within any cemetery without the permission of the caretaker, such permission shall only be granted on submission to the caretaker of a written order signed by the Registrar of Deaths, authorizing interment, together with notice of such interment.

In all cases where a postmortem has been held, the order of the magistrate shall also be submitted to the caretaker.

- (2) Any person desiring to have a body interred in a grave shall submit to the caretaker an application in writing on the prescribed form issued by the Council and such application shall be signed by the nearest surviving relative of the person whose body will be buried in the grave or such other person as the nearest surviving relative may authorize to sign the application on his behalf; Provided that if the caretaker is satisfied that the

signature of the nearest surviving relative cannot be obtained timeously, he may at his discretion grant an application signed by any other interested person.

- (3) Not more than one interment may be in a grave except with the written permission of the Director.
- (4) The Council may, upon application, at its discretion, inter any body free of charge in such place and manner as it may deem fit.
- (5) Nobody shall be buried unless it is placed in a suitable covered.

### **Alteration of Date of Interment**

- 12. Should any alteration be made in the day or hour previously fixed for an interment, notice of such alteration shall be given to the caretaker at the cemetery at least 6 hours before the time fixed for such interment.

### **Dimensions of Grave Openings**

- 13. (1) The standard dimensions of an adult's grave shall be 2 150 mm by 925 mm and those of child's 1 500mm by 750 mm.
- (2) The standard dimensions of the aperture of an adult's grave shall be 2 150 mm in length and 925 mm in width at the shoulders; and those of a child's grave 1 500 mm in length and 66 mm in width at the shoulders.
- (3) Any person requiring for an interment in an adult's grave an aperture of a size larger than the standard dimensions shall, when giving notice of interment, specify the measurements of the coffin, including fittings.

### **Reserving of Graves**

- 14. (1) Upon the death of a person any person shall have the right, on payment of the charges prescribed in "the tariff" to purchase not more than two adjoining grave if available, for future use.
- (2) Any person desiring to purchase the use of a grave shall apply to the Director Community Services.

### **Rights not Transferable**

15. No person shall, without the written consent of the Council, sell or transfer to any other person any right relating to a grave which he has obtained or may obtain in terms of the provisions of these by-laws.

### **When a child is too large**

16. Should a child be too large for the dimension of a child's grave it will be placed in an adult grave and the prescribed charges for an adult's interment shall be paid by the person giving notice of interment.

### **Depth of Grave**

17. No adult's grave shall be less than 1,800 mm and no child's grave shall be less than 1 500 mm in depth.

### **Covering of Earth**

18. There shall be at least 1 200 mm of earth between any adult's coffin or covered body and the surface of the ground and at least 900 mm of earth between a child coffin or covered body and the surface of the ground.

### **Coffins in Graves**

19. No person shall place or cause any coffin constructed from any other material than soft wood or other perishable material to be placed in any grave without the written consent of the Director or an officer authorized by him: Provided that any attachments to such coffin which normally form a part of a coffin, need not be made of soft wood or other perishable material.

### **Coffin or Covered body shall be covered with Earth**

20. The coffin shall, upon being placed in any grave, be covered without delay with at least 300 mm of earth.

### **Disturbance of Human Remains**

21. Subject to the provisions of an exhumation order given in terms of the Inquests Act, 1959 (Act 58 of 1959), or section 46 of the Health Act, 1977 (Act 63 of 1977), or any other provisions of any act relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding it in any cemetery.

## **CHAPTER 111**

# **FUNERALS**

## **Religious Ceremonies**

22. The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.

## **Hearse at Cemeteries**

23. No person shall cause any hearse while within a cemetery to depart from the carriage drives or retain any hearse within any cemetery after the removal of the body from such hearse. Every hearse immediately after such removal shall leave the cemetery by route indicated by the caretaker.

## **Exposure of Bodies**

24. No person shall convey a dead body, which is not covered, or whose any such body or any thereof in any street, cemetery or public place.

## **Instruction of Caretaker**

25. Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker while such person is within a cemetery.

## **Music inside Cemetery**

26. Any sacred singing or music shall be allowed in any cemetery.

## **Interments Attended by large Numbers of people**

27. In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment shall notify the caretaker the day before the funeral.

## **Hours of Interments**

28. A interment shall be held anytime of day or night on condition that notice of such interment shall reach the caretaker the day before the funeral.

## **Numbers of Graves**

29. No person shall fix a peg on any grave not allocated in terms of these by-laws.



## **CHAPTER 1V**

### **EXHUMATION OF BODIES AND RE-OPENING OF GRAVES**

30. Subject to the provisions of any provisions of any law on the subject, no grave may be opened without the written consent of the Director.

#### **Exhumations**

31. Subject to the provision of section 23 and 32, no person shall exhume or cause any body to be exhumed or removed without the written consent of the Municipal Manager and the Head: Community Services, and the charges for exhumation prescribed in "the tariff" shall in every case be paid before the exhumation place. Such permission shall be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of such body.

#### **Time of Exhumation**

32. No person shall exhume or cause a body to be exhumed during any time, of the day or night unless the necessary arrangements have be arrange with the caretaker.

#### **Screening of Activities**

33. The grave from which any body is to be removed shall be effectively screened from view by the undertaker during the exhumation.

#### **Director of Community Services shall be Present**

34. No exhumation or removal by any person shall take place unless the Director of Community Services or his/her authorized representative is present.

#### **Transfer of a body from one Grave to Another by the Council**

35. Should the transfer of a body be deemed expedient by the Council at any time or should any provision of these by-laws be contravened during the interment of a body in any grave, the Council may, after having complied with the provisions of the Removal of Graves and Dead bodies Ordinance 1925, transfer such body to another grave and, if possible, any relative of such deceased person resident within the municipality, shall be notified accordingly.

## **CHAPTER V**

### **CARE OF GRAVES**

#### **Graves shall be kept clear of Weeds and in proper order**

36. The contractor in respect of any grave shall keep such grave clear of weeds and in proper order. Should the contractor fail to do so, the Council may itself do or cause the necessary work for the above mentioned purpose to be done and to recover the cost thereof from the contractor.

#### **Shrubs and flowers**

37. With the exception of the Council. No person may plant any shrub, plant of flower upon any grave. No shrub, plant or flower shall be cut or carried away by any person without the consent of the caretaker, and the Council; shall have the right to prune, cut down, dig up or remove any shrub, plant or flower at any time.

#### **Care of Graves**

38. The Council may at its discretion undertake to keep any grave, within the Municipality, in order for any period.

## **CHAPTER VI**

### **ERECTION AND MAINTENANCE OF MEMORIAL WORK**

#### **Written Consent of Council**

39. No person shall bring into a cemetery, erect, alter, paint, renovate, remove or otherwise interfere with any memorial work or cut any inscription thereon in any cemetery without the consent, in writing, of the Director and of the contractor of such grave.

#### **Position of memorial work**

40. No person shall erect any memorial work on any grave except in such position as the caretaker may direct or as otherwise provided for in these by-laws.

#### **Repairs to memorial work**

41. Should the contractor of a grave allow any memorial work to fall into such a state of despair that it may, in the opinion of the Council, cause danger of

deface any cemetery, the Council may order him by notice in writing, to make such repairs as the Council may deem necessary.

and should the address of the contractor be unknown to the Council, such notice may appear in any two (2) official language that are relevant to each case, in any newspaper circulating within the Municipality. Should the required repairs not be carried out within one month of serving such notice or the publication thereof, the Council may itself carry out such repair or remove the memorial work without paying any compensation and recover the costs of such repair or removal from the contract.

### **Supervision of work**

42. Any person engaged upon any memorial work in a cemetery shall effect such work under the supervision and to the satisfaction of the caretaker.

### **Damaging of memorial work**

43. The Council shall in no case accept responsibility for any damage which may at any time occur to any memorial work, and which is not due to the negligence of the Council's employees.

### **Moving of memorial work**

44. The Council may, after due notice, at any time change or alter the position if any memorial work in any cemetery and recover the cost thereof from the owner of such memorial work: provided that in any case where the express consent of the Council or its employees, any alteration of such position in terms of the provision of this section shall be executed at the expense of the Council.

### **Bringing Material into Cemetery**

45. No person shall bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless and until-
- (1) a sketch with the essential dimensions in figures of the proposed memorial and showing the position of the proposed work, accompanied by a specification of the materials to be used in addition to a copy of any proposed inscription has been submitted to the caretaker at least fourteen days prior to the date on which such material is intended to be brought into any cemetery;
  - (2) all charges due in respect of such grave or graves have been paid;

- (3) the Director's written approval of the proposed work has been given to the applicant; and
- (4) the grave number has been neatly engraved on the front of the memorial work.

### **Removal of Memorial Work by the Council**

46. Any memorial work placed, built, altered, decorated, painted or otherwise dealt with in any cemetery in such manner that any provision of these by-laws is contravened thereby, may be removed by the Council after due notice without payment of any compensation.

### **Requirement for Erection of Memorial Work**

47. Any person erecting any memorial work shall comply with the following requirements:
- a) Where any part of any memorial work is to be joined to any other part, copper or galvanized ramps, pins or dowels of approved thickness and of sufficient length shall be used for such purpose. The holes into which such cramps, pins or dowels must fit, shall not be less than 50mm deep;
  - b) Any part of such work which rest upon the ground or any stone or other foundation shall be fairly squared and bedded;
  - c) No stone of uneven thickness, or having any corner wanting, shall be used unless shown on the sketch submitted in terms of section 47(1).
  - d) The undersides of all memorial work shall be set 50 mm below the natural level of the ground.
  - e) Without the written consent of the Council no kerb stones shall be used which protrudes more than 230 mm above the surface of the ground or are more than 200 mm thick.
  - f) All head and kerb stones shall be properly secured from inside with round copper or galvanized iron pins.
  - g) All headstones up to 150 mm in thickness shall be securely attached to the base in an approved manner.
  - h) All memorial work shall be completed as far as possible before it is brought into any cemetery.
  - i) In the case of single grave. Foot krbs shall consist of one solid peace.
  - j) No soft stone shall be used for memorial work and memorial work shall be constructed or made of marble or granite or any other proved hard stone or other material approved by the Council.
  - k) No person shall do any stone work, chiseling or other work upon any memorial work not connected with the fixing of such

memorial work within any cemetery, except where such work is expressly permitted in terms of these by-laws.

- l) All memorial work shall have an adequate concrete foundation traversing the head of the grave and where joints occur in the kerb stone, all joints shall be filled with good cement mortar. This foundation shall protrude 150 mm on either side of the stone.
- m) Where memorial work has a base on ground level, such base shall be not less than 1060 mm wide by not less than 300 mm by 300 mm.
- n) Any letter on memorial work shall be engraved thereon and shall not protrude from the surface of the memorial work.
- o) With the consent of the contractor the name of the maker may be attached to any memorial work; provided that no address or other particulars shall be added thereto.

### **Conveying of Memorial Work**

48. The conveying of any stone, brick or memorial work or any part thereof along paths between graves may only be undertaken by means of a trolley fitted with pneumatic tires: Provided that no such trolley shall be moved along any path which in the opinion of the caretaker is too narrow or otherwise unsuitable for such a trolley.

### **Vehicles and Tools**

49. Any person carrying on any work within a cemetery shall in all respect comply with the directions of the Director.

### **Complying with Council's Direction**

50. Any person carrying on any work within a cemetery shall in all respect comply with the direction of the Director.

### **Rubbish and Damage to Cemetery**

51. No person shall at any time leave any rubbish, soil, stone or other debris within any cemetery or in any way damage or deface any part of any cemetery or anything therein contained.

### **Times of Bringing in Material and Doing Work**

52. No person shall bring memorial work or material or do any work, other than dismantling of memorial work for burial purposes, within any cemetery except during the following hours: Mondays to Fridays, public holidays excluded: 8h00 to 16h00.

## **Inclement Weather**

53. No person shall fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.

## **Production of Written Permission**

54. Any person charged with any work or on his way to or from work within any cemetery, shall upon demand by the Council or its authorized officer produce the written consent issued to him in terms of section 41.

## **CHAPTER VII**

### **All Sections**

55. 1. No person shall erect, place or level upon or around a grave any millings, wire-work, flower stand, ornament, embellishment or other object of any kind, other than a vase as hereinafter mentioned, together with such flower and foliage as may be

Inserted therein: Provided that during the first six months after an interment, flower, whether natural or artificial and whether loose or in wreaths, may at any time be placed or left on the berm (grass) at the head of the grave or, where no berm (grass) has been provided at the head of the grave, anywhere on the grave.

2. Notwithstanding the provisions of subsection (1), the caretaker may after the expiration of the period of six months referred to in the said subsection, permit the placing of fresh flowers and foliage on the graves, whether made up into wreaths or otherwise, on Christmas Day, New Year's Day or any other day and anniversaries connected with the deceased person or such other occasions as the caretaker may think fit.
3. Fresh flowers and foliage placed on a grave in terms of the provision to subsection (1) or with the caretaker's consent in terms of subsection (2) may be removed by him when in his opinion they have faded.
4. A gravestone may incorporate not more than two vases or other receptacles for flowers or foliage.

## **CHAPTER VIII**

### **GENERAL**

## **Penalties**

56. Any person contravening any provision of these by-laws or failing to comply therewith or failing to comply with the conditions of any notice served on him by the Council in terms of these by-laws, shall be guilty of an offence and liable, on conviction to a period of imprisonment not exceeding 3 months or community service or to a fine not exceeding R1 000.00 or a combination of the aforementioned.

## **Repeal of Existing By-laws**

57. The provision of any Cemetery By-laws within the Municipality, is hereby repealed.