

**MALUTI-a-PHOFUNG MUNICIPALITY:
NOTICE NUMBER 86/2005**

**PUBLICATION OF BY-LAWS RELATING TO STREETS FOR
THE MALUTI-A-PHOFUNG MUNICIPALITY**

The Municipal Council of Maluti-a-Phofung resolved during a meeting on 6 September 2005, after complying to Section 12 of the Local Government: Municipal Systems Act No 32 of 2000 as follows:

1. That in terms of section 13 of the Local Government: Municipal Systems Act No. 32 of 2000, the By-laws relating to Streets as published in the OFS Provincial Gazette on 22 April 2005 (Notice Number 27 of 2005) be adopted for the Maluti-a-Phofung Municipality.
2. That in terms of Section 13 of the Local Government: Municipal Systems Act No. 32 of 2000 the By-laws takes effect as from date of publication in the Provincial Gazette.

**TM MANYONI
MUNICIPAL MANAGER
MALUTI-a-PHOFUNG
15 September 2005**

Maluti-A-Phofung Municipality

By –Laws Relating to Streets

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Purpose of By-Law

- To promote the achievement of a safe environment for the benefit of residents within the area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to manage the use and utilisation of streets in the area of jurisdiction of the municipality

Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa: -

"animals" means any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches indigenous mammals and other wild animals;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

"Council" means –

- (a) Maluti-A-Phofung Municipality established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its succession in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws, has been delegated or sub-delegated or an instruction given as contemplated in, section 59 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000);

"municipality" has a similar meaning to "Council".

"municipal area" means the area of jurisdiction of Maluti-a-Phofung Municipality as determined in terms of the Municipal Demarcation Act, 1998;

"municipal manager" means a person appointed in terms of section 82 of the Municipal Structures Act, 1998

"motor vehicle" means any self-propelled vehicle and includes-

- (a) a trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"public place" means any square, park, recreation ground, sports ground, sanitary lane or open space which has-

- (a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used by the public without interruption for a period of at least thirty years, or
- (d) at any time been declared or rendered such by the municipality or other competent authority;

“public street” means-

- (a) any street which has at any time been-
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
- (b) any land, with or without buildings or structures thereon, which is shown as a street on-
 - (i) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (ii) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office;unless such land is on such plan or diagram described as a private street;

“semi-trailer” means a trailer having no front axel and so designed that at least 15% of its tare is super-imposed on and borne by a vehicle drawing such trailer;

"sidewalk" means that portion of a street between the outer boundary of the roadway and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

"street" means any road, street or thoroughfare or any other place which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and except where in-consistent with the context includes -

- (a) the verge of any such road, street or thoroughfare
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare.

“tare”, in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of-

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of-
 - (i) fuel, and
 - (ii) anything attached to such vehicle which is not of the nature referred to in paragraph (b) or (c);

“trailer” means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;

"vehicle" means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails; and

"work" means work of any nature whatsoever undertaken on any land within the area of jurisdiction of Maluti-a-Phofung Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of a new building or alterations or additions to any existing building, the laying of cables and pipes, the dumping of building or other material anywhere in the street, or delivery to or removal from any site of any soil or material of any nature whatsoever.

Streets, sidewalks and encroachments on streets

2. No person shall -

- (a) make, construct, reconstruct, or alter a street or sidewalk in a street –
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with the requirements prescribed by the municipality, or
- (b) construct a verandah, stoep, steps or other projection or erect a post in a street except with the written permission of the municipality.

Advertisements visible from streets

3. (1) No person shall display any advertisement, placard, poster or bill in a street –
- (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.
- (2) This section shall not be applicable to signs which have been exempted under the provisions of the municipality's by-law relating to Outdoor Advertising.

Animals or objects causing an obstruction

4. No person shall -

- (a) deposit or leave any goods or articles in a street, other than for a reasonable period during the course of the loading, off-loading or removal thereof, or
- (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a perambulator or wheel-chair which is being used for the conveyance of children or the disabled), or
- (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street -

- (i) except with the written permission of the municipality, or
- (ii) otherwise than in accordance with such conditions as may be determined by the municipality.

Trees in streets

5. (1) No person shall -
- (a) plant a tree or shrub in a street, or in any way cut down a tree or a shrub in a street or remove it there from, except with the written permission of the municipality;
 - (b) climb, break or damage a tree growing in a street, or
 - (c) in any way mark or paint any tree growing in a street or attach any advertisement thereto.
- (2) Any tree or shrub planted in a street shall become the property of the municipality.

Trees or growth causing an interference or obstruction

6. (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, danger or inconvenience to persons using a street, the municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (2) Any person failing to comply with a notice issued in terms of subsection (1) shall be guilty of an offence.
- (3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

Refuse, motor vehicle wrecks, waste material, etc.

7. No person shall –
- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street or public place, or
 - (b) permit any such objects or substances to be dumped or placed in a street or public place from premises owned or occupied by him,

except with the written permission of the municipality and otherwise than in accordance with such conditions as may be determined by the municipality.

Prohibition upon certain activities in connection with objects in streets

8. No person shall, in a street -

- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
- (b) clean or wash a vehicle.

Prohibition upon games and other acts in streets

9. No person shall -

- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street, or
- (b) do anything in a street which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public unless such street is provided with clear signs and identifiable paving and street furniture which distinguishes it as “residential erf” or “street park”.

Use of explosives

10. No person shall in or upon a street use explosives or undertake blasting operations -

- (a) except with the written permission of the municipality, and
- (b) otherwise than in accordance with such conditions as may be determined by the municipality.

Conveyance of animal carcasses or other waste products through streets

11. No person shall carry or convey through a street the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand -

- (a) unless it is properly covered, and
- (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street.

Fences on street boundaries

12. No person shall erect a barbed-wire fence or other dangerous fence on the boundary of a street except with the written permission of the municipality.

Building materials in streets

13. No person shall bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials in a street except with the written permission of the municipality, and then only in accordance with the requirements prescribed by the municipality.

Balconies and verandahs

14. No person shall, except with the written permission of the municipality –

- (a) use a balcony or verandah erected beyond the boundary line of a street for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
- (b) enclose or partition a balcony or verandah erected beyond the boundary line of a street or portion thereof as a living or bedroom.

Drying of washing on fences on boundaries of streets

15. No person shall dry or spread washing on a fence on the boundary of a street.

Outspanning in streets

16. No person shall outspan or allow to be outspanned in any street any vehicle drawn by animals, or detach or leave in any street any trailer, caravan or vehicle which is not self-propelled; provided that this provision shall not apply to the actual loading or unloading of such vehicle.

Protection of street surface

17. (1) No person shall –
- (a) use a vehicle or allow it to be used in any street if such vehicle is in such a defective condition that it will or may cause damage to any street, and
 - (b) drive, push, roll, pull or propel any object, machine or other material through or along a street in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the street in any way.
 - (c) undertake any work which may cause the surface of any street to be altered, damaged or broken without the permission of the municipality.
- (2) If the municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street, the cost of repairs, as determined by the municipality, may be recovered from the offender.
- (3) Any person who is the owner of land on which any work is done shall be liable for any damage to any portion of a street caused by or in connection with the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (4) When any work which has to be undertaken on any land entails the driving of vehicles over kerbs, sidewalks or road verges, the owner of such land shall not commence, or allow any other person to commence, any such work unless and until such a person has deposited with the municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such street as a result of, or in connection with, the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (5) After completion of such work, the municipality shall itself undertake the repair of any portion of such street as may have been damaged by such

work and shall set off the cost of such repairs against such deposit. If such cost is less than the amount of the deposit, the municipality shall refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner shall be liable for the difference, which shall become payable on receipt of an account specifying the additional amount due.

- (6) No person other than an authorised official of the municipality in the performance of his or her duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a street.

Damaging of notice-boards

- 18. No person shall deface, damage or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street by or with the permission of the municipality.

Street and door-to-door collections

- 19. No person shall -
 - (a) collect or attempt to collect money in a street or organise or in any way assist in the organisation of such collection, except with the written permission of the municipality and otherwise than in accordance with such conditions as may be determined by the municipality, or
 - (b) collect from door to door, beg or solicit or accept alms, except with the written permission of the municipality.

Excavations in streets

20. No person shall make or cause to be made an excavation or dig or cause to be dug a pit, trench or hole in a street -
- (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with the requirements prescribed by the municipality.

Poison in streets

21. No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, shall use, set or cast poison in any street.

Processions

22. (1) Subject to the provisions of sub-section (6) no person shall hold, organise, initiate, control or actively participate in a procession or gathering in a street, or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street, or shall use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections(2) and (3).
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) in any street shall submit a written application for permission thereto, which shall reach the municipality at least seven days before the date upon which any one or more of such actions is or are intended to be performed or carried out; provided that persons who intend participating actively in a procession, or gathering in any street need not apply to the municipality for permission thereto and it shall not be illegal for such persons to participate actively in such procession or gathering if the organiser, promotor or controller thereof has obtained the permission of the municipality. An application made in terms hereof shall contain the following:
- (a) full details of the name, address and occupation of the applicant;
 - (b) full details of the street where or route along which any one or more of the actions prescribed in subsection(1) is or are intended to be performed or carried out, proposed starting and finishing times or any one or more of the aforesaid actions and, in the case of processions and gatherings, the number of persons expected to attend, and
 - (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (3) Any application submitted in accordance with subsection (2) shall be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not, in the opinion of the municipality, likely to be in conflict with the interests of public peace, good order or safety, the municipality shall issue a certificate granting permission and authorisation for the performance or carrying out of any one or more of such actions subject to such conditions as the

municipality may deem necessary to uphold public peace, good order or safety.

- (4) The municipality may refuse to grant permission for the performance or carrying out of any one or more of the actions described in subsection(1), if the performance or carrying out of such action or actions will, in the opinion of the municipality, be in conflict with the interests of public peace, good order or safety.
- (5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, it is of the opinion that the performance or carrying out of the action or action in question will be in conflict with the interests of public peace, good order or safety.
- (6) The provisions of this section shall not apply –
 - (a) to wedding or funeral processions
 - (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act No 205 of 1993 in which case the provisions of the said act shall be applicable.

Roller-skating and skating on skate-boards

- 23. No person shall, except with the prior written permission of the municipality, skate on roller skates or a skate board or a similar device in or on a public road or in or upon an area where skating is prohibited by an applicable road traffic sign.

Persons to be decently clad

- 24. No person shall appear in any street without being clothed in such a manner as decency demands.

Overflow of water into streets

- 25. No person shall cause or allow any water other than rain water to flow into a street except in the case of emergency.

Behaviour in streets

- 26. No person shall -
 - (a) cause a nuisance to other persons by loitering, standing, sitting or lying or begging;
 - (b) sleep, overnight or erect any shelter;
 - (c) wash or dry clothes, blankets or any other domestic articles;
 - (d) use abusive, insulting, obscene, threatening or blasphemous language;
 - (e) fight or act in a riotous manner;
 - (f) discharge a fire-arm, airgun or air-pistol;
 - (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
 - (h) defacate, urinate or wash himself;

- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;
- (k) use intoxicating liquor or drugs;
- (l) spit

in a street.

Animals in a street

27. No owner or person -

- (a) in charge of any wild or ferocious animal, monkey or horned cattle shall allow such animals at any time to be insufficiently attended or at large in any street or shall keep any such animal in such a manner as to be a danger or annoyance to the public; or
- (b) shall, allow, permit or cause any animal to graze or stray in or about any street.

Display of street number of places

- 28. (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises by the municipality in terms of section 37(c) shall be displayed and the owner of such premises shall, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) a number displayed as contemplated by sub-section (1) shall –
 - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
 - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

Bridges and crossings over gutters and sidewalks

- 29. No private crossing, pathway, bridge or culvert shall be made or built to or in front of any dwelling or other premises in any street or public place –
 - (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with the requirements prescribed by the municipality.

Control of amusement shows and devices

- 30. (1) No person shall set up or use in any street or public place any circus, roundabout or other side-show or device for the amusement or recreation of the public –
 - (a) except with the written permission of the municipality
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.

- (c) unless suitable sanitary conveniences for both sexes of the staff have been provided , and
 - (d) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection, at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

Control of animal-drawn vehicles

31. (1) No person shall –
- (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a street;
 - (b) drive or be in control of an animal-drawn vehicle in a street if he or she is under 16 years of age, or
 - (c) if he or she is in control of an animal-drawn vehicle in a street, allow a person under 16 years of age to drive or be in control of such vehicle.

Vehicles to be attended

32. No person shall, in a street, sleep in a vehicle other than a motor vehicle parked in a taxi rank or on some other stand duly allocated by the municipality.

Municipality may act and recover costs

33. (1) Notwithstanding any other provisions of this by-law, the municipality may –
- (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained, and
 - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance,

serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.

- (2) Any person who fails to comply with a notice in terms of subsection (1) shall be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

Closure and diversion of streets

34. No person shall, without the approval of the municipality, close or barricade any street or restrict access thereto.
35. (1) The municipality may close or divert any public street or part thereof;
- (2) When the municipality decides to act in terms of subsection (1), it shall

- give notice of such intention in terms of its communication policy;
 - (3) Any objection against the intended action must be delivered in writing to the Municipal Manager within 30 days from the date of notification in terms of subsection (2) for submission to Council or a committee or person who has delegated powers to decide upon it.
- 36. The municipality may, without complying with the provisions of section 35 -
 - (a) temporarily close a public street -
 - (i) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street;
 - (ii) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street;
 - (iii) if such street is, in the opinion of the municipality, in a state dangerous to traffic;
 - (iv) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
 - (v) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
 - (b) temporarily divert a public street which has been closed in terms of paragraph (a).

Construction, maintenance and naming of streets and public places

- 37. The municipality may in its area-
 - (a) make, construct, reconstruct, alter and maintain streets and public places;
 - (b) name and re-name streets and public places;
 - (c) allocate and re-allocate numbers to properties abutting on streets and public places.

Declaration of public streets and public places

- 38.
 - (1) The municipality may declare any street or portion thereof to be a public street or any place to be a public place;
 - (2) When the municipality decides to act in terms of subsection (1), it shall give notice of such intention in terms of its communication policy;
 - (3) Any objection against the intended action must be delivered in writing to the Municipal Manager within 30 days from the date of notification in terms of subsection (2) for submission to Council or a committee or person who has delegated powers to decide upon it.

Parking of Heavy Vehicles and Caravans

- 39.
 - (1) No person shall park on a public road within the municipal area-
 - (a) a motor vehicle with a tare exceeding 3500 kg;
 - (c) a trailer;
 - (d) a semi-trailer, or
 - (e) a caravan,
 for an uninterrupted period exceeding two hours.

- (2) Whenever a vehicle is parked in contravention of sub section (1), it shall be deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

Penalty

40. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to –
 - (1) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
 - (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.