

LOCAL AUTHORITY NOTICE

LOCAL MUNICIPALITY OF MADIBENG

CEMETERY BY-LAWS

The Administrator hereby, in terms of section 101(1)(a) of the Local Government Ordinance, 1939, publishes the by-laws set forth in the Schedule hereto, which have been approved by him in terms of section 96 of the said Ordinance.

SCHEDULE

LOCAL MUNICIPALITY OF MADIBENG - CEMETERY BY-LAWS

PART 1

General

Definitions

1. For the purposes of these by-laws the following words and expressions shall have the meanings severally assigned thereto, unless the context indicates otherwise:-

"Council" means the Local Municipality of Madibeng and includes the Executive committee of that Council or any officer employed by the Council, acting by virtue of any power vested in the Council in connection with these by-laws and delegated to him in terms of section 58 of the Local Government (Administration and Elections), 1960 (Ordinance 40 of 1960);

"Cemetery" shall mean any piece of ground from time to time duly set apart by the Council as a place of public burial;

"Municipal Manager" shall mean the person from time to time holding the appointment of Municipal Manager, or acting in such capacity in the service of the Council;

"Medical Officer of Health" shall mean the person from time to time holding the appointment of medical officer of health, or lawfully acting in such capacity in the service of the Council;

"Health Inspector" shall mean the person from time to time holding the appointment of health inspector or lawfully acting in such capacity in the service of the Council;

"Caretaker" shall mean the person from time to time holding the anointment of caretaker of the cemetery concerned, or acting in such capacity in the service of the Council;

"Memorial Work" shall mean any tombstone, railing, fence, monument, memorial, inscription or other building work erected or which may be erected upon any grave;

"Child" shall mean any deceased person of or under the age of 12 years whose grave does not exceed the dimensions prescribed for children in section 27 of these by-laws;

"Adult" shall mean any deceased person over the age of 12 years;

"Head Parks, Sport and Recreation" means such a person who holds the post as Head of parks Sport and Recreation or who acts in such a capacity in the service of the Council.

"Berm system" means a lay-out where memorials are only installed at the head of or at the end of a grave site.

"Urgent cases"

1. Acts of God
2. Health burdens
3. An authorised official (must clarify highly infectious diseases accordingly)

Establishment of Cemetery and Permission for Interment

2. The Council may from time to time set apart any piece of ground to serve as a public cemetery for a specified portion or portions of its area of jurisdiction, and no person shall, without the permission of the Council, inter or cause any body to be interred within such specified portion or portions in any place other than the cemetery, if any, established for the person to be interred, and no person shall inter or cause any body to be interred in any cemetery established by the Council except under the provisions of these by-laws.

Closing of Cemeteries

3. Any cemetery or cemeteries may at any time be closed by order of the Council, subject to the provisions of section *seventy-nine (3) (a)* of the Local Government Ordinance, 1939.

Cremations etc.

4. No person shall cremate, burn or dispose of any body in any other manner than by interment in a cemetery, except with the written permission of the Council.

Entrances and exists

5. No person shall enter or leave any cemetery except through the gates provided for this purpose.

Cemetery hours

6. (1) Every cemetery shall be open during the following hours:-

Weekdays:	From 9 am to 6 pm
Sundays :	From 10 am to 6 pm
- (2) No person shall remain in a cemetery after closing time: provided that the Council shall have the right to close to the public any cemetery or portion thereof for such period as the Council may deem fit.

Children

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

Moving of Soil or Plants

8. No person shall plant any trees, shrubs, plants or grass in any cemetery without the permission of the council and no person shall, except where it is expressly permitted by these by-laws, disturb the soil or destroy, remove, damage or disturb any tree, shrub, plant or grass in any cemetery.

Wanton Destruction of Property

9. No person shall want only, or owing to carelessness, destroy or damage or cause any damage to any monument, vault, tombstone, building, path, railing or fence within or of any cemetery, or daub or disfigure any wall or fence thereof, or affix any posters or placards therein or to any wall or fence thereof, or lay any game or sport therein, or discharge any firearm (except at a military funeral), airgun or catapult therein or wilfully disturb or annoy any person or persons assembled therein for the purpose of a burial.

Unseemly Acts Forbidden

10. No person shall commit any nuisance or unseemly or indecent acts in any cemetery.

Animals in Cemetery

11. No person shall bring any dog or other animal to any cemetery or allow such dog or animal to wander inside the cemetery.

Exercise of Control by the Caretaker

12. Undertakers and all persons working in any cemetery, taking part in any funeral or visiting any cemetery shall be subject to the cemetery shall be subject to the control of the caretaker. No person shall disobey, resist or obstruct the caretaker in the performance of his duties.

Drivers of Vehicles

13. The driver of a vehicle within any cemetery shall obey the directions and instructions of the caretaker.

Demonstrations

14. No person shall hold or take part in any demonstration in any cemetery without the consent of the Council.

Interruption of Work

15. No person shall interrupt or obstruct the work of any workman or official of the Council in the cemetery.

Distribution of Tracts or Advertisements

16. No person shall solicit any business or exhibit, distribute or leave any tract, business card or advertisement within the cemetery, or use any cemetery road or walk for the conveyance of any goods, parcel or other material except such as are intended for use in such cemetery.

Sitting or Standing on Memorials

17. No person shall sit, stand, walk or climb upon or over any memorial work, grave, gate, wall, fence, building or structure in any cemetery.

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Complaints

18. Any person wishing to make a complaint shall submit such complaint in writing to the council.

Fees

19. The appropriate fees as specified in the Schedule to these by-laws shall be paid in advance to the Council.

Signing of Notices

20. The Municipal Manager or any duly authorised official of the Council shall sign any written permission, notice or other document issued by the Council under these by-laws.

PART II

INTERMENT

Funeral Orders and Magistrate's Warrant

21. (1) *Funeral Orders* - No person shall inter or cause any body to be interred in any cemetery without the permission of the council.
- (2) *Magistrate's Warrant* - In all deaths where an inquest has been held, a magistrate's warrant shall be furnished to the council before the burial.

Notice of Interment

22. Any person wishing to have a body interred shall give notice in writing, to the council not less than twenty-four hours before the time appointed for such interment. Such person shall in the notice of interment state the name, age, place of residence, trade or occupation, if any, nationality, race, cause and date of death and the religious denomination of the deceased person, and any person giving any false information in such notice shall be guilty of an offence. If notice were given less than twenty four hours before interment, the Council shall not be responsible for any ensuing delay at such interment.

Alteration of Day of Interment

23. Notice of any alteration in the day or hour previously appointed for an interment, shall be given to the council not later than two hours before such interment. The council may, in consultation with the undertaker or the nearest relatives of the deceased person, alter the hour fixed for an interment in order to prevent

overlapping of funeral services at adjoining gravesides.

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Hours of Interment

24. Interment shall take place between 9 am and 5 pm from Mondays to Fridays, provided that in cases of emergency interment shall be allowed between 9 am and 6 pm on Saturdays, between 8 am and 6 pm on Sundays and between 5 pm and 6 pm from Mondays to Fridays, upon payment of an additional charge of R50. Provided further that interment in the Moslem/Hindu cemetery shall be allowed between 6 pm and 12 midnight on any day of the week and that any expenditure in respect of labour which the Council is requested to provide, shall be reimbursed to it.

Allocation of Graves

25. (1) The caretaker shall permit an interment in any grave only upon allocation.
- (2) The caretaker shall keep a register of all graves and a plan showing the position and number allotted shall be kept in his office and may be inspected by any persons free of charge.

Dimensions of Graves

26. (1) The dimensions of the apertures of graves shall be as follows:-

(a) Graves for adults

Breadth	:	710 mm
Length	:	2240 mm
Depth	:	1830 mm

(b) Graves for children

Breadth	:	560 mm
Length	:	1300 mm
Depth	:	1530 mm

- (2) Should a grave with a larger aperture than the dimensions under sub-section (1) be required, written application shall be submitted with full details of the required aperture, together with payment of an additional amount of R50, on receipt of which a grave aperture according to the required dimensions shall be provided: Provided that such larger aperture shall not interfere with or be detrimental to adjoining grave plots.

Child's Coffin Oversize

27. Should a child's coffin be too large for a child's grave, it shall be placed in an adult's grave and the usual fee for the person giving notice of interment shall pay an adult's grave.

Depth of Graves

28. Subject to the provisions of section 32 no adults grave shall be less than 1,83 m and no child's grave less than 1,3 m in depth.

Covering of Earth

29. Every coffin or body, upon being placed in a grave, shall immediately be covered with at least 1,22 m of earth, and the coffin or body of a child shall be covered with at least 0,92 m of earth.

Construction of Graves and Coffins

30. (1) Subject to the provisions of section 64, all graves shall be prepared by the council with the exception of graves lined with brick or other material, or vaults in which the masonry or lining work shall be carried out by the person who has ordered the grave or by his servant or agent, under the supervision of the caretaker.
- (2) Airtight metal or metal-lined coffins only shall be used for interment in vaults or in graves lined with brick or other material. In the case of any other grave the coffin shall be of softwood or other perishable material.

Restricted Number of Burials in One Grave

31. Not more than two bodies shall be buried in one grave. In no case shall the bodies of more than one adult or two children be buried within any grave at the same time except in the case of a still-born child whose body may be interred in the same grave as its mother's body. Provided that a second interment in any one grave shall only be permitted if permission for a subsequent interment in that grave is sought at the time application is made for a first interment, and providing the charges for a second interment are paid by the applicant when submitting such application the Council shall grant permission for a second interment and shall provide a grave aperture exceeding any one of the dimensions stipulated in section 29, as the case may be, by 0,46 m. Provided further that the Council shall not be responsible for the removal of memorials or the repair thereof.

Reservation of Grave Plots

32. The Council may, in its discretion, reserve to any person the use of any grave plot in a cemetery. Any person desiring the use of such a plot, shall apply to the council. Such plot may be allotted by the Head of Parks, Sports and Recreation caretaker upon payment by the applicant of the fees prescribed in the Schedule hereto, and shall be reserved and used subject to the provisions of these by-laws.

Consent of Council to Transfer

33. No person shall transfer or sell his interest in a plot without the written consent of the Council.

Ownership of Ground

34. The ownership of ground within the cemetery shall be vested in the Council. No person shall acquire any right to or interest in any ground or grave in such cemetery other than such rights or interest as are obtainable under these by-laws.

Interment of Deceased Persons who were Resident Outside the Municipality of Brits

35. The Council may, at its discretion, permit the interment of deceased persons whom, at the time of their decease, were resident outside the portion or portions of its area in respect of which a cemetery was established. The fees prescribed for such cases in the Schedule to these by-laws, shall be payable.

PART III

FUNERALS

Religious Services

36. Subject to the control of the council, members of any religious denomination may conduct religious services at a graveside or in connection with memorial services.

Music at Funerals

37. No music shall be played within any cemetery without the permission of the

council first had and obtained.

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Use of Shelters

38. No chapel or shelter shall be occupied for more than 30 minutes without the permission of the council.

Exposure of Dead Bodies

39. No person shall convey a dead body in an unseemly manner in any street, cemetery or public place or shall expose such body or part thereof or remove any coffin lid or sliding lid.

Council's Prescriptions

40. Any person taking part in a funeral procession or ceremony, shall comply with the prescriptions of the council while in the cemetery.

Numbering of Graves

41. The council shall fix durable identification number plates on all graves and plots in any cemetery, and he shall keep a record in the burial register in his office of such numbers and the names of the deceased persons buried in such graves, or to whom such graves were reserved. Any person unlawfully removing or damaging such number plates, shall be guilty of an offence.

PART IV

Erection and maintenance of memorial work

42. No memorial work of any kind shall be erected in any cemetery without the permission, in writing, of the Council first had and obtained and before the expiration of a period of six months after the date of such interment with the exception of memorials in a berm system where a concrete strip has been provided for the memorial in question. Such permission shall be granted only upon the reservation in terms of section 33, of the plot or plots concerned and after payment of the fees prescribed in the Schedule hereto. Applications for permission to erect a memorial, accompanied by a sketch with figured dimensions and specifications of the material to be used and a copy of the proposed inscription, shall be submitted to the Council at least 6 days in advance.

Siting of memorials

43. No memorial work shall be erected within the cemetery except in such position as the council may indicate.

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Exclusion of Memorial Work

44. The Council may exclude the erection of any memorial work which is of interior quality or which is likely in any way to disfigure the cemetery. Any memorial work which is not executed neatly and properly and in accordance with the specifications furnished and approved in terms of section 44, may be removed by the Council at the expense of the person who caused such memorial work to be erected.

Regulations for the Construction of Memorial work

45. All memorials erected shall conform the following requirements:-

- (a) The joints of any memorial work shall be securely fastened by means of galvanised iron or copper cramps, pins or dowels.
- (b) Border stones shall be properly squared.
- (c) The undersides of the foundation and border stones shall not be exposed above the natural surface of the ground.
- (d) All head and border stones shall be securely cramped with metal cramps.
- (e) No chiselling or hewing of stone work shall be allowed within the cemetery.

(f) Measurements of memorials are as follows:

(i) *Berm System*

<i>Single grave:</i> Pedestal	Thickness	300mm
	Height	250mm
	Length	1 000mm

Head stone

Length of head stone along with the width of the grave	900mm
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Maximum Height

(with pedestal)	1 500mm
Maximum thickness	250mm

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<i>Double grave:</i>	Pedestal	Thickness	300mm
		Height	250mm
		Length	2 600mm
	Head stone		
	Length of head stone along with the width of the grave		2 500mm
	Maximum Height (with pedestal)		1 500mm
	Maximum thickness		250mm

(ii) *Conventional System*

<i>Single grave</i>	:	990mm X 2 290mm
<i>Double grave</i>	:	2 290mm X 2 590mm
<i>Child's grave</i>	:	650mm X 1 350mm

The memorial not to be higher than 5 feet

Conveyance of Material for Memorial Work

46. No conveyance of memorials or any material for any memorial work shall be permitted within the cemetery blocks except upon a handcart furnished with pneumatic tyre wheels or by means which, in the opinion of the council, are not likely to damage the grounds or paths within the cemetery block. The person erecting the memorial shall provide such handcart or means of conveyance.

Removal of Debris

47. Any person erecting a memorial shall remove all rubbish, loose soil and debris

resulting from any work on any memorial.

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Work on Memorials not permitted on Saturdays and Sundays

48. No work on any memorial or material for such memorial shall be allowed in the cemetery, on Saturdays, Sundays and public holidays.

Unsuitable Weather

49. No person shall erect or place any memorial work within any cemetery during rainy weather or while the surface of the ground in the cemetery is wet and liable to too much damage or disturbance as a result of such work.

Production of Permit

50. Any person in charge of work or on his way to or from work within the cemetery shall, upon demand by the council at an time, produce his written permission issued to him under the provisions of section 44 to carry out such work.

Memorial Work not to be Removed

51. No person shall remove or disturb any memorial work within any cemetery without the prior permission of the council.

Supervision of Work

52. Any person carrying out any work within a cemetery, shall effect such work under the supervision and to the satisfaction of the council.

Removal of Memorial Work by Council

53. Any memorial work placed, constructed, altered, decorated, painted or otherwise dealt with in any cemetery in such a way as to infringe any provision of these by-laws, may immediately be removed by the Council without payment of compensation to the owner of such memorial work.

Repair of Memorial Work

54. (1) If the owner of any memorial work or his successors in title shall allow such memorial work to fall into such a state of disrepair as, in the opinion of the Council, constitutes a danger or a disfigurement of the cemetery, the Council may, by written notice, require him to effect such repairs as the Council may deem necessary, and if the address of the owner is unknown to the Council, such notice may be published in a daily

newspaper circulating within the area. Should the required repairs not be effected within one month from the service of publication of such notice, the Council may itself effect the repairs or remove the memorial work without payment of any compensation, and recover the cost of such repairs or removal from the owner.

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- (2) The owner or his successor in title shall at all times keep all memorials erected on a grave in a good state of repair and condition.
- (3) (a) All memorials which have been dismantled for the purpose of further interments shall be either erected or removed from the cemetery or his successor in title within a period of two months from the date of such dismantling.
 - (b) failure to do so will be an infringement of these regulations.
 - (c) In the event of such failure the Council will be entitled to, without any further notice to the owner or his successor in title, to remove such dismantled building material from the cemetery and to claim the costs from him.

Numbering of Graves

- 55. No person shall bring any memorial work within the cemetery unless the number and section letter of the grave upon which such work is to be placed is marked thereon; provided that in the case of footstones such number and letter shall be placed only on the top thereof. With the owner's consent the name of the maker may also be placed upon the top of the footstone, provided that no address or other particulars are added.

Not liable for Damage

- 56. The Council shall in no case be liable for any loss or damage any memorial or any object placed on grave site which may at any time from any cause whatsoever occur, and also not for any compensation in respect of any memorial which was repaired or removed in terms of sub-regulation 54(1), (2) and (3).

Grave sites provided with a berm system

- 57. A grave site provided with a berm system shall not with standing any conditions to the contrary contained in the regulations, be subjected to the following conditions:
 - (a) No kerbs may be erected on such a site
 - (b) **No object, with the exception of a memorial, vase for flowers or**

foliage which may be placed in an opening provided in the berm may be placed or kept on a grave for a period of longer than two months from the date of the interment of the body.

- (c) **With the exception of the conditions of paragraph (b) above the Council may remove any object placed on such grave site.**

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PART V

Care of graves

Neglecting of Graves

58. Any person to whom the right to a grave plot has been reserved, shall keep such grave free from weeds and in proper order, and if he neglects to attend to such grave, the Council may itself effect such work and recover from such person a reasonable sum, as decided by the Council, in respect of such work.

Planting Scrubs

59. **No shrub, plant or flower shall be planted on any grave.**

Maintenance of Graves and Plots

60. The Council undertakes to maintain the graves and grave plots provided that such maintenance shall not include the maintenance of memorial work.

PART VI

EXHUMINATION AND RE-OPENING OF GRAVES

Disturbing Human Remains

61. No human remains within the cemetery shall be disturbed except for a purpose permitted under these by-laws.

Exhumations

62. (1) Subject to the provisions of section 69, no person shall exhume or cause any body to be exhumed without the written permission of the Council.
- (2) Notwithstanding anything in this section contained, any person duly authorised by warrant under the hand of the Attorney-General, may disinter any body in any cemetery for judicial or criminal investigation

purposes.

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Opening of Graves for Second Burials

63. Subject to the provisions of section 68, no grave shall be opened without the special permission of the Council. Should the opening of such grave for the second burial necessitate the dismantling of any structure or the breaking through of a concrete slab thereon, such work shall be undertaken by the undertaker or the person who gives notice of burial.

Screening of Operations

64. The grave from which any body is to be removed, shall be effectively screened during the exhumation and a coffin shall be kept in readiness at the grave.

Re-opening of Graves

65. No person shall re-open any grave until he has satisfied the Council that he is legally entitled thereto.

Medical Officer of Health to be Present

66. No person shall exhume or remove any body unless the medical officer of health or his authorised representative is present.

Removal of Body by Council

67. If at any time the removal of any body shall seem to the Council to be advisable, or if any body has been buried in a grave in contravention of any provisions of these by-laws, the Council may cause such body to be removed to another grave, provided that any near relative of such deceased person known to the Council shall, if possible be notified of such intended removal.

Application of the Provisions of the Inquests Act, Public Health Act and Removal of Graves and Dead Bodies Ordinance.

68. (1) The provisions of sections 63 and 64 shall not apply in respect of any exhumation ordered by a magistrate in terms of sub-section (3) of section two of the Inquests Act, 1919, and section *thirty-four* of the Public Health Act, 1919, or by a health officer of the Department of Health in terms of

section *thirty-four* of the Public Health Act, 1919.

- (2) The provisions of sections 62 and 68 (both sections inclusive) shall be subject to the provisions of the Removal of Graves and Dead Bodies Ordinance 1925.

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Penalties

69. Any person contravening any of the provisions of these by-laws shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding R1 000 (one thousand rand)

SCHEDULE A

DETERMINATION OF TARIFF LIST : ALL CEMETERIES MANAGED BY THE COUNCIL

The tariffs in the tariff list are applicable to all cemeteries.

In terms of section 80 8(B) of the Local Government Ordinance, 1939 (No 17 of 1939), it is hereby notified that the Transitional Local Council of Brits has, by Special Resolution, determined the tariff list of cemeteries, as set out hereunder, with effect from 2 August 1995.

- (a) For the purpose of this by-laws a resident shall be regarded as a person who, at the time of his decease, was normally resident within the municipal boundaries of the Transitional Council of Brits, or a person who, at the time of his decease had been the owner of immovable property within the municipal boundaries of the Transitional Council of Brits for a period of not less than 6 months prior to his decease, **provided that inmates of hospitals, institutions or other persons temporarily residing in the are of jurisdiction f the Transitional Council of Brits, shall not be included hereunder unless they are otherwise entitled thereto.**
- (b) In cases where grave plots were purchased before the reserver went to live outside the municipality, the burial fees for residents shall apply.
- (c) **No eight feet graves may be booked.**

SCHEDULE B

REPEAL OF REGULATIONS AND TARIFFS

The Cemetery By-laws of the Municipality of Brits, published under Administrators Notice 669 of 3 August 1995, as amended, as well as the Cemetery By-laws of the former Town Council of Letlhabile and the Government Village Mothotlung, with accompanied tariffs, are hereby revoked.

**Municipal Offices
Van Velden Street
BRITS
0250**

**G J Burger
MUNICIPAL MANAGER**

Notice No 122/1995