



JOHANNESBURG BAR LIBRARY
1st FLOOR, THE CHAMBERS
3 PROTEA PLACE
SANDOWN 2196

PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

Provincial Gazette Igazethi Yephondo Provinsiale Koerant

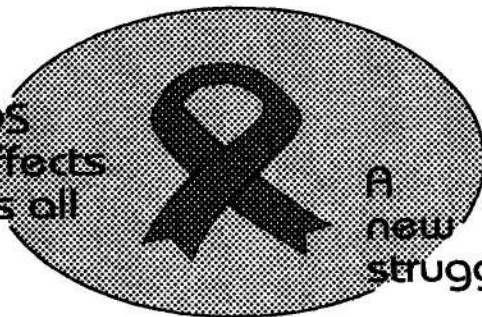
Vol. 13

BISHO/
KING WILLIAM'S TOWN, 13 OCTOBER 2006

No. 1610
(Extraordinary)

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPUNE**

0800 012 322

DEPARTMENT OF HEALTH

PART 1 OF 2



9771682455006

01610



CONTENTS • INHOUD

No.		Page No.	Gazette No.
LOCAL AUTHORITY NOTICES			
131	Constitution of the Republic of South Africa (108/1996): Ndlambe Municipality: Aerodrome By-law.....	3	1610
132	do.: do.: Commonage By-law	10	1610
133	do.: do.: Community Fire Safety By-law	16	1610
134	do.: do.: Customer Care and Revenue Management By-law.....	48	1610
135	do.: do.: Electricity Supply By-law	78	1610
136	do.: do.: Fences and Fencing By-law	92	1610
137	do.: do.: Cemeteries and Crematoria By-law.....	101	1610
138	do.: do.: Impoundment of Animals By-law	125	1610
139	do.: do.: Outdoor Advertising and Signage By-law.....	131	1610
140	do.: do.: Prevention of Public Nuisances and Keeping of Animals By-law.....	163	1610
141	do.: do.: Public Amenities By-law	174	1610
142	do.: do.: Roads and Traffic By-law.....	187	1610
143	do.: do.: Solid Waste Disposal By-law.....	200	1610
144	do.: do.: Sporting Facilities By-law	209	1610
145	do.: do.: Storm Water Management By-law.....	218	1610
146	do.: do.: Street Trading By-law	224	1610
147	do.: do.: Water Supply and Sanitation Services By-law	232	1610

LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 131

NDLAMBE MUNICIPALITY

AERODROME BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Interpretation
2. Purpose of by-laws
3. Regulations of Aviation Act, Act 74 of 1962 and agreements applicable
4. Agreements
5. Aerodrome hours
6. Arrivals and departure of aircraft
7. Tariffs
8. Access to landing field
9. Regulation or prohibition of vehicular traffic and pedestrians
10. General Conduct of Persons
11. Removal of damaged or disabled aircraft
12. Supply of fuel to Aircraft.
13. Boarding or tampering
14. Use of buildings and hangars
15. Trading
16. Appeal
17. Penalties
18. Revocation of by-laws
19. Short title and commencement

1. Interpretation

In this by-law, unless the context otherwise indicates –

Act means the Aviation Act, Act 74 of 1962;

"Air Navigation Regulations" means the Civil Aviation Regulations, 1997, published under Government Notice R. 1219, dated 26th September, 1997, as amended from time to time, or any regulations by which the same have been duly replaced;

"aerodrome" has the meaning assigned to it in the Aviation Act. 1962 (Act 74 of 1962), and in this by-law refers to the Ndlambe Municipal Aerodrome;

"Council" means the Ndlambe Municipal Council;

"manager" means the person for the time being in charge of the aerodrome and includes any other person who is authorised to act on his or her behalf;

"**municipality**" means the Municipality of Ndlambe, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"**landing field**" means the area comprising the runways and other prepared ways for the passage of aircraft on the ground, aprons and all the land surrounding that area enclosed by a fence;

"**public enclosures**" means demarcated areas within the aerodrome set aside by the Council from time to time for use by members of the public other than persons flying in aircraft, and for the parking of vehicles;

"**runway**" means a defined rectangular area prepared or constructed for the landing and take-off run of aircraft along its length;

"**taxiway**" means a defined path on the aerodrome for the use of taxi-ing aircraft whether such path is constructed or not.

2. Purpose of by-laws

The purpose of this by-law is to provide for the control of all aerodromes.

3. Regulations of Aviation Act, Act 74 of 1962 and agreements applicable

This by-law must be read with, and the application thereof is subject to the Aviation Act, 1962 (Act 74 of 1962), as amended, any regulations made there-under, and any agreement entered into between the municipality and any holder of an operator's licence and nothing in this by-law must be taken as purporting to contradict or derogate from the control of the aerodrome in accordance with the Aviation Act, Act 74 of 1962, the regulations or any such agreement.

4. Agreements

The municipality may enter into a written agreement with any party regarding the use of any aerodrome of which it is the licence holder.

5. Aerodrome hours

The municipality may determine the hours during which the aerodrome may be used.

6. Arrivals and departure of aircraft

The pilot and every other person for the time being in charge or control of an aircraft must ensure that adequate precautions have been taken to keep unauthorized persons at a safe distance from all aircraft before any of its engines is started and while any engine is running.

7. Tariffs

Subject to any agreement referred to in section 3 the municipality may levy tariffs for the use of any aerodrome.

8. Access to landing field

- (1) No person may enter or be on the landing field except the following:
- (a) Pilots and crew of aircraft based at or using the aerodrome in the course of their duties connected with the aircraft;
 - (b) technical, mechanical and servicing personnel going to or from aircraft in pursuance of their official duties connected therewith;
 - (c) pupil pilots going to or from aircraft for purposes of instruction or practice;
 - (d) members of the aerodrome's ground staff on duty, and other aerodrome officials authorized by the Manager;
 - (e) aircraft passengers, as long as they are passing directly between their aircraft and the public enclosures, or otherwise moving under the directions of the Manager or his staff; and
 - (f) any person not previously specified in this section having express authority from the Manager to enter the landing field.
- (2) A person who enters or is on the landing field in contravention of subsection (1) commits an offence.

9. Regulation or prohibition of vehicular traffic and pedestrians

- (1) Motor cars and other vehicles may, in the absence of any special direction given by the Manager, only be parked in areas designated for that purpose by notices and within any lines which may be marked on the surface of any such area or as directed by the Manager or his or her nominee, however this subsection does not apply to any officer of the municipality employed at the aerodrome while acting in the course of his or her official duties.
- (2) The Manager may at any time without previous notice, and either permanently or for such period as he or she may determine, prohibit or restrict in such manner as he or she may deem necessary the admission of persons or vehicles to the aerodrome or any particular part thereof.
- (3) The Manager may, if it is deemed necessary for the proper control of the aerodrome, direct the person in lawful charge of a vehicle which is parked on the aerodrome to move the vehicle –
- (a) to another place on the aerodrome indicated by the Manager; or
 - (b) from the aerodrome;

and if such person refuses or fails or is not present to comply forthwith such direction the Manager or a member of the police may have that vehicle moved to such other place or from the aerodrome and any such action by the Manager or a member of the police does not exempt such person from prosecution in respect of such refusal or failure.

(4) Motor vehicles may not be driven on the taxiways and runways without special permission from the Manager.

(5) Pedestrians and persons in vehicles at the aerodrome are subject to the supervision of the Manager and must obey such directions with regard to their movements as he or she considers necessary to give in the interests of safety or the good management of the aerodrome.

(6) No person under the age of fourteen years, not being an authorized passenger in an aircraft, may enter the aerodrome unless accompanied by and under the supervision of an adult person.

(7) The Manager has the right to remove from the aerodrome any unaccompanied person under the age of fourteen years, not being an authorized passenger in an aircraft, and to require the removal there from by the adult in charge of him or her of any person under the age of fourteen years whose conduct is prejudicial to the amenities and proper management of the aerodrome.

(8) A person who contravenes any of the provisions of this section or who fails to comply with a direction given by the manager commits an offence.

10. General Conduct of Persons

(1) No person may without the written prior consent of the Manager, within or around the aerodrome premises, buildings, structures, trees, fences or any other part thereof –

- (a) place or affix any placard or notice;
- (b) climb any tree, building or other structure;
- (c) uproot or injure any tree or plant or pick any flower;
- (d) light or in any other manner cause a fire, or smoke or bring an open flame into –
 - (i) any place where such act is prohibited by a notice displayed on the direction or with the permission of the Manager; or
 - (ii) any place within 16 m of an aircraft or of any vehicle used for the supply of fuel to an aircraft or a store or dump of liquid fuel or explosives;
- (e) tamper or interfere with any fire hose reel, hydrant or any other item or equipment provided solely for fire-fighting purposes, or in the event of a fire, to interfere with or take part in any rescue or fire-fighting operation, unless he or she has been asked to do so by the official in charge of such operation;

- (f) discharge any firearm or airgun or set off any firework, or use a catapult or to throw any stone or other object;
- (g) affix or distribute any pamphlet, book, handbill or other printed matter or other article;
- (h) enter any public convenience marked as being reserved for persons of the opposite sex;
- (i) enter any building or place in disregard of a notice prohibiting such entry;
- (j) play any musical instrument, operate any sound reproducing device, sing or make any speech;
- (k) cause any obstruction, disturbance or nuisance or commit any act causing annoyance to other persons using the aerodrome or lawfully present thereat;
- (l) enter or leave the aerodrome or any part thereof except by means of the entrances or exits marked as being provided for that purpose.

(2) No chock, drum, loading step, trestle or other equipment or object capable of causing an obstruction may be left on the landing field except when its presence there is actually and immediately necessary.

(3) A person who contravenes a provision of this section commits an offence.

11. Removal of damaged or disabled aircraft

(1) The operator of any damaged or disabled aircraft must, if directed to do so by the Manager, move such aircraft or any part thereof or any cargo or thing carried therein to another place on the aerodrome indicated by the Manager, or from the aerodrome.

(2) If the operator of a damaged or disabled aircraft refuses or fails or is not present to comply forthwith with any direction given by the Manager in terms of subsection (1), the Manager may take all steps necessary to ensure that such direction is complied with as expeditiously and safely as possible and may recover from the operator of that aircraft the cost incurred in ensuring compliance with such direction and any such action by the Manager does not exempt such operator from prosecution in respect of such refusal or failure.

12. Supply of fuel to Aircraft.

(1) No person may on the aerodrome supply fuel to any aircraft except at a place and in a manner approved by the Manager.

(2) The Manager may make any approval granted by him or her in terms of subsection (1) subject to compliance with such conditions as he or she may consider necessary to impose in order to safeguard persons or property on the aerodrome and he or she may from time to time vary or add to any condition so imposed or withdraw his approval.

- (3) The supply of fuel is, notwithstanding the above, subject to the provisions of the municipality's by-law relating to fire prevention.
- (4) A person who contravenes subsection (1) or who fails to comply with a condition imposed in subsection (2) commits an offence.

13. Boarding or tampering with aircraft

- (1) Except with the permission of the person in lawful charge of all aircraft no person may on the aerodrome –
 - (a) board such aircraft; or
 - (b) tamper or interfere in any way whatsoever with such aircraft or anything used in connection therewith.
- (2) A person who contravenes subsection (1) commits an offence.

14. Use of buildings and hangars

- (1) Subject to any agreement entered into in terms of section 3, the buildings, hangars and other facilities on the aerodrome are under the control of the municipality and the use thereof is subject to such conditions as may be imposed by it.
- (2) A person who uses the buildings, hangars or other facilities in contravention of a condition imposed in terms of subsection (1) commits an offence.

15. Trading

- (1) Subject to any agreement entered into in terms of section 3, no person may engage in the sale of refreshments or in the sale or hire of any other commodity or in the rendering for reward or otherwise of any service within the boundary of the aerodrome unless having obtained a written permit to do so given by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

16. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

17. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

18. Revocation of by-laws

(1) The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

(2) Should there be any conflict between this by-law and any other by-laws of the Municipality, this by-law prevails.

19. Short title and commencement

This by-law is known as the Aerodrome By-law, and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 132**NDLAMBE MUNICIPALITY
COMMONAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-law
3. Establishment of camps for grazing
4. Closing of camps
5. Approval to graze animals
6. Confinement of stock to camps
7. Numbers and condition of animals
8. Branding of stock
9. Grazing fees
11. Carcasses of animals
12. Prohibited conduct
13. Exemptions
14. Liaison forums in the community
15. Agreements
16. Authentication and service of notices and other documents
17. Appeal
18. Penalties
19. Revocation of by-laws
20. Short title and commencement

1. Definitions

"Act" means the Animal Identification Act, 2002 (Act 6 of 2002);

"brand" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002);

"commonage" means that part of property owned by, or under control of, the municipality, which the municipality may set aside for grazing;

"large stock" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof;

"municipality" means the Municipality of Ndlambe, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"prescribed" means prescribed by the municipality;

"small stock" has the meaning assigned to it by the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof.

2. Purpose of by-law

The purpose of this by-law is to provide for the control and administration of animals on a commonage established by the municipality.

3. Establishment of camps for grazing

- (1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents.
- (2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.
- (3) The municipality may erect paddocks or enclosures for animals of residents.

4. Closing of camps

- (1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp on the commonage, during certain periods of the year.
- (2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.
- (3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).
- (4) A person who contravenes subsection (2) commits an offence.

5. Approval to graze animals

- (1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.
- (2) A person who wishes to obtain approval must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:
 - (a) the total number of animals already accommodated in the camps;
 - (b) the number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp;
 - (d) the condition of the meadows (pastures), and if any further animals can be accommodated; and
 - (e) any other factor which the municipality deems necessary.
- (3) The right of depasturing is personal only, and no person is entitled to transfer or cede his or her right to another.
- (4) A person who contravenes subsection (1) commits an offence.

6. Confinement of stock to camps

- (1) A person depasturing on commonage must confine the stock to the camp set apart by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

7. Numbers and condition of animals

- (1) The municipality may determine the numbers and kinds of animals that may be accommodated on the commonage by a person.
- (2) A person keeping an animal on the commonage must ensure that the animal is in a healthy condition.

(3) The municipality may require from a person keeping or applying to keep an animal on the commonage to file with the municipality a sworn declaration as to the ownership and condition of the animal.

(4) A person who –

- (a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;
- (b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);
- (c) fails to file a declaration as contemplated in subsection (3); or
- (d) provides false information to the municipality, commits an offence.

8. Branding of stock

(1) A person who depastures any stock on the commonage must ensure that all his or her animals are branded in terms of section 7 of the Act.

(2) Stock found on the commonage without such branding, may be impounded by the municipality.

9. Grazing fees

(1) The municipality may determine grazing fees that must be paid to the municipality.

(2) Should a person fail to pay a grazing fee, the municipality may take such measures as provided for in its Customer Care and Revenue Management By-law.

10. Infected or contagious animals

(1) No person may graze, bring or leave any stock suffering from, or suspected of being infected with, any contagious or infectious disease, on the commonage.

(2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon, and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.

(3) A person who contravenes subsection (1) commits an offence.

11. Carcasses of animals

(1) The owner of an animal which has died on the commonage must immediately cause the carcass to be buried, and should he or she fail to do so, the municipality will bury the carcass and claim the expenses from the owner.

(2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

12. Prohibited conduct

(1) No person may without the prior written consent of the municipality –

- (a) erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage;
- (b) accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof;

- (c) dig on or remove soil, clay, sand, gravel or boulders from the commonage;
 - (d) make bricks, or erect brick-, lime- or charcoal kilns on the commonage;
 - (e) cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage;
 - (f) interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
 - (g) make use of any road over the commonage other than roads allowed to be used by the municipality from time to time, and roads that the public have a legal right to use;
 - (h) deposit, or in any way leave, any poison for whatever purpose on the commonage;
 - (i) kill, catch, capture, or hunt, or attempt to kill, any game or birds of whatsoever description on the commonage;
 - (j) set traps of whatsoever description on the commonage;
 - (k) destroy the nests, or remove the eggs or young therefrom, of any birds or water-fowl on the commonage; or
 - (l) fish in any dam, river or any other water on the commonage.
- (2) The municipality may take, or cause to be taken, any steps necessary to rectify any contravention of subsection (1) and may claim the costs incurred by the municipality from the person responsible for the contravention.
- (3) A person who contravenes subsection (1) commits an offence.

13. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted, must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2). However, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in the community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the municipality;

- (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the achievement of a properly controlled and administered commonage.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a commonage has been established;
 - (c) a designated official or officials of the municipality; and
 - (d) a councillor.
- (3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on their own initiative give input to the municipality for consideration.

15. Agreements

The municipality may enter into a written agreement with any party regarding the use of the commonage or any part thereof.

16. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality has signed it.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the

notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

19. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

20. Short title and commencement

This by-law shall be known as the Commonage By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 133**NDLAMBE MUNICIPALITY****COMMUNITY FIRE SAFETY BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Ndlambe Municipality, enacts as follows:-

Table of contents**CHAPTER 1: DEFINITIONS, PURPOSE SCOPE AND APPLICATION**

1. Definitions
2. Purpose, scope and application of this by-law

CHAPTER 2: ADMINISTRATIVE PROVISIONS

3. Administration and enforcement
4. Delegation
5. Enforcement provisions
6. Authority to investigate
7. Failure to comply with provisions
8. Denial, suspension or revocation of approval or certificate
9. Records required
10. Charges
11. Indemnity
12. Reporting fire hazard and other threatening danger

CHAPTER 3: FIRE PROTECTION OF BUILDINGS

13. General
14. Access for emergency vehicles
15. Division and occupancy separating elements
16. Fire doors and assemblies
17. Escape routes
18. Tents

CHAPTER 4: FIRE SAFETY EQUIPMENT

19. Fire extinguishers
20. Testing and maintenance of fire protection systems
21. Interference with and access to fire protection systems and fire extinguishers
22. Fire alarms and fire hydrants

CHAPTER 5: PUBLIC SAFETY

23. Prevention and control of overcrowding
24. Attendance of service
25. Formulation of emergency evacuation plan
26. Displaying of escape route plans
27. Barricading of vacant buildings

CHAPTER 6: HOUSEKEEPING

28. Combustible waste and refuse
29. Dust
30. Combustible or flammable substances and sweeping compounds
31. Accumulations in chimneys, flues and ducts
32. Sources of ignition
33. Smoking
34. Electrical fittings, equipment and appliances
35. Flame-emitting device

CHAPTER 7: FIRE HAZARDS

- 36. Combustible material
- 37. Lighting of fires and burning of combustible material
- 38. Fireworks
- 39. Designated areas

CHAPTER 8: FLAMMABLE SUBSTANCES

- 40. Application of Chapter
- 41. Storage and use of flammable substance
- 42. Application for a flammable substance certificate
- 43. Permanent or temporary above ground storage tank for flammable liquid
- 44. Underground storage tank for flammable liquid
- 45. Bulk storage depot for flammable substances
- 46. Small installations for liquefied petroleum gas
- 47. Bulk storage vessel for liquid petroleum gas
- 48. Termination of the storage and use of flammable substances
- 49. Reporting accidents
- 50. Flammable stores
- 51. Container handling and storage
- 52. Spray rooms and booths
- 53. Liquid petroleum gas containers

CHAPTER 9: TRANSPORTATION OF DANGEROUS GOODS

- 54. Dangerous goods certificate

CHAPTER 10: GENERAL PROVISIONS

- 55. State Bound
- 56. Offences and penalties
- 57. Repeal of laws and savings
- 58. Short title and commencement

SCHEDULE 1 (FORMS)

- A POPULATION CERTIFICATE
- B APPLICATION FOR A FLAMMABLE SUBSTANCES CERTIFICATE
- C FLAMMABLE SUBSTANCE CERTIFICATE
- D APPLICATION FOR DANGEROUS GOODS CERTIFICATE
- E DANGEROUS GOODS CERTIFICATE
- F CONSTRUCTION OF SPRAY BOOTHS

SCHEDULE 2 (APPLICABLE LEGISLATION)**SCHEDULE 3 (SANS CODES OF PRACTICE AND SPECIFICATIONS)****CHAPTER 1: DEFINITIONS, PURPOSE SCOPE AND APPLICATION****1. Definitions**

In this By-law, unless the context otherwise indicates:

"above ground storage tank" means a tank situated above ground for the storage of a flammable liquid;

"automatic releasing hold-open device" means a device used to hold open a fire door and operates on the detection of a fire to close the fire door;

"boundary" means any lateral or street boundary of a site;

"building" means:

- a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with:
 - i) the accommodation or convenience of human beings or animals;
 - ii) the manufacture, processing, storage or sale of any goods;
 - iii) the rendering of any service;

- iv) the destruction or treatment of combustible refuse or combustible waste; and
- v) the cultivation or growing of any plant or crop.
- b) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
- c) any fuel pump or any tank used in connection therewith;
- d) any part of a building, including a building as defined in paragraph (a), (b) or (c); and
- e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm-water disposal, electricity supply or other similar service in respect of the building;

"bund wall" means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

"chief fire officer" means the person in charge of a Service, or the acting Chief Officer, as contemplated in the Fire Brigade Services Act, Act 99 of 1987;

"combustible material" means combustible refuse, combustible waste or any other material capable of igniting;

"combustible refuse" means combustible rubbish, litter or material that is discarded, refused, rejected or considered worthless;

"combustible waste" means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and may include all combustible fibres, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items, or any other salvageable combustible waste material;

"constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

"controlling authority" means either a chief fire officer, a municipal manager or their respective delegates as contemplated in sections 3 and 4 of this By-law;

"dangerous goods" means commodities, substances and goods that are capable of posing a significant risk to health and safety or to property or the environment and that are listed in SANS 10228;

"designated area" shall mean a place designated as such in terms of Chapter 7;

"division separating element" means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SANS 10400;

"emergency evacuation plan" means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from a building;

"emergency route" means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

"emergency vehicle" means any fire, rescue or other vehicle intended for use at fires and other threatening dangers;

"entertainment and public assembly occupancy" means a place where people gather to eat, drink, dance or participate in other recreation;

"escape route" means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

"escape route plan" means a diagram indicating the floor layout, the occupant's current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

"escape door" means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space, which leads to a street or public place;

"Fire Brigade Services Act" means the Fire Brigade Services Act, 1987 (Act 99 of 1987);

"fire damper" means an automatic damper and its assembly that complies with the requirements contained in SANS 193;

"fire door" means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

"firework" has the meaning assigned thereto in the Explosives Act, No. 26 of 1956, as

amended and the Regulations framed in terms thereof and include any article or thing commonly recognized as a firework;

"fire extinguisher" means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

"fire hazard" means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

"fire lanes" means the road, path or other passageway constructed or designated to allow access for emergency vehicles;

"fire protection system" means any device or system designed and installed to:

- (a) detect, control or extinguish a fire; or
- (b) alert occupants or the Fire Service, or both, to a fire,

but excludes portable and mobile fire extinguishers;

"fire wall" means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations (T1) read with SANS 10400;

"flammable gas" as contemplated in SANS 10228, means a gas that at 20°C and at a standard pressure of 101,3 kilopascals:

- (a) is ignitable when in a mixture of 13% or less (by volume) with air; or
- (b) has a flammable range with air of at least 12 percentage points, regardless of the lower flammable limit.

"flammable liquid" means a liquid or mixtures of liquids or a liquid containing solids in solution or in suspension that give off a flammable vapour at or below 60,5°C and also includes a liquid within the following danger groups as determined in SANS 10228:

DANGER GROUP BASED ON FLAMMABILITY		
1	2	3
DANGER GROUP	CLOSED CUP FLASH POINT	INITIAL BOILING POINT
I	-	≤35
II	<23	>35
III	≥23 ≤60,5	>35
IV	>60,5 100	>35

"flammable substance" means a flammable liquid or a flammable gas;

"flammable store" means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 49 of this By-law;

"Hazardous Substances Act" means the Hazardous Substances Act, 1973 (Act 15 of 1973);

"Municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"Municipal Manager" means a person appointed in terms of section 82 of the Municipal Structures Act;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"National Building Regulations" means the regulations promulgated in terms of section 17(1)

of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and

- a) National Building Regulations (A2) means the provisions regulating the submission of building plans and particulars to the municipality;
- b) National Building Regulations (A20) means the provisions regulating the classification and designation of occupancies;
- c) National Building Regulations (A21) means the provisions regulating the population of a building;
- d) National Building Regulations (T1) means the provisions regulating general requirements for fire protection of a building; and
- e) National Building Regulations (T2) means the provisions regulating the offences for non-compliance with the National Building Regulations (T1);

"National Road Traffic Act" means the National Road Traffic Act, 1996 (Act 93 of 1996);

"non-combustible" means a substance or material classified as non-combustible when tested in accordance with SANS 10177: Part 5;

"occupancy" means the particular use or type of use to which a building or portion thereof is normally put or intended to be put as provided for in the National Building Regulations (A20);

"occupancy separating element" means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SANS 10400;

"Occupational Health and Safety Act" means the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"operator" means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

"owner" means:

- a) in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;
- b) in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;
- c) in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation, provided that such a person is not the owner mentioned in (b); and
- d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

"peace officer" shall have the meaning assigned thereto in the Criminal Procedure Act, 1997 (Act 51 of 1997), in respect of persons authorized by the Municipality to enforce the provisions of this By-law;

"Person in charge" means:

- a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the premises;
- b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;
- c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilization of the installation, provided that such a person is not the person mentioned in (a), and
- d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c) any person who is in the opinion of the controlling authority deemed to be in charge of such premises, building or installation;

"population" means the population determined in accordance with the National Building

Regulations (A21);

"premises" means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

"public place" means any square park, recreation ground or open space which:

- (a) is vested in the Municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) 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 includes:

- a) the verge of any such road, street or thoroughfare;
- b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"SANS Codes" means South African National Standards (SANS) Codes of Practice and Specifications issued in terms of the Standards Act, 1993 (Act 29 of 1993) and includes any reference to SABS Codes;

"service" means a fire brigade service as defined in the Fire Brigade Services Act, 1987 (99 OF 1987);

"site" means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

"Standards Act" means the Standards Act, 1993 (Act 29 of 1993);

"State" means:

- a) any department of state or administration in the national, provincial or local sphere of government, or
- b) any other functionary or institution:
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution, or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or judicial officer;

"storage vessel" means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act, 1993 (85 OF 1993);

"summary abatement" means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

"tank" for purposes of chapter 9 of this By-law, means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

"this By-law" includes the Schedules attached to this By-law;

"underground tank" means a tank used or intended to be used for the storage of flammable liquid wholly sunk into and below the surface of the ground;

"vehicle" means a vehicle as defined in the National Road Traffic Act, 1996 (93 OF 1996) and includes the following:

- a) **"road tank vehicle"** means a tank truck, tank trailer or truck-tractor and tank-semi-trailer combination;
- b) **"tank-semi-trailer"** means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that, the semi-trailer is drawn by a truck-tractor or another trailer, through a fifth wheel connection part of the load rest on the towing vehicle;
- c) **"tank trailer"** means a vehicle with a tank mounted on it or built as an integral part of it, and so constructed that, when the tank trailer is drawn by a tank truck, practically all of its load rests on its own wheels;
- d) **"tank truck"** means a single, self-propelled vehicle with a tank mounted on it;

- d) **"tank truck"** means a single, self-propelled vehicle with a tank mounted on it;
- e) **"truck-tractor"** means a self-propelled vehicle used to pull a tank-semi-trailer; and
- f) any other vehicle, which in the opinion of the controlling authority, is a vehicle contemplated in chapter 9 of this By-law.

2. Purpose, scope and application of this by-law

- (1) The purpose and scope of the By-law is -
 - (a) to promote the achievement of a fire-safe environment for the benefit of all persons within the area of jurisdiction of the Municipality;
 - (b) to repeal all existing relevant By-laws of the Municipality; and
 - (c) to provide for procedures, methods and practices to regulate fire safety within the area of jurisdiction of the municipality;
- (2) This By-law is applicable to all persons within the jurisdiction of the Municipality and includes both formal and informal sectors of the community and economy.

CHAPTER 2: ADMINISTRATIVE PROVISIONS

3. Administration and enforcement

- (1) The chief fire officer is responsible for the administration and enforcement of this By-law.
- (2) Where no chief fire officer has been appointed in terms of the Fire Brigade Services Act, the municipal manager is responsible for the administration and enforcement of this By-law.
- (3) Where there is no service established in the area of jurisdiction of the Municipality, the municipal manager is responsible for the administration and enforcement of this By-law.

4. Delegation

- (1) A chief fire officer may delegate any power granted to him in terms of this By-law in accordance with section 19 of the Fire Brigade Services Act.
- (2) A municipal manager may delegate any power granted to him in terms of this By-law in accordance with the system of delegation of the Municipality developed in terms of section 59 of the Municipal Systems Act.

5. Enforcement provisions

- (1) A controlling authority may, whenever he regards it necessary or expedient to do so, enter any premises at any reasonable time to ensure compliance with this By-law.
- (2) A controlling authority has the authority to summarily abate any condition which is in violation of any provision of this By-law and which presents an immediate fire hazard or other threatening danger.
- (3) A controlling authority must remedy any violation mentioned in subsection (2), by performing any act, and may also:
 - (a) call for the immediate evacuation of the premises;
 - (b) order the closure of the premises until such time as the violation has been rectified;
 - (c) order the cessation of any activity; and
 - (d) order the removal of the immediate threat.
- (4) Any costs of such action must be borne by the person deemed by a controlling authority to be responsible for the existence of such condition.

6. Authority to investigate

Notwithstanding anything to the contrary contained in any other law, a controlling authority has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

7. Failure to comply with provisions

(1) When a controlling authority finds that there is non-compliance with the provisions of this By-law, excluding the circumstances as provided for in section 5(2), a written notice, including the following, must be issued:

- (a) confirmation of the findings;
- (b) provisions of this By-law that are being contravened;
- (c) the remedial action required; and
- (d) the time within which the notice must be complied with.

(2) An order or notice issued under this By-law must be served either by personal delivery or registered mail upon a person who is in the opinion of the controlling authority, deemed to be the appropriate person.

(3) For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice must be mailed by registered mail, to the last known address of the owner, the person in charge of the premises or both.

(4) Notwithstanding the provisions contained in subsection (1), a spot fine may be issued when a controlling authority finds that there is non-compliance with the provisions of this By-law.

8. Denial, suspension or revocation of an approval or a certificate

A controlling authority may refuse, suspend or revoke an approval or a certificate required by this By-law for:

- (a) failure to meet the provisions of this By-Law for the issuance of the approval or certificate, or
- (b) non-compliance with the provisions of the approval or certificate.

9. Records required

The safekeeping of all relevant records and documents is the responsibility of the controlling authority.

10. Charges

(1) The Municipality may determine the fees payable by a person on whose behalf, the controlling authority rendered a service as contemplated in section 10 of the Fire Brigade Services Act.

(2) The Municipality may charge a fee for the provision of an inspection, re-inspection or any other service as well as the issuing of permits, approvals or certificates in accordance with the applicable local government legislation regulating the charging of fees.

11. Indemnity

The Municipality, controlling authority or a member of a service is not liable for damage or loss as a result of bodily injury, loss of life or loss of or damage to property or financial loss, which is caused by or arises out of or in connection with anything done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this By-law.

12. Reporting a fire hazard and other threatening danger

An owner or the person in charge of premises, upon discovering any evidence of a fire hazard or other threatening danger pertaining to this By-law, must immediately notify the controlling authority.

CHAPTER 3: FIRE PROTECTION OF BUILDINGS**13. General**

The controlling authority in terms of section 4 (3) or section 6 (1) of this By-law must abate a contravention of the National Building Regulations relating to fire and safety of buildings.

14. Access for emergency vehicles

- (1) When, in the opinion of the controlling authority, premises are not readily accessible from public roads it must be provided with emergency vehicle access and, notwithstanding the provisions in the National Building Regulations (T1), may be required to comply with the following:
- (a) An access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises.
 - (b) A motorised or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device.
 - (c) Fire lanes must be provided for all premises which are set back more than forty-five (45) metres from a public road or exceed nine (9) metres in height and are set back over fifteen (15) metres from a public road.
 - (d) Fire lanes must be at least four (4) metres in width, the position of which must be decided upon after consultation with the controlling authority and the area from ground level to a clearance height of four (4) metres above the fire lane must remain unobstructed.
 - (e) A cul-de-sac that is more than ninety (90) metres in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.
- (2) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the controlling authority.
- (3) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

15. Division and occupancy separating elements

An owner or person in charge of a building may not alter a division or occupancy separating element in any way that would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

16. Fire doors and assemblies

- (1) Subject to the provisions of SANS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- (2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the Municipality.
- (3) A fire door and assembly may not be rendered less effective through the following actions:
- (a) altering the integrity, insulation or stability of a particular class of door;
 - (b) disconnecting the self-closing mechanism;
 - (c) wedging, blocking or obstructing the door so that it cannot close;
 - (d) painting the fusible link actuating mechanism of a door;
 - (e) disconnecting or rendering less effective an electric or electronic release mechanism; or
 - (f) any other action that renders a fire door or assembly less effective.

17. Escape routes

- (1) A component which forms part of an escape route such as the feeder routes, access doors, emergency routes and escape doors must not be obstructed or rendered less effective in any way, which could hinder or prevent the escape of any person from a building in the case of fire or any other emergency.
- (2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Municipality.
- (3) Where required by the controlling authority, an escape route must be clearly indicated with signage, which complies with SANS 1186, indicating the direction of travel in the event of fire or any other emergency.

18. Tents

- (1) Prior to the erection and usage of a tent as an occupancy contemplated in the National Building Regulations (A20), an applicant must:
 - (a) submit an application in terms of the National Building Regulations (A2) to the Municipality for the erection and usage of the tent, and
 - (b) submit an application in terms of the section 23(4) of this By-law to the controlling authority for a temporary population certificate.
- (2) The application submitted in terms of subsection (1)(a) must comply with the following:
 - (a) The tent must be erected at least 4.5 metres from a boundary, combustible store or material and the controlling authority may require that this distance be increased should the situation require it.
 - (b) Where tents are erected adjacent to one another, an unobstructed minimum distance of 4.5 metres must be provided between them and where applicable between the stakes and guidelines of the adjacent tents, in order to ensure emergency vehicle access.
 - (c) The requirements set out in the National Building Regulations (T1) must be complied with in the following instances:
 - (i) where the population of a tent exceeds twenty-five (25) people;
 - (ii) where a tent is occupied during the hours of darkness;
 - (iii) for seating arrangements and aisle dimensions; and
 - (iv) for the provisions of fire extinguishers.
 - (d) The population density of a tent must comply with the National Building Regulations (A21).
 - (e) No cooking may be carried out in the tent occupied by the public and where cooking is required, it must be out in a separate tent or an area to which the public does not have access.
 - (f) No open fire is permitted in a tent and any other flame emitting device, such as a candle, lantern or torch but not limited thereto, is only permitted in a tent after approval by the controlling authority.
 - (g) No open fire or flame is permitted within five (5) metres of a tent, stake or guideline of a tent.
 - (h) Smoking is prohibited in a tent and a "No Smoking" sign must be prominently displayed at each entrance and must comply with SANS 1186: Part 1.
 - (i) Lighting and wiring installed in a tent must comply with the requirements set out in SANS 10142 in such a manner that direct contact is not made with combustible material and the radiated heat does not pose an ignition hazard.
- (3) Notwithstanding the provisions in subsections (1) and (2), the controlling authority may request the applicant to fulfill additional requirements for the erection and usage of a tent.

CHAPTER 4: FIRE SAFETY EQUIPMENT

19. Fire extinguishers

- (1) Fire extinguishers must be provided and installed on premises as required by the controlling authority and in accordance with the National Building Regulations (T1) and (T2).
- (2) Fire extinguishers must be maintained strictly in accordance with the requirements of the Occupational Health and Safety Regulations, SANS 1475: Part 1, SANS 1571, SANS 1573 and SANS 10105: Part 1.
- (3) A juristic or a natural person may not fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SANS 1475: Part 1, unless such a person is the holder of a permit issued by the South African Bureau of Standards or certificate of competence issued by the South African Qualifications Certification Committee.
- (4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of permit or certificate mentioned in subsection (3).
- (5) When the controlling authority finds that a fire extinguisher has been filled, recharged,

reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the controlling authority must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.

(6) When, in the opinion of the controlling authority, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the controlling authority must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SANS 1475: Part 1 and SANS 1571.

(7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.

(8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

20. Testing and maintenance of fire protection systems

(1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.

(2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test and where applicable the parties who monitor the fire protection system.

(3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2) read in conjunction with a recognized national code or standard, and in the absence of a national code or standard an applicable international code or standard must be used.

(4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.

(5) The person carrying out the maintenance of a fire protection system must inform the owner or person in charge of the premises in writing, of any defects discovered, maintenance performed or still outstanding and where the person in charge has received such notice, he must without delay inform the owner accordingly.

(6) The owner or person in charge of the premises must immediately notify the controlling authority when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the controlling authority as soon as the system is restored.

(7) The owner or person in charge of the premises must take all steps deemed necessary by the controlling authority to provide alternate equipment to maintain the level of safety within the premises.

21. Interference with and access to fire protection systems and fire extinguishers

A person is not permitted to render less effective, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

22. Fire alarms and fire hydrants

(1) Without compensation to the owner of the premises concerned, the controlling authority may cause:

- (a) a fire alarm;
- (b) a transmission instrument for calls of fire or other emergency; or
- (c) a transmission instrument for warning residents of a fire or other emergency to be affixed to any building, wall, fence, pole or tree.

(2) Without compensation to the owner of the premises, the controlling authority may cause the position of a fire hydrant and fire alarm or any other fire protection information to be marked on any building, wall fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.

(3) The controlling authority may at any time cause a fire alarm, other transmission instrument

mentioned in subsection (1), board, decal, metal plate or painted marker to be removed without compensating an owner of the premises concerned.

(4) An unauthorized person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in subsection (1), board, decal, metal plate or painted marker.

(5) A person may not render less effective, inoperative, inaccessible, or tamper and interfere with a fire hydrant.

CHAPTER 5: PUBLIC SAFETY

23. Prevention and control of overcrowding

(1) Prior to the usage of a premises for entertainment or public assembly, the owner or person in charge of such premises must submit an application for a population certificate to the controlling authority, as prescribed in the Schedule 1 of this By-law.

(2) The controlling authority may request additional information from the applicant.

(3) Notwithstanding the provision in subsection (1), the controlling authority may instruct the owner or person in charge of the premises to apply for either a temporary or a permanent population certificate, should the premises be used in respect of any other occupancy contemplated in the National Building Regulations (A20).

(4) A temporary population certificate is valid for a period not exceeding thirty (30) calendar days.

(5) The controlling authority must refuse to issue a temporary or permanent population certificate if the premises do not comply with the requirements of the National Building Regulations (T1), and where the controlling authority is of the opinion that the non-compliance of the premises can be remedied, he must instruct the owner or person in charge of the premises in writing, to take all reasonable steps to render the premises safe prior to the usage of the premises and the issuing of the temporary or permanent population certificate.

(6) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the temporary or permanent population certificate, he must act in terms of sections 5(2) or 6(1) and section 7 of this By-law.

(7) The temporary and permanent population certificate is valid only for the premises or portion of the premises for which it was issued, and when changes of occupancy occur or alterations are made to premises for which the certificate was issued, the owner or person in charge of the premises must reapply for the certificate in accordance with subsection (1).

(8) The temporary or permanent population certificate must be displayed in a clearly visible and conspicuous position in or on the premises for which the certificate was issued.

(9) The owner or the person in charge of the premises must prevent overcrowding by limiting the maximum population to that which is specified on the temporary or permanent population certificate.

(10) A person must vacate the premises that are overcrowded when instructed to do so by the controlling authority, the owner or person in charge of the premises.

24. Attendance of a service

(1) When the controlling authority is of the opinion that a service is required to be in attendance during a function in a place used for entertainment or public assembly, he may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle or equipment of a service to be in attendance on the premises for the duration of the function or part thereof.

(2) When attendance of a service during a function in a place used for entertainment or public assembly involves costs, the costs incurred by the Municipality may be recovered from the person in charge of the function in accordance with section 10 of this By-law.

25. Formulation of an emergency evacuation plan

(1) The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of twenty-five (25) persons (including staff), must formulate an emergency evacuation plan detailing the appropriate

action to be taken by the staff or the occupants in the event of a fire or other threatening danger.

(2) The controlling authority may order the owner or person in charge of the premises, other than those contemplated in subsection (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.

(3) The plan mentioned in subsection (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.

(4) The emergency evacuation plan must be tested in its entirety at a minimum of six monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.

(5) The register mentioned in subsection (4) must contain the following information:

- (a) the date and time of the test;
- (b) the number of participants;
- (c) the outcome of the test and any corrective actions required; and
- (d) the name and signature of the person supervising the test.

(6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the controlling authority.

(7) The controlling authority may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

26. Displaying of escape route plans

(1) In a hospital, residential institution, hotel, guest house, hostel or other similar occupancy designed or intended for or used by patients, residents or transient persons, irrespective of the population, the escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

(2) The displaying of escape route plans for any other premises is subject to the approval of the controlling authority.

27. Barricading of vacant buildings

The owner or person in charge of a building or portion thereof which is vacant must remove all combustible waste or refuse therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Municipality which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

CHAPTER 6: HOUSEKEEPING

28. Combustible waste and refuse

(1) The owner or person in charge of the premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.

(2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other threatening danger as prescribed in the applicable legislation, dealing with the storage and disposal of that specific type of combustible waste and refuse, or in the absence of applicable legislation as determined by the controlling authority.

29. Dust

The owner or person in charge of the premises or a portion thereof may not allow the accumulation of dust in quantities sufficient to create a fire or other threatening danger and must store or dispose of the dust as prescribed in the applicable legislation dealing with the storage and disposal of that specific type of dust.

30. Combustible or flammable substances and sweeping compounds

(1) Notwithstanding anything to the contrary contained in any other law, only approved water-based solutions or detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.

- (2) The use of sawdust or similar combustible materials to soak up combustible or flammable substances spilled or dropped in the course of a process, is prohibited.

31. Accumulations in chimneys, flues and ducts

The owner or person in charge of the premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

32. Sources of ignition

- (1) Smoking, the carrying of matches, the use of heating or other flame-emitting devices, or the use of any spark-producing equipment is prohibited in areas containing combustible or flammable substances, and where equipment or tools are necessary to conduct or maintain an operation, it must be intrinsically safe and specifically designed for that purpose.
- (2) Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
- (3) An adequate distance, as deemed appropriate by the controlling authority, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
- (4) Portable heaters must be secured so that it cannot be overturned and the controlling authority may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

33. Smoking

- (1) If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and "No Smoking" signs must be displayed as directed by the controlling authority and the signs must comply with SANS 1186: Part 1.
- (2) A person may not remove a "No Smoking" sign.
- (3) A person may not light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.
- (4) Where smoking is allowed, provisions must be made for the safe disposal of the smoking material and matches to prevent the creation of a fire hazard or other threatening danger.
- (5) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a road or any other place.

34. Electrical fittings, equipment and appliances

- (1) A person may not cause or permit an electrical supply outlet to be overloaded.
- (2) A person may not cause or permit an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

35. Flame-emitting device

A person may not cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

CHAPTER 7: FIRE HAZARDS

36. Combustible material

- (1) A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside the premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.
- (2) The owner or person in charge of the premises or erven may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

37. Lighting of fires and burning of combustible material

- (1) The lighting of fires and the disposal of combustible material by burning are prohibited.
- (2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger.
- (3) The owner or person in charge of the premises used in respect of an occupancy of entertainment or public assembly must ensure that a cooking fire or flame-emitting device is placed in designated areas so as to prevent a fire hazard or other threatening danger.
- (4) Before the owner or person in charge of a farm or small holding, or an organ of state controlling non-proclaimed residential areas may dispose of combustible material by burning, and before making an application in writing for approval from the controlling authority, prior approval must be obtained in terms of the applicable legislation set out in Schedule 3.

38. Fireworks

- (1) No person may use or discharge any fireworks unless he or she is in possession of a permit authorizing such use, issued by an inspector in the manner prescribed by the Explosives Act, Act 15 of 2003.
- (2) The Municipality may designate:
 - (a) any Public Open Space; or
 - (c) on the application of the owner or lawful occupier, any Private Open Space as defined in the Zoning Regulations of the Ndlambe Municipality or its legal predecessors as the only place at which fireworks may be discharged, and further the Municipality may impose conditions as to the dates on which and/or periods of time and/or hours when such discharge may take place and further may impose conditions as to the manner of discharge.
- (2) No person may discharge any firework outside an area designated by the Municipality.

39. Designated Areas

The Municipality may, by annually publishing notices in at least 3 newspapers circulating in its area of jurisdiction, designate places as places where legally permitted fireworks as defined in the Explosives Act, Act 15 of 2003 and the regulations framed thereunder, may be discharged.

CHAPTER 8: FLAMMABLE SUBSTANCES**40. Application of this Chapter**

Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, this Chapter regulates flammable substances in the local government sphere so as to prevent and reduce fire hazards or other threatening dangers.

41. Storage and use of a flammable substances

- (1) Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Municipality, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.
- (2) Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1) in the presence of the controlling authority.
- (3) Notwithstanding subsection (2), the controlling authority may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).
- (4) The controlling authority must be notified at least 48 hours prior to the pressure test.

(5) Prior to the alteration of the premises that impacts on the fire safety of an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the premises must notify the controlling authority, who may call for the premises or installation to be rendered safe.

(6) Unless a flammable substance certificate has been obtained from the controlling authority, the owner or person in charge of premises may not store or use:

- (a) a flammable gas in excess of 19kg; or
- (b) a flammable liquid of a danger group (i), (ii) or (iii) in excess of 200 litres.

42. Application for a flammable substances certificate

(1) The owner or person in charge of premises, who requires a flammable substance certificate mentioned in section 41(6), must submit an application to the controlling authority as prescribed in the Schedule 1 of this By-law.

(2) The controlling authority may request additional information from the applicant.

(3) The controlling authority must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this By-law, and where the non-compliance of the premises can be remedied, he must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises in accordance with section 41(6) and the issuing of the certificate.

(4) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance requires to be changed or when section 41(5) applies.

(5) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the flammable substances certificate, he must act in terms of sections 5(2) or 6(1) and section 7 of this By-law.

(6) Notwithstanding subsection (5), a flammable substance is stored or utilized for any process in a manner which is hazardous to life or property, or an installation is unauthorized, an order may be issued for the removal of the flammable substance or installation from the premises.

(7) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the controlling authority.

(8) A flammable substance certificate is valid only:

- (a) for the installation for which it was issued;
- (b) for the state of the premises at the time of issue; and
- (c) for the quantities stated on the certificate.

(9) The flammable substance certificate must be available on the premises for inspection at all times.

(10) The controlling authority must keep records of all premises in respect of which a flammable substance certificate has been issued, amended and renewed.

43. Permanent or temporary above ground storage tank for a flammable liquid

(1) In this section, only a permanent or temporary above ground tank used for the storage of flammable liquids is regulated.

(2) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the controlling authority, on the merit of the situation, provided that the following requirements are complied with:

- (a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40°C;
- (b) to be on the premises for a period not exceeding six months;
- (c) the entire installation must comply with SANS 0131: Part 2; and
- (d) written application together with a plan must be forwarded to the controlling authority at least fourteen (14) days prior to the erection of the tank and prior written permission must be obtained from the controlling authority for the erection of the tank.

- (3) Notwithstanding section 41(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Municipality for approval in terms of the National Building Regulations (T1).
- (4) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognized codes.
- (5) The rated capacity of a permanent or temporary tank must provide sufficient spillage to permit expansion of the product contained therein by reason of the rise in temperature during storage.
- (6) A permanent or temporary tank must be erected at least 3.5 metres from boundaries, buildings and other flammable substances or combustible materials.
- (7) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- (8) A permanent or temporary tank must have a bund wall.
- (9) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- (10) Sufficient fire extinguishers, as determined by the controlling authority, must be provided in weatherproof boxes in close proximity to a tank.
- (11) Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank, and the signs must comply with SANS 1186: Part 1.
- (12) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SANS 10232: Part 1.
- (13) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- (14) The electrical installation associated with an above ground storage tank must comply with SANS 10108.

44. Underground storage tank for a flammable liquid

The design requirements and construction of an underground storage tank must be in accordance with the National Building Regulations (T1) read in conjunction with SANS 10400.

45. Bulk storage depot for flammable substances

The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (T1), read with SANBS 089: Part 1.

46. Small installations for liquefied petroleum gas

Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3 000 litres per installation must be installed and handled in accordance with SANS 10087: Part 1.

47. Bulk storage vessel for liquid petroleum gas

The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SANS 10087: Part 3.

48. Termination of the storage and use of flammable substances

(1) If an above ground or underground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must:

- (a) within seven (7) days of the cessation, notify the controlling authority in writing thereof;
- (b) within thirty (30) days of the cessation, remove the flammable substance from the installation and render it safe;
- (c) within six (6) months of the cessation, remove the installation including any associated pipe work, from the premises entirely, unless the controlling authority otherwise instructs; and

- (d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Municipality within a period of seven (7) days of the completion of the removal of the installation.
- (2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the controlling authority to fill the tank with liquid cement slurry.

49. Reporting accidents

If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, the owner or person in charge of the premises must immediately notify the controlling authority.

50. Flammable stores

(1) The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SANS 10400.

(2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.

(3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.

(4) Notwithstanding the National Building Regulations (T1) read in conjunction with SANS 10400:

- (a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance;
- (b) the ventilation of a flammable store must be achieved by the use of air bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
- (c) The airbricks must be covered both internally and externally with closely woven, non-corrodible wire gauze of at least 1 100 meshes per metre; and
- (d) The wire gauze must be held in position by metal straps, a metal frame or cement.

(5) When required by the controlling authority, the flammable store must be ventilated by a mechanical ventilation system approved by the Municipality and must comply with the following requirements:

- (a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
- (b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least one metre above roof height or at least 3.6 metres above ground level, whichever is the greater;
- (c) ducting material that is external to the store, but communicates with the remainder of the building must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store; and
- (d) the ducting must be as short as possible and must not have sharp bends.

(6) Notwithstanding the National Building Regulations (T1) read in conjunction with SANS 10400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are complied with, and the door must open outwards.

(7) When required by the controlling authority, a flammable store door must be a D-class fire door, which complies with SANS 1253.

(8) Notwithstanding the National Building Regulations (T1) read in conjunction with SANS 10400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be

located outside the store.

(9) No other electrical apparatus may be installed in the flammable store.

(10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipe-work leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.

(11) Racking or shelving erected in the flammable store must be of non-combustible material.

(12) The flammable store must be identified by the words "**Flammable Store – Bewaarplek vir Vlambare Vloeistowwe – Isitoro Indawo Yokugcina Izixhobo Ezithatha Lula Umillo**", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.

(13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.

(14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.

(15) Sufficient fire extinguishers, as determined by the controlling authority, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.

(16) Any hand tool used in the flammable store must be intrinsically safe.

(17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the controlling authority has been notified in terms of the following procedure:

- (a) within seven (7) days of the cessation, notify the controlling authority in writing thereof;
- (b) within thirty (30) days of the cessation, remove the flammable substance from the flammable store and render it safe; and
- (c) within thirty (30) days of the cessation, remove all signage.

(18) Subject to the provisions in this section, the controlling authority may call for additional requirements to improve the fire safety of a flammable store.

51. Container handling and storage

(1) All flammable substance containers must be kept closed when not in use.

(2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.

(3) Flammable liquid containers must be labeled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.

(4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.

(5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.

(6) An empty flammable liquid container must be placed in a flammable store.

(7) Where a flammable store is not available for the storage of empty flammable liquid containers, the controlling authority may permit such storage in the open, provided that:

- (a) The storage area must be in a position and of sufficient size which in the opinion of the controlling authority, will not cause a fire hazard or other threatening danger.
- (b) The storage area is well ventilated and enclosed by a wire mesh fence and:
 - (i) the fence supports are of steel or reinforced concrete;
 - (ii) has an outward opening gate that is kept locked when not in use; and
 - (iii) when the floor area exceeds 10m² an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key.
- (c) The storage area is free of vegetation and has a non-combustible firm level base.
- (d) A two metre distance around the perimeter of the fenced area is clear of grass,

- weeds and similar combustible materials.
- (e) When the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material.
- (f) Open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SANS 1186: Part 1.
- (g) Firefighting equipment is installed as determined by the controlling authority.
- (8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

52. Spray rooms and booths

A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act and also comply with the requirements of Schedule 1 (F).

53. Liquid petroleum gas containers

- (1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SANS 10087: Part 1 and SANS 10019.
- (2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.
- (3) A liquid petroleum gas container of a capacity not exceeding nine (9) kilogram must be filled and stored in accordance with SANS 10087: Part 7.

CHAPTER 9: TRANSPORTATION OF DANGEROUS GOODS

54. Dangerous goods certificate

- (1) Notwithstanding anything contained in the National Road Traffic Act or any SANS Code, the operator of a roadworthy vehicle designed for the transportation of dangerous goods may not operate such a vehicle, unless he has obtained a dangerous goods certificate from the controlling authority.
- (2) An operator of a vehicle mentioned in subsection (1), must submit an application to the controlling authority as prescribed in Schedule 1 (D) of this By-law.
- (3) The controlling authority may request additional information from the applicant.
- (4) The controlling authority must refuse to issue the dangerous goods certificate if a vehicle does not comply with (whichever is applicable to the vehicle) the requirements of SANS 10087: Part 4, SANS 10089: Part 1, SANS 10230, SANS 1398, SANS 1518, and where the controlling authority is of the opinion that the non-compliance of a vehicle can be remedied, he must instruct an operator of a vehicle in writing to take all reasonable steps to remedy the defaults prior to the use of the vehicle in accordance with subsection (1) as well as the dangerous goods certificate.
- (5) A dangerous goods certificate must be renewed annually, on or before the date as indicated on the dangerous goods certificate or whenever major maintenance or repairs have been performed on the vehicle.
- (6) If at any time, the controlling authority becomes aware that the usage of a vehicle is not in accordance with the dangerous goods certificate, he must act in terms of section 5(2) or 6(1) and section 7 of this By-law.
- (7) A consignor may not supply a flammable substance to an operator of a vehicle mentioned in subsection (1), unless the operator is in possession of a valid dangerous goods certificate issued by the controlling authority.
- (8) A consignee may not receive a flammable substance from an operator of a vehicle mentioned in subsection (1), unless the operator meets the requirement in subsection (7).
- (9) A dangerous goods certificate is valid only:
 - (a) for the vehicle for which it was issued;
 - (b) for the state of the vehicle at the time of issue; and
 - (c) for the quantities stated on the certificate.

- (10) The dangerous goods certificate must be available in the vehicle mentioned in subsection (1) for inspection at all times.
- (11) The controlling authority must keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended and renewed.

CHAPTER 10: GENERAL PROVISIONS

55. State Bound

This By-law binds the State and any person in the service of the State.

56. Offences and penalties

- (1) Any person who:
- (a) contravenes any of the provisions of this By-law or fails to comply therewith; or
 - (b) contravenes or fails to comply with any order made hereunder or any notice served in connection herewith,
- is guilty of an offence and liable to a maximum fine or imprisonment as prescribed in the Fire Brigade Services Act.
- (2) The imposition of a penalty for any contravention may not excuse the contravention nor must the contravention be permitted to continue.
- (3) The controlling authority must instruct a person found guilty to correct or remedy the contravention or defect concerned within a time period specified by the controlling authority.
- (4) Notwithstanding the penalties as prescribed in the Fire Brigade Services Act, a controlling authority may also impose an admission of guilt fine to anyone who contravenes this by-law.

57. Repeal of laws and savings

- (1) The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.
- (2) A certificate that was issued, a written notice that was served or any other enforcement act done in terms of a By-law repealed in subsection (1), within six months prior to the commencements of this By-law shall be deemed to be a certificate issued, a notice served or an enforcement act done by a controlling authority in terms of this By-law.

58. Short title and Commencement

This By-law is called the Ndlambe Municipality: Community Fire Safety By-law and comes into operation on the date of publication in the Provincial Gazette.

SCHEDULE 1

FORMS

- A. POPULATION CERTIFICATE
- B. FLAMMABLE SUBSTANCE CERTIFICATE APPLICATION
- C. FLAMMABLE SUBSTANCE CERTIFICATE
- D. DANGEROUS GOODS CERTIFICATE APPLICATION
- E. DANGEROUS GOODS CERTIFICATE
- F. CONSTRUCTION OF SPRAY BOOTHS

A. POPULATION CERTIFICATE

NDLAMBE MUNICIPALITY
FIRE & EMERGENCY SERVICES

APPLICATION FOR APPROVAL OF A ROOM FOR USE AS A PLACE OF ASSEMBLY OR CONGREGATION FOR PURPOSES OF RECREATION OR ENTERTAINMENT

NAME OF OWNER:

POSTAL ADDRESS:.....

.....

.....

NAME BY WHICH ROOM IS COMMONLY KNOWN:

STREET ADDRESS OF PREMISES

.....

.....

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

FOR OFFICE USE ONLY

CERTIFICATE AND COPIES, ANNEXURE "A" AND ANNEXURE "B" RECEIVED BY:

NAME:

CAPACITY:

DATE: SIGNATURE:

1. TOTAL FLOOR AREA INCLUDING ANY STAGE OR PLATFORM:M²

2. NUMBER OF FIXED SEATS:.....

3. NUMBER OF EXIT DOORS: TOTAL WIDTH:

4. MAXIMUM NUMBER OF PERSONS PERMITTED:

DATE APPROVED:

APPROVING OFFICER:

NUMBER OF CERTIFICATES ISSUED:

CALCULATIONS1. FLOOR AREA LENGTH (M) X BREADTH (M) = AREA M²

= X =

2. POPULATION = NUMBER OF FIXED SEATS OR ONE (1) PER M² IF NO FIXED SEATS

3. NUMBER OF AVAILABLE EXITS (TOTAL)M. WIDTH OF DOORS X 1.2 =

PROPORTION A

PROPORTION A + PROPORTION A1, A2, A3 ETC. = PROPORTION B

IF GROUND FLOOR : PROPORTION B X 100 = POPULATION A

..... X 100 =

	IF ANY OTHER FLOOR :	X 84 =
4.	UNITS OF EXIT WIDTH	WIDTH OF DOOR	MM
		TOTAL COMPLETE UNITS OF EXIT	X 40 =
5.	AVERAGE POPULATION: A (OR A1) + B + 2 =	+ + 2 =

B. APPLICATION FOR A FLAMMABLE SUBSTANCES CERTIFICATE

**NDLAMBE MUNICIPALITY
APPLICATION FOR PERMISSION TO STORE FLAMMABLE LIQUID**

*THIS FORM TO BE FILLED IN AND FORWARDED TO THE DIRECTOR: FIRE & EMERGENCY SERVICES,
NDLAMBE MUNICIPALITY*

NAME OF APPLICANT

.....
(If a firm, state name in full. If a company, state name of company and its secretary)

ADDRESS

LOCATION OF PREMISES FOR WHICH PERMISSION IS REQUIRED

PERMISSION IS REQUIRED FOR PETROL AND/OR PARAFFIN

.....
(State which is required and maximum quantity in litres of each)

PURPOSE FOR WHICH THE FLAMMABLE LIQUID IS TO BE KEPT

SIGNATURE OF APPLICANT

CAPACITY

POSTAL ADDRESS

DATE

C. FLAMMABLE SUBSTANCE CERTIFICATE

NDLAMBE MUNICIPALITY

LICENCE TO STORE FLAMMABLE LIQUID

PERMISSION IS HEREBY GRANTED TO

OF

TO STORE THE FOLLOWING

AT

FROM THIS DATE UNTIL 31 DECEMBER, SUBJECT TO THE FLAMMABLE LIQUID BEING STORED TO THE SATISFACTION OF THE AUTHORISED OFFICER IN COMPLIANCE WITH THE REGULATIONS FOR CONTROLLING AND REGULATING THE KEEPING, CONVEYANCE, STORAGE AND USE OF FLAMMABLE LIQUID.

THIS LICENCE MUST BE RENEWED ON OR BEFORE THIS 1ST DAY OF DECEMBER

DATED THIS DAY OF

.....
MANAGER

D. APPLICATION FOR A DANGEROUS GOODS CERTIFICATE

FOR OFFICIAL USE ONLY		NDLAMBE MUNICIPALITY	
APPLICATION NO.:			
FILE NO.:			
DANGEROUS GOODS CERTIFICATE APPLICATION			
Application for a dangerous goods certificate in terms of Section 54(2) of the Community Fire Safety By-Law			
ADDRESS OF OPERATOR			
NAME OF OPERATOR:			
TRADING AS:			
ERF NO.:			
STREET ADDRESS:			
SUBURB:			
CITY:		CODE:	
LOCATION OF VEHICLE			
ERF NO.:			
STREET ADDRESS:			
SUBURB:			
CITY:		CODE:	
DETAILS OF VEHICLE FOR WHICH A CERTIFICATE OF REGISTRATION IS REQUIRED			
TYPE OR CLASS OF VEHICLE:			
REGISTRATION NO.:			
TARE:			
LOAD:			
MAKE:			
NUMBER OF TANKS:			
CAPACITY OF TANKS:			
YEAR OF MANUFACTURE OF TANK:			
ENGINE NO.: (IF APPLICABLE)			
CHASSIS NO.:			
QUANTITY OF FLAMMABLE SUBSTANCE TO BE CONVEYED:			
FLAMMABLE LIQUID:			
FLAMMABLE GAS:			
REMARKS:			
OPERATOR (SIGNATURE):			
ADDRESS:		PRINT NAME:	
TELEPHONE NO.:			
FOR CONTROLLING AUTHORITY (SIGNATURE):			

FOR OFFICIAL USE ONLY	
A CERTIFICATE FEE OF R IS PAYABLE TO THE NDLAMBE MUNICIPALITY IN RESPECT OF THIS APPLICATION AND THE SUBSEQUENT INSPECTION.	
SIGNATURE OF RECEIVING OFFICIAL: DATE:	
NAME OF RECEIVING OFFICIAL: DESIGNATION:	

E. DANGEROUS GOODS CERTIFICATE

FOR OFFICIAL USE ONLY		NDLAMBE MUNICIPALITY	
APPLICATION NO.:			
FILE NO.:			
DANGEROUS GOODS CERTIFICATE Dangerous goods certificate in terms of Section 54(1) of the Community Fire Safety By-Law			
THIS IS TO CERTIFY THAT THE VEHICLE, PARTICULARS OF WHICH ARE GIVEN BELOW, HAS BEEN EXAMINED AND FOUND TO COMPLY WITH THE RELEVANT SECTIONS SANS 10087: PART 4, SANS 10089: PART 1, SANS 1398 AND SANS 1518 FOR THE CONVEYANCE OF FLAMMABLE LIQUIDS OR LIQUEFIED FLAMMABLE GAS IN TANKS EACH WITH A TOTAL CAPACITY OF LITRES WITHIN THE LIMITS OF THE MUNICIPAL AREA AND SUBJECT TO ALL APPLICABLE LEGISLATION.			
DETAILS OF OPERATOR			
NAME OF OPERATOR:			
TRADING AS:			
STREET ADDRESS:			
SUBURB:			
CITY:		CODE:	
DETAILS OF VEHICLE			
TYPE OR CLASS OF VEHICLE:			
REGISTRATION NO.:			
TARE:			
LOAD:			
MAKE:			
NUMBER OF TANKS:			
CAPACITY OF TANKS:			
YEAR OF MANUFACTURE OF TANK:			
ENGINE NO.: (IF APPLICABLE)			
CHASSIS NO.:			
QUANTITY OF FLAMMABLE SUBSTANCE TO BE CONVEYED:			
FLAMMABLE LIQUID:			
FLAMMABLE GAS:			
THIS CERTIFICATE OF REGISTRATION IS NOT A WARRANTY OF FITNESS OF THE VEHICLE HEREIN DESCRIBED AND ANY OPERATOR, DRIVER OR PERSON INTERESTED SHOULD SATISFY THEMSELVES AS TO THE ROADWORTHINESS, CONSTRUCTION AND CONDITION OF THE AFOREMENTIONED VEHICLE.			
THIS CERTIFICATE IS ISSUED BY THE NDLAMBE MUNICIPALITY AND IS VALID UNTIL			
DATE OF RENEWAL			
DATE OF EXPIRY			
CONTROLLING AUTHORITY (SIGNATURE)		DATE OF ISSUE	
NAME OF ISSUING OFFICIAL (PRINT NAME)		DESIGNATION	

F. CONSTRUCTION OF SPRAY BOOTHS

NDLAMBE MUNICIPALITY

SPRAY BOOTH CONSTRUCTION

WALLS		225mm Brickwork.
ROOF		Reinforced concrete.
FLOOR		Concrete or other impervious material.
DOORS	(A)	Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centres along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door.
	(B)	Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.
NOTE		Where the floor area exceeds 18 sq. metres 2 doors must be provided.
WINDOWS		Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm x 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the Director: Fire and Emergency Services.
NOTE		The Factory Inspector requires natural light to the extend of 20% of the floor area.
VENTILATION		30 Lineal metres/minute velocity across the room must be provided by means of mechanical ventilation, with the center line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating one (1) metre above the apex of the roof. No right angle bends to be used in the ducting system. Exhaust fans to be installed at four (4) metre centers or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.
NOTE		If the ducting is external to the Spray Booth and in communication with the Workshop etc., it must be protected by either 110mm brick or 50mm asbestos cement lagging.
VENTILATION INLETS		The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a height of not less than two (2) metres.

MINIMUM NO. OF SIZE OF ROOM**AIRBRICKS**

40	Up to but not exceeding 140 cubic metres.
65	Up to but not exceeding 280 cubic metres.
90	Up to but not exceeding 470 cubic metres.
150	Up to but not exceeding 650 cubic metres.

NOTE: Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of Airbricks.

ELECTRICAL WORK	All electrical work must be of flame-proof construction.
DANGER NOTICE	"DANGER – NO SMOKING" notices in 150mm high white letters on a red background to be provided above the doors outside the Spray Booth.

SCHEDULE 3**APPLICABLE LEGISLATION**

With reference to section 37(4):

TITLE	NUMBER
Atmospheric Pollution Prevention Act, 1965	Act 45 of 1965
Conservation of Agricultural Resources Act, 1983	Act 43 of 1983
Forest Act, 1984	Act 122 of 1984
National Forest Act, 1998	Act 84 of 1998
National Veld and Forest Fire Act, 1998	Act 101 of 1998
National Water Act, 1998	Act 36 of 1998

SCHEDULE 3**SANS CODES OF PRACTICE AND SPECIFICATIONS**

SANS CODE	TITLE
SANS 10019	Portable metal containers for compressed gas basic design, manufacture, use and maintenance.
SANS 10087: Part 1	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 1: Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litre and a combined water capacity not exceeding 3 000 litre per installation.
SANS 10087: Part 3	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 3: Liquefied petroleum gas installations involving storage vessels of individual water capacity exceeding 5 000 litres.
SANS 10087: Part 4	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 4: Transportation of liquefied petroleum gas in bulk by road.
SANS 10087: Part 7	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 7: Storage and filling sites for refillable liquefied petroleum gas (LPG) containers of capacity not exceeding 9kg.
SANS 10089: Part 1	The petroleum industry, Part 1: Storage and distribution of petroleum products in above ground bulk installations.
SANS 10105: Part 1	The classification, use and control of firefighting equipment, Part 1: Portable fire extinguishers.
SANS 10108	The classification of hazardous locations and the selection of apparatus for use in such locations.
SANS 0131: Part 2	The handling and storage of liquid fuel, Part 2: Large consumer premises.
SANS 10142	The wiring of premises.
SANS 10177: Part 5	The testing of materials, components and elements used in buildings: Non-combustibility at 750°C of building materials.
SANS 193	Fire dampers.
SANS 10228	The identification and classification of dangerous substances and goods.

SANS CODE	TITLE
SANS 10230	Transportation of dangerous goods - Inspection requirements for road vehicles.
SANS 10232 : Part 1	Transportation of dangerous goods – Emergency information systems, Part 1: Emergency information systems for road transportation.
SANS 10400	The application of the National Building Regulations.
SANS 1186: Part 1	Symbolic safety signs, Part 1: Standard signs and general requirements.
SANS 1253	Fire doors and fire shutters.
SANS 1398	Road tank vehicles for flammable liquids.
SANS 1475: Part 1	The production of reconditioned firefighting equipment, Part 1: Portable rechargeable fire extinguishers.
SANS 1518	Transportation of dangerous goods – Design requirements for road tankers.
SANS 1571	Transportable rechargeable fire extinguishers.
SANS 1573	Portable rechargeable fire extinguishers – Foam type extinguishers.

LOCAL AUTHORITY NOTICE 134**NDLAMBE MUNICIPALITY
CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), section 6 of the Property Rates Act, 2004 (Act 6 of 2004), and section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Ndlambe Municipality, enacts as follows:-

TABLE OF CONTENTS**1. Definitions****CHAPTER 1: CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION**

2. Customer care principles, and objectives
3. Municipal manager responsible officer
4. Differentiation between customers and exemption

CHAPTER 2: SUPPLY OF MUNICIPAL SERVICES***Part 1: Application for supply and service agreements, deposits, billing and payment, and termination of service agreements***

5. Application for supply of municipal services and service agreements
6. Deposits
7. Billing and payment
8. Termination of service agreement

Part 2: Non-payment of municipal accounts

9. Arrangements for payments
10. Interest on overdue municipal accounts
11. Debt collection mechanisms

Part 3: Metering equipment and metering of services

12. General provisions
13. Metering equipment and measuring of consumption
14. Resale of water or electricity

Part 4: Indigence relief measures

15. Requirements for indigence relief
16. Credit given

CHAPTER 3: TARIFFS***Part 1: General principles, calculation of tariffs for major services***

17. General principles
18. Calculation of tariffs for major services

Part 2: Structure of tariffs for major services, minor tariffs

19. Structure of tariffs
20. Electricity
21. Water
22. Refuse removal
23. Sewerage
24. Minor tariffs

CHAPTER 4: RATES

25. Imposition of rates
26. Rebates on rates
27. Adjustment of rates
28. Frequency of valuations

CHAPTER 5: ENFORCEMENT

29. Municipality's powers to restrict or disconnect supply of services
30. Tampering, unauthorised connections and reconnections, and improper use
31. Clearance certificate
32. Tenders and grants-in-aid
33. Power of council to recover costs
34. Prima facie evidence
35. Abandonment of bad debts, and full and final settlement of account
36. Power of entry and inspection
37. Authentication and service of orders, notices and other documents

CHAPTER 6: MISCELLANEOUS PROVISIONS

38. Right of appeal
39. Offences and penalties
40. Repeal of by-laws
41. Short title and commencement

1. Definitions

For the purposes of this by-law, unless the context otherwise indicates –

"account holder" means any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water;

"annual budget" means the budget approved by the municipal council for any particular financial year, and includes any adjustments to such budget;

"applicant" means a person who applies for the supply of municipal services;

"availability charge" means a fixed monthly or annual charge levied against the account holder which is based on the cost for providing a municipal service to the premises of the account holder;

"billing" means invoicing on a municipal account to an account holder of an amount or amounts payable for rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;

"consumer" means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises, and **"domestic consumer"** or **"domestic user"** of municipal services means the person or household to which municipal services are rendered in respect of residential property;

"consumer price index" means the consumer price index (CPIX) as determined and gazetted by the South Bureau of Statistics;

"Council" means the Council of the Ndlambe Municipality (or any service provider to the municipality);

"credit control" means all the functions relating to the collection of revenue;

"customer management" means the focusing on the account holder's needs in a responsive and proactive way to encourage payment and thereby limiting the need for enforcement;

"customer service centre" means and serves as –

- (a) an office where an applicant may apply for services and enter into a service agreement with the municipality;
- (b) an office where an account holder may settle an account or may make pre-payment for services;

(c) a credit screening point where the credit assessment of an applicant can be processed; or

(d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to the municipality and from where the response from the municipality can be conveyed to the account holder;

"due date" means the date specified as such on a municipal account for any charges payable and which is the last day allowed for the payment of such charges;

"interest" means an amount calculated at a rate determined by the municipality on a municipal account in arrears;

"land reform beneficiary", in relation to a property, means a person who –

(a) acquired the property through the provision of the Land and Assistance Act, 1993 (Act 126 of 1993);

(b) acquired the property through the provision of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);

(c) holds the property subject to the Communal Property Associations Act, 1996 (Act 29 of 1996); or

(d) holds or acquires the property in terms of such other land tenure reform legislation as may be enacted;

"local community" or **"community"**, in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;

"major services" means those services contemplated in section 17(5);

"market value" in relation to a property means the value of the property as determined in accordance with section 46 of the Property Rates Act, 2004 (Act 6 of 2004);

"minor tariffs" means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services provided, and includes services incidental to the provision of the major services.

"month" means one of 12 months of a calendar year;

"municipal account" means an account rendered on which is billed an amount or amounts payable to the municipality for rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation;

"municipal entity" means-

(a) a private company referred to in section 86B (1) (a) of the Municipal systems Act, Act 32 of 2000;

(b) a service utility; or

(c) a multi-jurisdictional service utility;

"municipality" means the Municipality of Ndlambe, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

"municipal manager" is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

"municipal property" includes a property owned by a municipal entity;

"multiple purposes", in relation to a property, means the use of a property for more than one purpose;

"municipal service" means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether-

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 or by engaging an external mechanism contemplated in the said section 76; and

- (b) fees, charges or tariffs are levied in respect of such a service or not;

"municipal tariff" means a tariff for services which the municipality sets for the provision of a service to the local community, such as a tariff set for major services or a minor tariff, and includes a surcharge on such service;

"occupier" means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes -

- (a) any person in actual occupation of those premises;

- (b) any person legally entitled to occupy those premises;

- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;

- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and

- (e) the owner of those premises;

"officer" means an employee of the municipality or any other person who is specifically authorised thereto by the municipality to perform any act, function or duty in terms of, or exercise any power under this by-law;

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"owner" means -

- (a) a person in whom the legal title to a premises is vested;

- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

- (c) in the case where the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;

- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;

- (e) in relation to -

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or

- (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to –
- (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
- (ii) any Department of State;
- (iii) any council or Board established in terms of any legislation applicable to the Republic of South Africa; and
- (iv) any Embassy or other foreign entity; and
- (g) a lessee of municipal property who is deemed to be the owner for the purposes of rendering a municipal account;

"owner", in relation to –

- (a) a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;
- (b) a right referred to in paragraph (b) of the definition of "property", means a person in whose name the right is registered;
- (c) a land tenure right referred to in paragraph (c) of the definition of "property", means a person in whose name the right is registered or to whom it was granted in terms of legislation; and
- (d) public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled", however, the municipality may, for the purposes of the Property Rates Act, 2004 (Act 6 of 2004), regard as the owner of a property –
 - (i) in the case of a property in a trust, but excluding state trust land, a trustee,;
 - (ii) in the case of a property in a deceased estate, an executor or administrator;
 - (iii) in the case of a property in an insolvent estate or in liquidation, a trustee or liquidator;
 - (iv) in the case of a property in the estate of a person under judicial management, a judicial manager;
 - (v) in the case of a property in the estate of a person under curatorship, a curator;
 - (vi) in the case of a property that is subject to a usufruct or other personal servitude, a person in whose name a usufruct or other personal servitude is registered;
 - (vii) in the case of a property that is registered in the name of the municipality and is leased by it, a lessee; and
 - (viii) in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer, a buyer;

"permitted use", in relation to a property, means the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality's town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions;

"person" includes a legal person and an organ of state;

"preferred customer" means a person who may be granted special concessions by the municipality;

"premises" means any piece of land, the external surface boundaries of which are delineated on –

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 93 of 1986), which is situated within the area of jurisdiction of the municipality;
- (c) and includes any other land and any building or structure above or below the surface of any land;

"property" means –

- (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, such as a "land reform beneficiary"; and
- (d) public service infrastructure;

"publicly controlled" means owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999), a municipality, or a municipal entity;

"public service infrastructure" means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;
- (c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed by law; and
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

"rate" means a municipal rate on property as envisaged in section 229(1)(a) of the Constitution;

"rateable property" means property on which the municipality may in terms of section 2 of the Property Rates Act, 2004, levy a rate, but excludes property fully excluded from the levying of rates in terms of section 17 of that Act, but includes any rights registered against such property, with the exception of a mortgage bond;

"ratepayer" means a person who is liable to the municipality for the payment of rates on property in the municipality, any other tax, duty or levy imposed by the municipality, or fees for services provided either by the municipality or in terms of a service delivery agreement, or a combination of the above;

"rebate", in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Property Rates Act, 2004 on the amount of the rate payable on the property;

"residential property" means a property included in the valuation roll as residential in terms of section 48(2)(b) of the Property Rates Act, 2004;

"revenue" means all monies due to the municipality and to which the municipality has the right to exact and to enforce payment of, irrespective of the reason for or the origin of its factuality;

"sectional title scheme" means a scheme as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

"sectional title unit" means a unit as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

"state trust land" means land owned by the state and held in trust for persons communally inhabiting the land in terms of a traditional system of land tenure, over which land tenure rights have been registered or granted, or which is earmarked for disposal in terms of the Restitution of Land Rights, 1994 (Act 22 of 1994);

"tampering" means any unauthorised interference with the municipality's supply, seals and metering equipment and "tamper" has a corresponding meaning;

"target" means realistic targets which may be set by the municipality; and

"tariffs for major services" means tariffs set for the supply and consumption or usage of major services;

"unreliable customer" includes an account holder, who according to his or her payment record fails to settle his or her municipal account by the due date or who is in arrears with payments due to council or who tampers or interferes with metering equipment, seals or the supply of municipal services.

CHAPTER 1

CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

2. Customer care principles, and objectives

(1) The municipality aims –

- (a) to move progressively towards the social and economic upliftment of the community in harmony with its natural environment;
- (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
- (c) to engage the active participation of the community in the municipality's affairs, in particular in planning, service delivery and performance management;
- (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;
- (e) to ensure that the municipality is financially and economically viable; and
- (f) to create a harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties;

- (2) The municipality by this by-law, designs, regulates on and implements a customer care and management system as contemplated in section 95 of the Municipal Systems Act.

3. Municipal manager responsible officer

The Municipal Manager –

- (a) is responsible to the Executive Mayor for the implementation and enforcement of the provisions of this by-law;
- (b) must, for the purposes of paragraph (a) take the necessary steps to implement and enforce the provisions of this by-law;
- (c) is accountable to the Executive Mayor for the agreed performance targets as approved by the municipality and the Executive Mayor, and for these purposes must –
 - (i) report to the Executive Mayor on matters relating to this by-law, including but not limited to –
 - (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
 - (bb) billing information, including the number of account holders, accruals, cash-flow, and customer management;
 - (cc) the satisfaction levels of account holders regarding services rendered; and
 - (dd) the effectiveness of the municipality's indigence relief measures; and
 - (ii) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of this by-law; and
 - (iii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder –
 - (aa) any outstanding amounts as may be agreed; or
 - (bb) such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

4. Differentiation between customers and exemption

(1) In accordance with the principles embodied in the Constitution and the provisions of sections 6 and 8 of the Property Rates Act, 2004, and sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies, categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.

(2) The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any section of this by-law that may result in –

- (a) the wastage or excessive consumption of water or electricity;
- (b) the evasion or avoidance of water or electricity restrictions;
- (c) significant negative effects on public health, safety or the environment;

- (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
 - (f) any Act, or any regulation made under it, not being complied with.
- (3) The municipality or its authorised agent may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

CHAPTER 2 SUPPLY OF MUNICIPAL SERVICES

Part 1

Application for supply and service agreements, credit screening, deposits, billing and payment, and termination of service agreements

5. Application for supply of municipal services and service agreements

- (1) Any application for any supply of services to any premises must be made at the municipal offices at least four working days, or such lesser period as may be accepted by the municipality, prior to the service being required and must comply with the conditions determined by the Municipal Manager.
- (2) After the commencement of this by-law only the owner of a property or his or her duly authorised agent on his or her behalf may apply for municipal services to be supplied to a property.
- (3) No services shall be supplied unless and until application has been made by the owner and a service agreement in the format prescribed by the municipality has been entered into and a deposit provided for in section 6 has been paid.

6. Deposits

- (1) On approval of the application and before the service is made available, the municipality may require the applicant –
- (a) to deposit for municipal services with the municipality a sum of money;
 - (b) to provide any other form of security; or
 - (c) to agree to special conditions regarding payment of the municipal account,

and monies so deposited with the municipality serve as security.

- (2) The Municipal Manager reserves the right to review the sum of money deposited or the amount for which additional security is required.
- (3) The Municipal Manager may, in respect of preferred customers, consider relaxation of the conditions pertaining to deposits as set out in subsections (1) and (2).
- (4) On termination of the supply of services, the amount of such deposit, less any payments due to the municipality, must be refunded to an account holder.

7. Billing and payment

- (1) The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must pay for metered services, and must pay the rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.

- (3) An account holder –
 - (a) must, where possible, be rendered one account, on which the due date for settlement of the total amount owing is reflected, subject to the provisions of subsection (14); and
 - (b) must be billed monthly in cycles of approximately 30 days.
- (4) Payment must be received on or before the close of business on the due date.
- (5) Payment made via electronic media or any of the service providers appointed by the municipality to receive payments on its behalf, should be made at least four working days before the due date to enable the payment to be processed, and interest accrues should the municipality receive payment after the due date.
- (6) Where the account holder effects payment of an account via a service provider four working days or more before the due date and such service provider fails to furnish the municipality with the relevant payment details, such service provider may be held liable for all charges incurred by the municipality to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.
- (7) The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, which intervals may not exceed 4 months, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein object to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.
- (10) An error or omission in any account or failure to render an account does not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to the municipality in accordance with the prescribed charges in respect of –
 - (a) the quantity of water or electricity which the account holder has used and for which the account holder has not been charged; or
 - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- (12) An account holder is not entitled to a reduction of the amount payable for metered services which are lost due to a fault in the meter, until such time as the provisions of section 13(8)(c) have been met.

- (13) The municipality may –
- (a) consolidate any separate accounts of an account holder liable for payment to the Municipality; and
 - (b) credit any payment by an account holder against any debt of that account holder.
- (14) The owner of property may enter into an agreement with the municipality in terms of which payment for rates is made annually, in which case payment must be made on or before the date determined by the municipality.

8. Termination of service agreement

- (1) Termination of the service agreement must be in writing to the other party of the intention to do so.
- (2) Where a property is sold, an owner may terminate a service agreement by giving the municipality not less than four working days' notice in writing.
- (3) The municipality may, by notice in writing of not less than 14 working days, advise an account holder of the termination of the agreement for a supply of municipal services if –
- (a) the account holder has committed a breach of this by-law and has failed to rectify such breach; or
 - (b) the municipality cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority must in future supply municipal services to the account holder.

Part 2

Non-payment of municipal accounts

9. Arrangements for payments

- (1) Should an account holder, before any of the steps have been taken in terms of section 11, not be able to pay the municipal account in full, the account holder may approach the municipality with the aim of making short-term arrangements to settle the account.
- (2) Should an account holder, after any of the steps have been taken in terms of section 13, experience difficulties in paying the municipal account, the account holder may approach the municipality with the aim of making arrangements to settle the account, and the account holder must enter into a written agreement with the municipality to repay to the municipality the outstanding and due amount under the conditions and on a basis determined, by the Municipal Manager,.
- (3) The written agreement must be signed on behalf of the municipality by a duly authorised officer.
- (4) In the instance where arrangements for payment have been made the municipality may –
- (a) review the deposit;
 - (b) require of an account holder to pay by means of a stop order or debit order;
 - (c) require of an account holder to convert to a pre-paid metering system; or
 - (d) require any other form of security, including personal suretyship by the directors or members of a company, closed corporation, trust or body corporate.

10. Interest on overdue municipal accounts

- (1) The municipality may, charge or recover interest at a rate determined by it in respect of any arrear amounts due and payable.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 9, interest accrues if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by the municipality, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of the municipality or to the credit of the bank account of the municipality at the close of business on the due date.

11. Debt collection mechanisms

- (1) Where appropriate, the Municipality must at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date:
 - (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
 - (b) informing the account holder verbally, in writing, telephonically, or by electronic means of the overdue amount and the impending disconnection or restriction of services
 - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or
 - (d) debiting the municipal account of the account holder with all relevant fees or penalties approved by the municipality.
- (2) Where the metered supply had been disconnected or restricted, and should the account holder still fail to pay the account, the premises may be revisited at regular intervals to ensure that the metered supply remains disconnected or restricted, and if it is found that the supply which had been disconnected or restricted previously has been restored –
 - (a) the municipality has the right to take whatever action is required in terms of section 30, and the account holder is responsible for the relevant fees or charges or damages caused;
 - (b) the municipality may refuse to supply services for a period determined by the municipality ; and
 - (c) in the instance of the use of a pre-paid meter, the municipality may cease further vending of pre-paid services.
- (3) Where a duly authorised officer of the municipality has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection becomes payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.

- (4) The municipality may use any one or more of the following mechanisms to secure full payment of any amounts owing to it:
- (a) requiring of the account holder to convert to another metering system;
 - (b) allocating a portion of any pre-paid payment to other debts;
 - (c) publishing a list of account holders who remain in default;
 - (d) withholding payment of a grant-in-aid and subject to the provisions of section 32, excluding the account holder from the tender process;
 - (e) withholding payment on contracts for settlement of the municipal account;
 - (f) reviewing and altering the conditions of the service agreement;
 - (g) instituting legal proceedings for the recovery of the debt;
 - (h) classifying the account holder as an unreliable customer;
 - (i) using the services of external debt collection specialists or agencies;
 - (j) insisting on conversion to pre-paid metering at the cost of the account holder; or
 - (k) employing any other methods authorised by the municipality from time to time to recover arrear amounts.
- (5) The cost of collection, where applicable, is for the account holder's account.
- (6) Subject to the provisions of sections 28 and 29 of the Property Rates Act, 2004 Act 6 of 2004), the right to deny, restrict, disconnect or terminate services due to the non-payment for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation prevails notwithstanding the fact that –
- (a) payment was intended for any specific service; or
 - (b) the person who entered into a service agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

Part 3

Metering equipment and metering of services

12. General provisions

The municipality may introduce various metering equipment and may encourage an account holder to convert to a system which will benefit the municipality and account holders.

13. Metering equipment and measuring of consumption

- (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- (3) Where any building referred to in subsection (2) is metered by the municipality as a whole –
 - (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
 - (b) the municipality may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate

occupation for the purpose of determining the quantity of metered services supplied to each such unit.

- (4) Where the electricity used by consumers is charged at different tariffs, the consumption must be metered separately for each tariff.
- (5) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services is deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
 - (a) a meter is conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (13), is found to be within the limits of error as provided for in the applicable standard specifications;
 - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality must –
 - (i) in case of a credit meter, adjust the account rendered; or
 - (ii) in the case of prepayment meters:
 - (aa) render an account where the meter has been under-registering; or
 - (bb) issue a free token where the meter has been over-registering; and
 - (c) the consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph (b) and subsection (7) must be made and the aforesaid fee must be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (8)(b), the municipality must –
 - (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and
 - (c) call upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period the municipality is entitled to adjust the account as notified in paragraph (a).

- (11) The Municipality must consider any representation provided by the consumer in terms of subsection (10) and may adjust the account appropriately.
- (12) If the Municipal Manager decides that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (15), the municipality is entitled to adjust the account as notified in terms of subsection (10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (13) Meters are tested in the manner provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of subsection (8)(b) or (8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (13), or upon a calculation by the Municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection (14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The municipality may dispense with the use of a meter in case of –
- (a) an automatic sprinkler fire installation; or
 - (b) special circumstances that may justify such dispensation.
- (17) The municipality may by notice –
- (a) prohibit or restrict the consumption of metered services –
 - (i) for specified or non-specified purposes;
 - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
 - (iii) in a specified or non-specified manner; and
 - (b) determine and impose –
 - (i) limits on the quantity of metered services which may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.
- (18) The municipality may limit the application of the provisions of a notice contemplated by subsection (17) to specified areas and classes of account holders, premises and activities, and may provide for the Municipality to permit deviations and exemptions from, and the relaxation of any of the provisions.
- (19) To ensure compliance with a notice published in terms of subsection (17), the municipality may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.

(20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection (17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless evidence is adduced that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.

(21) The provisions of this section also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (17).

(22) If action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the municipality may –

- (a) without prior notice disconnect the supply of metered services to any premises; and
- (b) enter upon such premises and do emergency work, as it may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the municipality may deem necessary;

(23) The municipality may recover from the account holder the cost of any work undertaken in terms of subsection (22)(b) where such work was undertaken because of an unlawful act or omission by the account holder.

(24) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by the municipality, .

(25) The municipality may, at the written request of an account holder and on the dates requested by the account holder –

- (a) disconnect the supply of metered services to the account holder's premises; and
 - (b) upon payment of the prescribed charge for restoration, restore the supply of such services..
- (26) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees must be paid before reconnection is made.
- (27) The following apply to the reading of credit meters:
- (a) unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;
 - (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption must be adjusted in a subsequent account in accordance with the consumption actually consumed;
 - (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;

- (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
- (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer –
 - (i) the error must be corrected in subsequent accounts;
 - (ii) any such correction applies only in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered;
 - (iii) the correction is based on the actual tariffs applicable during the period; and
 - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (28) The following apply to prepayment metering:
 - (a) no refund of the amount tendered for the purchase of electricity or water credit is given at the point of sale after initiation of the process by which the pre-payment meter token is produced; provided that this section will only apply to Standard Transfer Specification equipment (STS tokens);
 - (b) copies of previously issued tokens for the transfer of credit to the pre-payment meter may be issued at the request of the consumer;
 - (c) when an account holder vacates any premises where a pre-payment meter is installed, no refund for the credit remaining in the meter is made to the owner by the municipality;
 - (d) the municipality is not liable for the re-instatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, pre-payment meters or tokens;
 - (e) where an account holder is indebted to the municipality for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality; and
 - (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

14. Resale of water or electricity

- (1) No account holder who is supplied with metered services in terms of this by-law may sell or supply water or electricity to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or offer such resale or supply to be made, unless prior permission from the municipality has been obtained.
- (2) If the municipality grants the permission referred to in subsection (1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.
- (3) Permission referred to in subsection (1) may be withdrawn at any time.

- (4) Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may impose.

Part 4
Indigence relief measures

15. Requirements for indigence relief

- (1) To qualify for indigence relief, the following requirements must be met:
- (a) The applicant must be an account holder;
 - (b) the applicant must, before a date determined by the municipality, apply annually, or at such intervals as determined by the municipality, to be granted the status as a poor household, and for these purposes must -
 - (i) complete and sign the prescribed forms; and
 - (ii) provide any other documentation as may be required by the municipality;
 - (c) the applicant may not be the owner of more than one property and he or she must occupy the property; and
 - (d) the collective household income may not exceed the amount determined by the municipality in terms of subsection (2).
- (2) For the purposes of determining the collective household income as contemplated in subsection (1)(d), the municipality may stipulate an amount, or may determine a maximum amount based on any one or more of the following:
- (a) consumption of water;
 - (b) consumption of electricity; or
 - (c) the municipal valuation of the property, which valuation may not exceed the value determined by the municipality.
- (3) In the case of a tenant -
- (a) the tenant must apply in person and may qualify for electricity, water and refuse and sewage charges only, for which charges he or she must receive a municipal account; and
 - (b) the person receiving the rent payable by the tenant whether on the person's own account or as agent for any other person entitled thereto or interested therein, is responsible for rates.
- (4) In the instance where the account holder is deceased, the existing and future accounts of the household must be accepted under the indigence relief measures, on condition that only the surviving spouse or dependent children may apply or benefit.

16. Credit given

- (1) Households which qualify for indigence relief measures may receive a credit for some or all of the following as determined by the municipality:
- (a) a quantity of electricity plus basic fee;
 - (b) a quantity of water plus basic fee;
 - (c) refuse removal charges;
 - (d) sewerage charges;
 - (e) rates; or
 - (f) any other service fees, taxes or charges over and above the rendered services.

- (2) The municipality has the right to review an application for indigence relief on a regular basis and to visit the property mentioned in section 15(1)(c) at any reasonable time for the purposes of verifying the information given in an application.
- (3) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit limits approved by the municipality.
- (4) Where it has been established that indigence relief has been granted on the basis of false or fraudulent information supplied, the municipality may withdraw such relief with immediate effect.

CHAPTER 3 TARIFFS

Part 1

General principles, calculation of tariffs for major services

17. General principles

- (1) The municipality adopts, subject to subsection (14), sections 20(3)(d) and (e) and 21(5)(d), a two-part tariff structure consisting of a fixed availability charge coupled with a charge based on consumption.
- (2) In setting its annual tariffs the municipality must at all times take due cognisance of the –
 - (a) tariffs applicable elsewhere in the economic region; and
 - (b) impact which its own tariffs may have on local economic development.
- (3) With the exception of the indigence relief measures approved by the municipality, service tariffs imposed by the municipality should be viewed as user charges and not as taxes, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (4) The municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (5) Tariffs for the following services rendered by the municipality, must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a surplus as determined in each annual budget:
 - (a) supply of electricity;
 - (b) supply of water;
 - (c) sanitation services, including sewerage and waste water disposal services; and
 - (d) refuse (solids waste) removal services.
- (6) The tariff, which a particular consumer or user pays, must be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (7) The municipality must annually review its indigence relief measures, as contemplated in sections 15 and 16, and must set out the –
 - (a) municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents; and
 - (b) the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.

- (8) (a) The municipality's tariff policy must be transparent.
- (b) The extent to which there is cross-subsidisation between categories of consumers or users must be evident to all consumers or users of the service in question.
- (9) The municipality undertakes to –
 - (a) ensure that its tariffs are explained to and understood by all consumers and users affected by this by-law;
 - (b) render its services cost effectively in order to ensure the best possible cost of service delivery.
- (10) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered by the municipality, and meters must be read, wherever circumstances reasonably permit, on a monthly basis, and the charges levied on consumers must be proportionate to the quantity of the service which they consume.
- (11) In considering the costing of its water, electricity and sewerage services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (12) (a) The municipality's tariffs for electricity services are determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
- (b) For the purposes of paragraph (a), the municipality must install demand meters to measure the maximum demand of such consumers during certain periods.
- (c) Such consumers must pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

18. Calculation of tariffs for major services

In order to calculate the tariffs which must be charged for the supply of the services contemplated in section 17(5), the municipality must identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of electricity and water;
- (d) depreciation expenses;
- (e) maintenance of infrastructure and other fixed assets;
- (f) administration and service costs, including –
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
 - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area; and
- (g) the cost of indigence relief measures.

Part 2***Structure of tariffs for major services, minor tariffs*****19. Structure of tariffs**

- (1) The municipality may—
 - (a) determine the kilowatt-hours of electricity per month and the kilolitres of water which will be provided free of charge to a consumer who have registered as an indigent in terms of section 15(1)(b); and
 - (b) consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigent to the extent that the council deems such relief affordable in terms of each annual budget, however, such relief may not be less than a discount as determined by the municipality.
- (2) The tariff for a pre-paid meter is the same as the ordinary consumption tariffs levied on the category of consumer concerned, and no availability charge is levied on a property where a pre-paid meter has been installed.

20. Electricity

- (1) The various categories of electricity consumers, as set out in subsection (3), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of consumers and charges are as follows:
 - (a) with the exception of a registered indigent, a consumer must be billed for all the electricity consumed at the tariff applicable to the category in which the particular consumer falls.
 - (b) the tariff for domestic consumption of electricity may not exceed such percentage, per kilowatt-hours, as determined by the municipality, of the tariff applicable to other consumers, and all other consumers, including businesses, industries and institutional consumers, must pay the same tariff per kilowatt-hour.
 - (c) A domestic electricity consumer of the municipality who is registered as an indigent with the municipality must receive free the amount of kilowatt-hours of electricity as determined in terms of section 19(1).
 - (d) a domestic electricity consumer other than a registered indigent and sub-economic (Government subsidised Housing) consumer must additionally be billed an availability charge per meter installed.
 - (e) a commercial, industrial and other non-domestic property must additionally be billed a monthly availability charge per meter installed and, where applicable, a demand charge appropriate to its respective levels of consumption.

21. Water

- (1) The categories of water consumers as set out in subsection (5), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) The tariff levied for domestic consumption of water escalates according to the volume of water consumed, and will be based on a monthly consumption as determined by the municipality.

- (4) The tariff for non-domestic water consumption is based on a single tariff per kilolitre consumed, irrespective of the volume of consumption concerned.
- (5) Categories of consumers and charges are as follows:
 - (a) a domestic water consumer registered as an indigent with the municipality must receive free the first six kilolitre of water consumed per month, thereafter a tariff as determined by the municipality is applicable on metered water consumption.
 - (b) all other domestic consumers are charged for actual water consumption at a stepped tariff per kilolitre as determined by the municipality.
 - (c) the tariff applicable to domestic consumption of water may not exceed such percentage per kilolitre as determined by the municipality, of the tariff applicable to other consumers and all other consumers, including businesses, industries and institutional consumers, must pay the tariff as contemplated in subsection (4).
 - (d) an availability charge per water meter, as determined by the municipality, is charged on a water consumer.

22. Refuse removal

- (1) The categories of refuse removal users as set out in subsection (3) are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) A separate fixed monthly refuse removal charge applies to each of the following categories of users, based on the costs of the service concerned:
 - (i) domestic and other users, where refuse is removed by the municipality once weekly; and
 - (ii) business and other users, where refuse is removed by the municipality twice weekly;
 - (iii) business and other users, where refuse is removed by the municipality thrice weekly; and
 - (iv) business and other bulk consumers.
- (4) A registered indigent may receive a discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed as a refuse removal charge.

23. Sewerage

- (1) The categories of sewerage users as set out in subsection (3) are charged per month at the applicable tariff as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of users and charges are:
 - (a) an availability charge is charged per month or annually for an undeveloped erf, irrespective of its permitted or intended use.
 - (b) a fixed monthly charge based on the costs of the service, is charged for bucket removal for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
 - (c) a fixed monthly charge based on the costs of the service is charged for a domestic user, however, a registered indigent may receive such

discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.

- (d) a fixed monthly charge based on the costs of the service per sewer point or toilet is charged to all businesses, industries and institutional users.
- (e) an effluent fee is payable by a factory and another industrial user where the wastewater emanating from such user requires special purification measures by the municipality, and the fee is based on the toxic content of the wastewater concerned and the costs of the purification.
- (f) a charge, based on the costs of the service to empty a septic tank, will be levied for each visit to empty a septic tank on the premises of a person requiring such service.

24. Minor tariffs

- (1) All minor tariffs are standardised within the municipal region.
- (2) All minor tariffs are approved by the municipality in each annual budget and are, when deemed appropriate by the municipality, subsidised by property rates and general revenues, particularly when the –
 - (a) tariffs prove uneconomical when charged to cover the cost of the service concerned;
 - (b) cost cannot accurately be determined; or
 - (c) tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) Unless there are compelling reasons why such adjustment should not be effected, all minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, are adjusted annually at least in accordance with the prevailing consumer price index.
- (4) The following services are subsidised services, and the tariffs levied cover 50%, or as near as possible to 50%, of the annual operating expenses budgeted for the service concerned:
 - (a) burial services and the provision of cemeteries; and
 - (b) the provision of municipal sports facilities for use against a fee.
- (5) The following services are considered as being community services, and no tariffs are levied for their use:
 - (a) a municipal swimming pool;
 - (b) a municipal museum and art gallery;
 - (c) the disposal of garden refuse at the municipal disposal site;
 - (d) a municipal reference library;
 - (e) a municipal lending library, except for fines determined;
 - (f) a municipal botanical garden, other park or open space;
- (6) The following services are considered as being economic services, and the tariffs levied cover 100%, or as near as possible to 100%, of the budgeted annual operating expenses of the service concerned:
 - (a) The maintenance of graves, gardens of remembrance and crematoria against payment of a fee;
 - (b) the availability of a house against payment of a housing rental;

- (c) subject to subsection (9), the use of a municipal hall and other premises against payment of a fee;
 - (d) the supply of a building plan against payment of a fee;
 - (e) the selling of –
 - (i) plastic refuse bags;
 - (ii) the selling of refuse bins; or
 - (iii) livestock and plants;
 - (f) the cleaning of stands against payment of a fee;
 - (g) the connection of electricity, water and sewerage against payment of a connection fee;
 - (h) the photostating of copies against payment of a fee; and
 - (i) the issuing of a clearance certificate against payment of a fee.
- (7) The following charges and tariffs are considered as regulatory or punitive, and are determined as appropriate in each annual budget:
- (a) fines for lost or overdue library books;
 - (b) advertising sign fees;
 - (c) pound fees;
 - (d) disconnection and reconnection fees of electricity and water;
 - (e) penalty and other charges imposed in terms of Chapters 1 and 2; and
 - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (8) The lease of a municipal property must be dealt with in terms of the Municipality's Supply Chain Management Regulations or Policy;
- (9) If the municipal manager is satisfied, in the case of a rental for the use of a municipal hall and premises, that the hall or premises is required for non-profit making purposes and for the provision of a service to the community, the municipal manager may waive the applicable rental.
- (10) The municipal manager must determine whether an indemnity or guarantee is to be lodged, or whether a deposit has to be paid, for the rental of a municipal hall, premises or sports field, and in so determining must be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.
- (11) The costs of the democratic process in the municipality such as, but not limited to, all expenses associated with the political structures of the municipality, form part of the expenses to be financed from property rates and general revenues, and are not included in the costing of the major services of the municipality.

CHAPTER 4 RATES

25. Imposition of rates

- (1) The municipality must impose, as part of each annual operating budget component, a rate in the rand on the value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll.
- (2) When imposing the rate for each financial year, the municipality must take proper cognisance of the –
 - (a) aggregate burden of rates and service charges on property owners in the various categories of property ownership; and
 - (b) extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

26. Rebates on rates

- (1) The municipality may grant rebates in recognition of the following factors:
- (a) the inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce;
 - (b) the need to accommodate indigents and less affluent pensioners;
 - (c) the services provided to the community by public service organisations;
 - (d) the value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities;
 - (e) the need to preserve the cultural heritage of the local community;
 - (f) the need to encourage the expansion of public service infrastructure; and
 - (g) the indispensable contribution which property developers, especially in regard to commercial and industrial property development, make towards local economic development, and the continuing need to encourage such development.
- (2) The municipal manager must, subject to section 15(3) and 15(4) of the Property Rates Act, 2004 (Act 6 of 2004), ensure that rebates are indicated on the rates accounts submitted to each property.
- (3) The municipality may categorise properties and grant rebates as determined by it.
- (4) In determining whether a property forms part of a particular category contemplated in subsection (3), the municipality must have regard to the actual use to which the relevant property is put, and in the case of vacant land not specifically included in any of the categories, the permitted use of the property determines into which category it falls.
- (5) The rebates granted under subsection (3) apply in addition to the provisions of section 17(1)(h) of the Property Rates Act, 2004.
- (6) (a) Subject to the provisions of section 9 of the Property Rates Act, 2004, a property, other than one referred to in section 17(1)(h)(i) of that Act, is rated on the value assigned to each component, and receives the rebate applicable to such component.
- (b) where one component on average represents a higher percentage than that determined by the municipality, of the property's actual use, such property must be rated as though it were used for that use only.

27. Adjustment of rates

- (1) Where the rates levied on a particular property have been incorrectly determined, whether because of –
- (a) an error or omission on the part of the municipality;
 - (b) false information provided by the property owner concerned; or
 - (c) a contravention of the permitted use to which the property concerned may be put,

the rates payable must be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

(2) Where the error occurred as contemplated in subsection (1)(b) or (c), interest on the unpaid portion of the adjusted rates payable must be levied at the maximum rate permitted by prevailing legislation.

28. Frequency of valuations

Subject to the provisions of sections 32 and 77 of the Property Rates Act, 2004 (Act 6 of 2004), the municipality must prepare a new valuation roll every three years and supplementary valuation rolls every six months.

CHAPTER 5 ENFORCEMENT

29. Municipality's powers to restrict or disconnect supply of services

The municipality may, over and above the provisions of any other provisions in this by-law restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if -

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 37 of 1944), in respect of an account holder; provided further that such services will only be suspended if the account holder fails to make regular payments in respect of the current services;
- (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
- (e) an account holder causes a situation which is dangerous or a contravention of relevant legislation; or
- (f) an account holder is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936).

30. Tampering, unauthorised connections and reconnections, and improper use

- (1) The municipality reserves the right to monitor the service network for signs of tampering or irregularities.
- (2) No person may in any manner or for any reason tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (3) Where evidence exists of an account holder or any person having contravened subsection (2), the municipality has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the Municipality for such disconnection.
- (4) Where an account holder or any person has contravened subsection (2) and such contravention has resulted in the meter recording less than the true consumption,

the municipality has the right to recover from the account holder the full cost of his or her estimated consumption.

31. Clearance certificate

To effect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the municipal manager upon payment of the prescribed fee and subject to the conditions of section 118 of the Municipal Systems Act, 2000 (Act 32 of 2000) being met.

32. Tenders and grants-in-aid

- (1) Each tender submitted to the municipality must be accompanied by a certificate from the municipality stating that the proposed supplier/service provider is not indebted to the municipality for any arrear amount reflected on the municipal account.
- (2) Should a proposed supplier/service provider be so indebted, the municipality may disallow the tender.
- (3) The municipality may only consider a tender once the proposed supplier/service provider has made satisfactory arrangements to pay the outstanding amount by means of instalments, or has settled all arrear amounts in full.
- (4) The municipal manager or a duly authorised officer of the municipality must in the condition of contract, provide for the deduction from moneys owed to the supplier/service provider in order to settle any outstanding amount.
- (5) Payment of any grants-in-aid approved by the municipality may be withheld pending payment of any outstanding municipal account, or pending an agreement between the municipality and the receiver of a grant-in-aid in which satisfactory arrangements have been made regarding the settlement of the outstanding municipal account.

33. Power of council to recover costs

- (1) Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- (2) All legal costs, excluding attorney-and-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act 32 of 1944), must be levied against the arrears account of the account holder.
- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff policy.

34. Prima facie evidence

A certificate reflecting the amount due and payable to the municipality, signed by the municipal manager, is upon mere production thereof prima facie evidence of the indebtedness of the person mentioned in it.

35. Abandonment of bad debts, and full and final settlement of account

- (1) Before terminating the debt collection procedure in any individual instance, the municipal manager must –

- (a) ensure that all debt collection mechanisms as provided for in section 11 have been utilised where reasonable;
 - (b) maintain an audit trail; and
 - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The municipal manager may consider an offer for full and final settlement, and must, if in the interests of the municipality, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the municipal manager, shall not be deemed to be in full and final settlement of such an amount.

36. Power of entry and inspection

- (1) A duly authorised representative of the municipality may for any reason related to the implementation or enforcement of this by-law at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If the municipality considers it necessary for work to be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may –
- (a) by written notice require an account holder to do, at own expense, specified work within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the municipality must bear the expense connected therewith together with that of restoring the premises to their former condition.

37. Authentication and service of orders, notices and other documents

- (1) An order, notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this by-law, is regarded as having been served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);

- (e) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate to a person apparently over the age of 16 years; or
 - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.
- (4) Service of a copy is deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

CHAPTER 6

MISCELLANEOUS PROVISIONS

38 Right of appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision

39. Offences and penalties

A person is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment if he or she-

- (a) fails to give access required by an officer in terms of section 36;
- (b) obstructs or hinders an officer in the exercise of his or her powers or the performance of functions or duties under this by-law;
- (c) uses or interferes with the municipality's equipment for consumption of services supplied;
- (d) fails or refuses to give the municipality or an officer such information as the municipality or the officer may reasonably require for the purpose of exercising powers or functions under this by-law, or gives the municipality or the officer false or misleading information knowing it to be false or misleading;
- (e) fails to comply with the terms of a notice served upon him or her in terms of this by-law; or
- (f) tampers or breaks any seal on a meter or on any equipment belonging to the municipality, or for any reason causes a meter not to register the services used properly, and the person shall furthermore be charged for usage of electricity or water, as the case may be.

40. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

41. Short title and commencement

This by-law may be cited as the Customer Care and Revenue Management By-law and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 135**NDLAMBE MUNICIPALITY
ELECTRICITY SUPPLY BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions

2. Purpose of by-law

CHAPTER 1: GENERAL CONDITIONS OF SUPPLY

3. Provision of electricity services

4. Customer Care and Revenue Management By-laws apply

5. Processing of requests for supply

6. Wayleaves

7. Statutory Servitude

8. Refusal or failure to give information

9. Electricity tariffs and fees

10. Non-liability of the Municipality

11. Leakage of electricity

12. Failure of supply

13. Protection of Municipality's supply mains

14. Prevention of tampering with service connection or supply mains

15. Temporary supplies

16. Temporary work

17. Load reduction

18. Medium and low voltage switchgear and equipment

19. Substation accommodation

20. Wiring diagram and specification

21. Standby supply

22. Consumer's emergency standby supply equipment

23. Circular letters

CHAPTER 2: RESPONSIBILITIES OF CONSUMERS

24. Consumer to erect and maintain electrical installation

25. Fault in electrical installation

26. Discontinuance of use of supply

27. Change of occupier

28. Service apparatus

CHAPTER 3: SPECIFIC CONDITIONS OF SUPPLY

29. Service connection

30. Metering accommodation

CHAPTER 4: SYSTEMS OF SUPPLY

31. Load requirements

32. Load limitations

33. Interference with other persons' electrical equipment

34. Supplies to motors

35. Power factor

36. Protection

CHAPTER 5: ELECTRICAL CONTRACTORS

37. Requirements

CHAPTER 6: MISCELLANEOUS PROVISIONS

38. Repairs and costs of work

39. Penalties

40. Repeal of by-laws
41. Short title and commencement

Definitions

1. In this by-law, unless the context otherwise indicates –

"accredited person" means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

"applicable standard specification" means the standard specifications as listed in Schedule 1 attached to this by-law;

"consumer" in relation to premises means –

- (a) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat;
- (b) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- (c) if there is no such person or occupier, the owner of the premises;

"conventional meter" means a meter where an account is issued subsequent to the consumption of electricity;

"electrical contractor" means an electrical contractor as defined in the Regulations;

"electrical installation" means an electrical installation as defined in the Regulations;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of $44\text{ kV} < U_n \leq 220\text{ kV}$. [SABS 1019];

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500 V). [SABS 1019]

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1\text{ kV} < U_n \leq 44\text{ kV}$. [SABS 1019]

"meter" means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;

"motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;"

"occupier" in relation to any premises means –

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein, or
- (d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he/she is absent from the Republic of South Africa or his/her whereabouts are unknown;

"owner" in relation to any premises means:-

- (a) The person in whose name the premises is registered or the person's authorized agent;
- (b) if the owner is deceased, insolvent, mentally ill, a minor or under any legal disability, the person in whom the custody or administration of such premises is vested as executor, trustee, curator, guardian or any other capacity;
- (c) if the premises is leased and registration in the Deeds Office is a prerequisite for the validity of the lease, the lessee;

- (d) a person receiving rent or profit issuing therefrom, or who would receive such rent or profit, if such premises were let, whether on his own account or as agent for any person entitled thereto or interested therein;
- (e) where the premises are beneficially occupied under servitude or similar right, the person in whom such right is vested;

"**point of consumption**" means a point of consumption as defined in the Regulations;

"**point of metering**" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the municipality or the electrical installation of the consumer, as specified by the municipality; provided that it shall meter all of, and only, the consumer's consumption of electricity;

"**point of supply**" means the point determined by municipality at which electricity is supplied to any premises by the municipality;

"**premises**" means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"**prepayment meter**" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"**Regulations**" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended;

"**safety standard**" means the Code of Practice for the Wiring of Premises SABS 0142 incorporated in the Regulations;

"**service connection**" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"**service protective device**" : means any fuse or circuit breaker installed for the purpose of protecting the municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"**standby supply**" means an alternative electricity supply not normally used by the consumer;

"**supply mains**" means any part of the municipality's electricity network;

"**tariff**" means the municipality's tariff of charges for the supply of electricity, and

"**voltage**" means the root-mean-square value of electrical potential between two conductors, and all other terms used in this by-law have, unless the context otherwise requires, the meaning assigned thereto in the Electricity Act, 1987 (Act 41 of 1987), as amended, or the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.

2. Purpose of by-law

The aim of this by-law is the supply of electricity to the residents of the municipality and to provide for procedures, methods and practices to regulate the provision of electricity.

CHAPTER 1: GENERAL CONDITIONS OF SUPPLY

3. Provision of electricity services

Only the municipality may supply or contract for the supply of electricity within its area of jurisdiction with the exception of those areas where electricity is supplied by Eskom.

4. Customer Care and Revenue Management By-laws apply

The provisions of the municipality's Customer Care and Revenue Management By-laws apply to all matters relating to and incidental to –

- (a) the application for and supply of municipal services;
- (b) municipal service agreements;
- (c) the payment and non-payment of a municipal accounts; and
- (d) the limitation and termination of electricity services.

5. Processing of requests for supply

Subject to section 4, applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.

6. Wayleaves

(1) The municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the municipality or on any private property, unless the prospective consumer obtained and deposited with the municipality written permission by the owner of the private property or by the person in whom the legal title to the land or thoroughfare is vested, authorising the laying or erection of a service connection.

(2) If permission is withdrawn at any time or if the private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary, will be borne by the consumer to whose premises the supply of electricity is required to be continued.

7. Statutory Servitude

(1) Subject to the provisions of subsection (3) the municipality may –

- (a) provide, establish and maintain electricity services;
- (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
- (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main vests in the municipality; or
- (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).

(2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the municipality or under the control of or management of the municipality, it must pay to the owner of such street or property compensation in an amount agreed upon by such owner and the municipality, or in the absence of agreement, as determined either by arbitration or a court of law.

(3) The municipality must, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the municipality or under the control or management of the municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

8. Refusal or failure to give information

(1) No person may refuse or fail to give such information as may be reasonably required of him or her by the municipality or render any false information to the municipality regarding any electrical installation work completed or contemplated.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

9. Electricity tariffs and fees

Copies of charges and fees may be obtained free of charge at the offices of the municipality.

10. Non-liability of the Municipality

The municipality is not liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other

abnormality of the supply of electricity, unless caused by negligence on the part of the municipality.

11. Leakage of electricity

Under no circumstances will any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

12. Failure of supply

(1) The municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality.

(2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality has the right to charge the consumer a fee as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation.

13. Protection of Municipality's supply mains

(1) No person may, except with the consent of the municipality and subject to such conditions as may be imposed –

- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains;
- (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
- (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
- (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from, and any such unauthorised connection or diversion shall be removed by the municipality and the costs thereof be recovered from the owner or occupier of the premises on which the unauthorised connection was made or from which electricity was diverted.

(2) The owner or occupier must limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down, and should the owner fail to observe this provision the municipality has the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation and is entitled to enter the property for this purpose and to recover the costs for work done from the owner.

(3) The municipality may, subject to written notice of at least 14 days, demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with this by-law.

(4) The municipality may in the case of a power failure, emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

(5) A person who contravenes a provision of subsection (1) or (2) commits an offence.

14. Prevention of tampering with service connection or supply mains

The municipality may take special precautions to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering

equipment, and may require of the consumer to either supply and install the necessary protection, or pay the costs involved where such protection is supplied by the municipality.

15. Temporary supplies

It is a condition of the giving of any temporary supply of electricity, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the municipality has the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the municipality shall not be liable for any loss or damage suffered by the consumer by such termination.

16. Temporary work

(1) Electrical installations requiring a temporary supply of electricity may not be connected directly or indirectly to the supply mains except with the special permission in writing of the municipality, and full information as to the reasons for and nature of such temporary work must accompany the application for the aforesaid permission, and the municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

(2) A person who contravenes subsection (1) commits an offence.

Load reduction

17. (1) At times of peak load, or in an emergency, or when it is necessary for any reason to reduce the load on the electricity supply system of the municipality, the municipality may without notice interrupt and, for such period as the municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation, and the municipality shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.

(2) The municipality may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and the municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.

(3) Notwithstanding the provisions of sub-section (2), the consumer or the owner, as the case may be, must, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the municipality may decide to facilitate the later installation of the apparatus and equipment referred to in sub-section (2).

Medium and low voltage switchgear and equipment

18. (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection must, unless otherwise approved by the municipality, be paid for by the consumer.

(2) In the case of a medium voltage supply of electricity, all such equipment must be approved and installed by the municipality.

(3) No person may operate medium voltage switchgear without the written authority of the municipality.

(4) All earthing and testing of medium voltage equipment linked to the municipality's network must be conducted by or under the supervision of municipality

(5) In the case of a low voltage supply of electricity, the consumer must provide and install a low voltage main switch or any other equipment required by the municipality.

(6) A person who contravenes subsection (2), (3), (4) or (5) commits an offence.

Substation accommodation

19. (1) The municipality may, on such conditions as it may deem fit, require the owner to provide and maintain accommodation which constitutes a substation and which consists of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant.

(2) The accommodation contemplated in subsection (1) must be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.

(3) The municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the municipality, such additional accommodation shall be provided by the applicant at the cost of the municipality.

Wiring diagram and specification

20. (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification must on request be supplied to the municipality in duplicate for approval before the work commences.

(2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer must, if so required, be forwarded to the municipality for approval before any material in connection therewith is ordered.

(3) A person who fails to comply with a request made by the municipality in terms of this section, commits an offence.

Standby supply

21. No person is entitled to a standby supply of electricity from the municipality for any premises having a separate source of electricity supply, except with the written consent of the municipality and subject to such terms and conditions as may be laid down by the municipality.

Consumer's emergency standby supply equipment

22. (1) (a) No emergency standby equipment provided by a consumer in terms of any Regulations or for his own operational requirements may be connected to any installation without the prior written approval of the municipality.

(b) Application for such approval must be made in writing and must include a full specification of the equipment and a wiring diagram.

(c) The standby equipment must be so designed and installed that it is impossible for the municipality's supply mains to be energized by means of a back-feed from such equipment.

(d) The consumer is responsible for providing and installing all such protective equipment.

(2) Where by special agreement with the municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the municipality's supply mains, the consumer is responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation.

(3) A person who contravenes a provision of subsection (1) commits an offence.

Circular letters

23. The municipality may from time to time issue circulars detailing the requirements regarding matters not specifically covered in the Regulations or this by-law but which are necessary for the safe, efficient operation and management of the supply of electricity.

CHAPTER 2: RESPONSIBILITIES OF CONSUMERS**Consumer to erect and maintain electrical installation**

24.(1) Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, must be provided and erected and maintained and kept in good order by the consumer at his or her own expense and in accordance with this by-law and the Regulations.

(2) A person who contravenes subsection (1) commits an offence.

Fault in electrical installation

25. (1) If any fault, which constitutes a hazard to persons, livestock or property, develops in the electrical installation, the consumer must immediately –

- (a) disconnect the electricity supply;
- (b) give notice thereof to the Municipality; and
- (c) take steps to remedy the fault.

(2) The Municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

(3) A person who contravenes a provision of subsection (1) commits an offence.

Discontinuance of use of supply

26. In the event of a consumer desiring to discontinue using the electricity supply, he or she must give at least four full working days' notice in writing of such intended discontinuance to the Municipality, failing which he or she remains liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

Change of occupier

27. (1) A consumer vacating any premises must give the Municipality not less than four full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he shall remain liable for such supply.

(2) If the person taking over occupation of the premises desires to continue using the electricity supply, he or she must apply in accordance with the provisions of the Customer Care and Revenue Management By-laws, and if he or she fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he or she is liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.

(3) Where premises are fitted with pre-payment meters any person occupying the premises at that time is deemed to be the consumer, and such person is liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by such person or not.

Service apparatus

28. (1) The consumer is liable for all costs to the Municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of

God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.

(2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period must bear the cost of overhauling or replacing such equipment.

(3) Where there is a common metering position, the liability detailed in subsection (1) devolves on the owner of the premises.

(4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the municipality which certificate is final and binding.

CHAPTER 3: SPECIFIC CONDITIONS OF SUPPLY

Service connection

29. (1) The consumer must bear the cost of the service connection, as approved by the municipality.

(2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the municipality, vests in the municipality, and the municipality is responsible for the maintenance of such service connection up to the point of supply.

(3) The consumer is not entitled to any compensation from the municipality in respect of such service connection.

(4) The work to be carried out by the municipality at the cost of the consumer for a service connection to the consumer's premises, shall be determined by the municipality.

(5) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.

(6) The consumer must provide, fix or maintain on his or her premises such ducts, wire ways, trenches and fastenings as may be required by the municipality for the installation of the service connection.

(7) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but may not be less than 10 mm² (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by the municipality.

(8) (a) Unless otherwise approved, the municipality provides only one service connection to each registered erf.

(b) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.

(9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment must be made to accept the seals of the municipality.

(10) Within the meter box, the service conductor or cable, as the case may be, must terminate in an unobscured position and the conductors must be visible throughout their length when cover plates, if present, are removed.

(11) (a) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid from the common metering room or rooms to each individual consumer in the blocks of buildings.

(b) Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

Metering accommodation

30. (1) (a) The consumer must, if required by the municipality, provide accommodation in an approved position, to the meter board and adequate conductors for the municipality's metering equipment, service apparatus and protective devices.
- (b) Such accommodation and protection must be provided and maintained at the cost of the consumer or the owner, as the circumstances may demand, and must be situated, in the case of conventional meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters, but at all times for purposes connected with the operation and maintenance of the service equipment.
- (c) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (2) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided.
- (3) The consumer or, in the case of a common meter position, the owner of the premises must provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (4) Where the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer must remove it to a new position, and the cost of such removal, which must be carried out with reasonable dispatch, must be borne by the consumer.
- (5) The accommodation for the municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices, and no apparatus other than that used in connection with the supply of electricity and use of electricity may be installed or stored in such accommodation unless approved.

CHAPTER 4: SYSTEMS OF SUPPLY**Load requirements**

31. Alternating current supplies shall be given as prescribed by the Electricity Act, 1987 (Act 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

32. Load limitations

- (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation must be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the municipality.
- (2) Where a three-phase four-wire supply of electricity is provided, the load must be approximately balanced over the three phases, but the maximum out-of-balance load may not exceed 15kVA, unless otherwise approved by the municipality.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA may be connected to the electrical installation without the prior approval of the municipality.
- (4) A person who contravenes any provision of this section, commits an offence.

33. Interference with other persons' electrical equipment

- (1) No person may operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.

- (2) The assessment of interference with other persons' electrical equipment must be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer must, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.
- (4) A person who contravenes section (1) commits an offence.

Supplies to motors

34. Unless otherwise approved by the Municipality, the rating of motors is limited as follows:

- (1) Limited size for low voltage motors:
The rating of a low voltage single-phase motor is limited to 2kW, and the starting current may not exceed 70A, and a motor exceeding these limits must be wound for three phases at low voltage or such higher voltage as may be required.
- (2) Maximum starting and accelerating currents of three-phase alternating current motors.
The starting current of three-phase low voltage motors permitted must be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm ² , copper equivalent mm ²	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on line (6x full-load current)	Star/Delta (2,5 x full-load current)	Other means (1,5 x full-load current)
		kW	kW	kW
16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

- (3) Consumers supplied at medium voltage:
In an installation supplied at medium voltage, the starting current of a low voltage motor is limited to 1,5 times the rated full-load current of the transformer supplying such a motor, and the starting arrangement for a medium voltage motor is subject to the approval of the municipality.

Power factor

35. (1) If required by the municipality, the power factor of any load must be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with sub-section (1), it is necessary to install power factor corrective devices, such corrective devices must be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer must, at his or her own cost, install such corrective devices.

Protection

36. Electrical protective devices for motors must be of such a design as effectively to prevent sustained over current and single phasing, where applicable.

CHAPTER 5: ELECTRICAL CONTRACTORS**Requirements**

37. In addition to the requirements of the Regulations the following requirements apply:
- (a) Where an application for a new or increased supply of electricity has been made to the municipality, the municipality may at its discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation;
- (b) the examination, test and inspection that may be carried out at the discretion of the municipality in no way relieves the electrical contractor or accredited person or the user or lessor, as the case may be, from his or her responsibility for any defect in the installation, and such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and the municipality shall not be held responsible for any defect or fault in such electrical installation; and
- (c) the municipality shall not be held responsible for the work done by the electrical contractor or accredited person on a consumer's premises and is not in any way responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

CHAPTER 6: MISCELLANEOUS PROVISIONS**Repairs and costs of work**

- 38.(1) The municipality may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law, and the cost of any such work carried out by the municipality which was necessary due to the contravention of this by-law, is to the account of the person who acted in contravention of this by-law.
- (2) Should a person fail to comply with a requirement made by the municipality in terms of this by-law, the municipality may undertake such work as required and the cost of any such work carried out by the municipality is to the account of the person who failed to comply.

Penalties

39. A person who has committed an offence in terms of this by-law is upon conviction liable to —

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) 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
- (c) 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.

40. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

41. Short title and commencement

This by-law will be known as the Electricity Supply By-law and will come into operation on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1
Applicable standard specification
(Section 1)

SABS 1607 Electromechanical watt-hour meters;
SABS 1524 Parts 0,1 & 2 - Electricity dispensing systems;
SABS IEC 60211 Maximum demand indicators, Class1.0;
SABS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2);
SABS 0142 Code of practice for the wiring of premises;
NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;
NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply;
and
NRS 057 Electricity Metering: Minimum Requirements.

LOCAL AUTHORITY NOTICE 136
NDLAMBE MUNICIPALITY
FENCES AND FENCING BY-LAW

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

TABLE OF CONTENTS

1. Interpretation
 2. Principles and objectives
 3. Application
 4. Fences
 5. Penalties
 6. Notice of compliance and representations
 7. Costs
 8. Demolition order
 9. Authentication and service of notices and other documents
 10. Appeal
 11. Implementation and enforcement
 12. Saving and transitional provision
 13. Exemptions
 14. Liaison forums in community
 15. Revocation of by-laws
 16. Short title and commencement
- Schedule

1. Interpretation

In this by-law, unless the context otherwise indicates –

“alter” includes to cause, allow or permit to be altered;

“boundary” means the real or notional line marking the limits of premises;

“agent”, in relation to the owner of a property, means a person appointed by the owner of the property-

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

“erect” includes to cause, allow or permit to be erected;

“fence” means any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand;

“ground level” means the natural level of the ground, except where such level has been disturbed, in which case the street level is to be regarded as the ground level;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"public land" means land the ownership of which is vested in an organ of state;

"repair" has the meaning assigned to it in the Fencing Act, 1963 (Act 31 of 1963).

2. Principles and objectives

The Municipality, aware of its duty to provide a safe and healthy environment, in this by-law regulate fencing with the aim of safeguarding its residents and visitors to the area.

3. Application

Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), the provisions in this by-law relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the land and public land.

4. Fences

(1) No person may, without the consent of the municipality, on a boundary of premises –

- (a) erect a fence which is more than 2 metres in height from ground level;
- (b) alter or make an addition to an existing fence which is more than 2 metres in height from ground level;
- (c) erect or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless it–
 - (i) is erected on top of a wall which may not be less than 2 metres high and built of brick, cement, concrete or similar material; and
 - (ii) it complies with the Electrical Machinery Regulations, as published in Government Notice R1593, dated 12 August, 1988; and
- (d) Erect a barbed-wire fence, railing, or other barrier with spikes or other sharp or pointed protrusions unless it is erected on top of a wall of not less than 2 metres in height

- (2) A person who wishes to obtain the consent of the municipality must submit an application form similar to the form contained in the Schedule A to the municipality, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must, on request, supply the applicant in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may impose conditions, requirements or specifications according to each individual case, and subject to the provisions of SANS Code No. 1372 relating to Prefabricated Concrete Components for Fences, and the consent must be entered in Item C of the form referred to in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the form.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may –
- (a) without the prior written consent of the municipality demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
 - (b) having opened a gate in a fence, leave such gate open or unfastened;
 - (c) climb over or crawl through a fence without the permission of the owner or occupier of the land;
 - (d) erect a fence covered with –
 - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, within 4,5 metres of any street; or
 - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 metres of any street;
 - (e) allow a fence to fall into disrepair; and
 - (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply anything on a fence unless it is done so in terms of the Outdoor Advertising By-law.
- (7) The municipality may, whenever it appears that, in the interests of safety –
- (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
 - (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.

(8) A person commits an offence if he or she contravenes a provision of subsections (1) and (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).

(9) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection (4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person.

5. Penalties

A person who has committed an offence in terms of this by-law is on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

6. Notice of compliance and representations

(1) The notice of compliance must state –

- (a) the name and residential or postal address of the affected person;
- (b) the requirement which has not been complied with;
- (c) detailed measures required to remedy the situation;
- (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
- (e) the right to appeal as contained in section 10.

(2) Where a person does appeal and fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (3).

(3) The municipality may take such measures as it deems necessary to remedy the situation, including the demolition of the fence, and the cost thereof must be paid to the municipality in accordance with section 7.

7. Costs

(1) Should a person fail to take the measures required of him or her by a notice of compliance, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it remedying the situation from that person and any or all of the following persons:

- (a) the owner of the land, building or premises; or
- (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.

- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 6(3).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

8. Demolition order

- (1) A person on whom a demolition order has been served must demolish the fence and remove the materials.
- (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence by public auction or public tender.
- (3) The municipality may deduct from the proceeds of any materials disposed of the costs of any pulling down, removal or demolition and the costs incurred of disposal and will thereafter pay any balance to the owner of the fence removed or demolished.

9. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.

- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

10. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

11. Implementation and enforcement

- (1) The municipality may appoint an official to administer the implementation and enforcement of this by-law.
- (2) A person commits an offence if he or she –
 - (a) hinders or interferes with an official in the execution of his or her official duties;
 - (b) falsely professes to be an official;
 - (c) furnishes false or misleading information when complying with a request of an official; or
 - (d) fails to comply with a request of an official.

12. Saving and transitional provision

An owner or occupier whose premises, at the date of commencement of this by-law, do not comply with the provisions of this by-law must, within a period of 6 months, ensure that his or her premises comply with the provisions of this by-law.

13. Exemptions

- (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.

- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption in terms of this By-law, request the input of a liaison forum.
- (b) A liaison forum or any person contemplated in sub section (2) may on own initiative submit an input to the municipality for consideration.

15. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

16. Short title and commencement

This by-law are called the Fences and Fencing By-law, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE A
(Section 4(2))

APPLICATION TO ERECT FENCE

A. OWNER OR OCCUPIER

Surname and first names of person

.....

I.D. Number

Address: Postal address:

.....

.....

.....

Residential address:

.....

.....

.....

.....

Telephone number: Business

Residential

B. PARTICULARS OF PREMISES AND FENCE

Erf Number

Address where the premises can be inspected

.....

.....

NATURE OF FENCE TO BE ERECTED/ALTERED

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

C. ISSUING LOCAL AUTHORITY

Consent is hereby granted in terms of section 4(4) of the Ndlambe Fences and Fencing By-laws that the above-mentioned fence may be erected on above-mentioned premises

Conditions, requirements or specifications in terms of section 4(4):

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

SIGNATURE OF INSPECTOR

DATE

.....

.....

Name of inspector:

.....

Official designation:

.....

LOCAL AUTHORITY NOTICE 137**NDLAMBE MUNICIPALITY: FUNERAL PARLOURS,
CEMETERIES AND CREMATORIA BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Interpretation
2. Principles and objectives

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

**CHAPTER 2: GENERAL PROVISIONS RELATING TO
CEMETERIES AND CREMATORIA**

4. Appointment of caretaker
5. Hours of admission for public
6. Children
7. Keeping to path
8. Prohibited conduct within cemetery and crematorium
9. Right of interest in ground

**CHAPTER 3: GENERAL PROVISIONS RELATING TO
INTERMENT AND CREMATION**

10. Consent required for interment and cremation
11. Interment and cremation times
12. Register
13. Indigent and destitute persons
14. Number of corpses in one coffin

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures
16. Depth of grate
17. Reservation of grave
18. Child's coffin too large
19. Construction material of coffin
20. Number of bodies in one grave
21. Coffin to be covered with earth
22. Religious ceremony
23. Hearse and vehicle at cemetery
24. Instruction of caretaker
25. Music inside cemetery
26. Interment attended by more than fifty people

- 27. Occupation of chapel or shelter
- 28. Number on grave

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE

- 29. Disturbance of mortal remains
- 30. Time of exhumation
- 31. Re-opening of grave

CHAPTER 6: CARE OF GRAVES

- 32. Shrubs and flowers
- 33. Care of grave

CHAPTER 7: CREMATION

- 34. Receptacles and ashes
- 35. Burial and exhumation of ashes
- 36. Cremation certificate

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

- 37. Consent of Municipality
- 38. Requirements for erection of memorial work
- 39. Position, movement and removal of memorial work
- 40. Repairs to memorial work
- 41. Supervision of work
- 42. Damaging of memorial work
- 43. Conveying of memorial work
- 44. Vehicle and tools
- 45. Complying with Municipality's directions
- 46. Times for bringing in material and doing work
- 47. Inclement weather
- 48. Production of written permission
- 49. Memorial work in crematorium

CHAPTER 9: SECTIONS IN CEMETERY

- 50. Municipality may establish sections
- 51. Monumental section
- 52. Garden of Remembrance
- 53. Heroes Acre
- 54. Aesthetic section
- 55. Panoramic section

CHAPTER 10: PRIVATE CEMETERIES

- 56. By-laws apply

- 57. Establishment and continued use of cemeteries
- 58. Duties of Proprietors

CHAPTER 11: MISCELLANEOUS

- 59. Authentication and service of order, notice or other document
 - 60. Complaint
 - 61. Notice of compliance and representations
 - 62. Costs
 - 63. Appeal
 - 64. Charges
 - 65. Penalties
 - 66. Limitation of liability
 - 67. Exemptions
 - 68. Liaison forums in community
 - 69. Revocation of by-laws
 - 70. Short title and commencement
- Schedules

1. Interpretation

- (1) In this by-law, unless the context otherwise indicates –

“**adult**” means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

“**aesthetic section**” means a cemetery or section of a cemetery which has been set aside by the Municipality wherein only headstones may be erected;

“**approved**” means approved by the Municipality;

“**ashes**” means the cremated remains of a corpse;

“**berm**” means a concrete base laid at the head of a grave and on which a memorial is erected;

“**burial**” means interment in earth, a sepulchre or tomb;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**caretaker**” means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium;

“**cemetery**” means a land or part of a land within the municipal area set aside by the Municipality as a cemetery;

“**child**” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;

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

- “corpse”** means the remains of a deceased person and includes a still-born child and foetus;
- “cremation”** means the process whereby a corpse is disposed of by fire;
- “crematorium”** means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which a ceremony is conducted and the cremation carried out;
- “cremated remains”** means all recoverable ashes after the cremation;
- “exhumation”** means the removal of a corpse from its grave;
- “funeral undertaker’s premises”** has the meaning assigned to it in regulation 1 of the Regulations;
- “garden of remembrance”** means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;
- “grave”** means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;
- “heroes acre”** means an area of land set aside for the burial of a hero;
- “medical officer of health”** means the officer appointed by Municipality or any other person acting in the capacity of the medical officer of health;
- “memorial section”** means a section of a cemetery set aside for the erection of memorials;
- “memorial work”** means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;
- “municipality”** means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- “niche”** means a compartment in a columbarium or wall of remembrance for the placing of ashes;
- “ordinance”** means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);
- “panoramic section”** means a section in a cemetery set aside by the Municipality where memorial work is restricted to a plaque or memorial slab;
- “prescribed”** means prescribed by the Municipality;
- “prescribed fee”** means a fee determined by the Municipality in its Customer Care and Revenue Management By-law;
- “private cemetery”** means a cemetery of which is used as a cemetery but which has not been set aside as such by the Municipality;

"Regulations" means the Funeral Undertakers' Premises, made under sections 33 and 39 of the Health Act, 1977 (Act 63 of 1977), and published as Government Notice No. 237 of 8 February 1985;

"tomb" means an above ground burial vault;

"wall of remembrance" means a structure (in a cemetery) which contains niches in which urns containing ashes can be stored.

2. Principles and objectives

The purpose of this By-law is to control funeral undertaker's premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

The National Building Regulations and Building Standards Act, 1977 apply in respect of funeral undertaker's premises.

CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES AND CREMATORIA

4. Appointment of caretaker

- (1) The Municipality may appoint a caretaker for each cemetery or crematorium to control and administer the cemetery or crematorium.
- (2) The caretaker must take into account the customs of the deceased person and the people responsible for the burial or cremation and must accommodate these within the framework of this by-law.

5. Hours of admission for public

- (1) Every cemetery is open to the public during the following hours: 8:00 and 17:00, however, if it is in the interest of the public, the Municipality may close to the public a cemetery or crematorium or part thereof for such periods as the Municipality deems necessary.
- (2) No person, excluding workers or persons with permission, may be in or remain in a cemetery or crematorium or part thereof before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.
- (3) A person who contravenes subsection (2) commits an offence.

6. Children

- (1) No child under 12 years of age may enter a cemetery or crematorium unless he or she is under the care of a responsible person.

- (2) A person who allows a child to enter a cemetery or crematorium in contravention of subsection (1), commits an offence.

7. Keeping to path

Except for purposes permitted by this by-law, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

8. Prohibited conduct within cemetery and crematorium

- (1) No person may in a cemetery or crematorium -
- (a) cause a nuisance;
 - (b) ride an animal or cycle without permission of the caretaker
 - (c) allow an animal to wander;
 - (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
 - (e) hold or take part in a demonstration;
 - (f) interrupt during the performance of his or her duties an official, workman or labourer employed by the Municipality;
 - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under this by-law to make;
 - (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other structure;
 - (i) use water for any form of gardening without the permission of the caretaker;
 - (j) plant trees, flowers or shrubs on or between graves;
 - (k) leave any rubbish, soil, stone, debris or litter;
 - (l) in any way damage or deface any part of a cemetery, crematorium, grave or memorial work.
 - (m) enter or leave except by an entrance provided for the purpose;
 - (n) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement;
 - (o) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
 - (p) enter an office, building or fenced place, except in connection with lawful business;
 - (q) with the exception of a blind person, bring an animal; and
 - (r) expose a corpse or a part thereof
- (2) A person who contravenes a provision of subsection (1) commits an offence.

9. Right of interest in ground

- (1) No person will acquire any right to or interest in any ground or grave in a cemetery, other than those that may be obtainable under this By-law.

- (2) The Municipality may, on payment of the prescribed fee, sell to a person the use of a grave in a section of a cemetery for a period not exceeding 20 years.
- (3) (a) The Municipality may set aside different areas in a cemetery for exclusive use by different religious or cultural groups.
- (b) The Municipality may promote the environmental advantages of cremation as an alternative to burial
- (c) The Municipality may, if compelled to do so by environmental considerations, such as shortage of land for burial, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be cremated instead of interred.

CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERMENT AND CREMATION

10. Consent required for interment and cremation

- (1) No person may inter a corpse in a cemetery or have it cremated in a crematorium without the prior written consent of the caretaker.
- (2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing together with –
- (a) the prescribed fee;
- (b) a death certificate;
- (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992,
- and the caretaker may not approve the application unless all of the above requirements are met.
- (3) An application must be submitted to the caretaker, in respect of –
- (a) an interment where the Municipality is responsible for the digging of the grave, not later than 15:00 on the day before the intended interment or, where the grave exceeds the standard size, not later than 15:00 two days before the intended interment; and
- (b) a cremation, not later than 15:00 on the day before the intended cremation.
- (4) Should any alteration be made in the day or hour previously fixed for an interment or cremation, or an interment or cremation be cancelled, in the instance where the Municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at least six hours before the time fixed for the interment or cremation, and no refund will be made on monies paid in respect of the opening of an existing grave.
- (5) The application contemplated in subsection (2) must be signed by the nearest surviving relative of the deceased person, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be

obtained timeously, or for any other valid reason, he or she may grant an application signed by any other interested person.

(7) A person who disposes of a corpse in contravention of subsection (1) or who contravenes subsection (5) commits an offence.

11. Interment and cremation times

(1) An interment and cremation may take place between 08:00 and 17:00.

(2) Despite the provisions of subsection (1), the caretaker may permit interment or cremation outside the times contemplated in subsection (1) in which case the Municipality may levy an additional fee.

(3) A person who inters or cremates a corpse in contravention of the provisions of subsection (1) commits an offence.

12. Register

The caretaker must keep a record of all interments, and the record must contain:

- (a) The particulars of the person who requested the interment or cremation;
- (b) the particulars of the deceased person such as the name, address, and identification number;
- (c) the date of the interment or cremation; and
- (d) in the instance of an interment, the number of the grave.

13. Indigent and destitute persons

(1) A person may apply to the Municipality for the burial or cremation of the corpse of an indigent person and must provide proof that the deceased was granted the status as indigent person by the Municipality and the Municipality may decide if the corpse is to be buried or cremated.

(2) Subject to the provisions of section 48 of the Health Act, 1977, and section 10 of the Human Tissue Act, 1983, the corpse of a destitute person or an unclaimed corpse may be buried or cremated according to conditions determined by the Municipality.

(3) Where a corpse of an indigent person is cremated, the caretaker of the crematorium must retain the ashes, and should the ashes not be claimed, bury the ashes in a grave.

14. Number of corpses in one coffin

(1) Subject to the provisions of subsection (2), only one corpse may be contained in a coffin.

(2) More than one corpse may be contained in one coffin if the consent of the caretaker has been obtained and the prescribed fee has been paid, in the case of –

- (a) a mother and child who died during childbirth; or
- (b) family members who –

- (i) died together; or
 - (ii) died a short while after each other, and the burial or cremation of the first dying member has not yet taken place.
- (3) A person who contravenes a provision of subsection (1) or who fails to obtain the consent as contemplated in subsection (2) commits an offence.

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures

- (1) The standard dimensions of a grave are as follows:
 - (a) Adult:
 - (i) Single grave: Length: 2200 mm; Width: 900 mm.
 - (ii) Double grave: Length: 2200 mm; Width: 2700 mm.
 - (b) Child:
 - Single grave: Length: 1500 mm; Width: 700 mm.
- (2) Any person requiring a larger grave than the dimensions set in subsection (1) must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the fee prescribed by the Municipality for enlarging the hole.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1), commits an offence.

16. Depth of grave

- (1) An adult's grave is 1900 mm in depth and that of a child 1500 mm in depth.
- (2) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1) commits an offence.

17. Reservation of grave

- (1) A person desiring to reserve the use of a grave must submit an application to the caretaker and pay the prescribed fee
- (2) A restriction may be placed on the reservation of graves, and reservations will only be accepted for adult graves in the monumental section as stated in subsection (3).
- (3) In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.
- (4) In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivor, however, subject to the provisions of section 14(2), the interment of the survivor may be permitted in the same grave.

(5) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave in the cemetery to the applicant.

18. Child's coffin too large

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the prescribed fee for an adult's interment must be paid.

19. Construction material of coffin

(1) A coffin interred in a grave must be constructed of wood or biodegradable material.

(2) A person who interrs a coffin in contravention of subsection (1) commits an offence.

20. Number of bodies in one grave

Subject to the provisions of section 14(2), more than one corpse may be interred in a single grave.

21. Coffin to be covered with earth

The person responsible for an interment must ensure that a coffin, upon being placed in a grave, is covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

22. Religious ceremony

The members of a religious denomination may conduct, during the interment and at the grave, a religious ceremony in connection with an interment or memorial service.

23. Hearse and vehicle at cemetery

(1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker having been obtained.

(2) No hearse or other vehicle may enter a cemetery other than by the routes set aside for that purpose.

(3) A person who contravenes subsections (1) or (2) commits an offence.

24. Instruction of caretaker

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

25. Music inside cemetery

(1) Singing and music is allowed in a cemetery, in which case the prior permission of the caretaker must be obtained.

- (2) A person who contravenes subsection (1) commits an offence.

26. Interment attended by more than fifty people

Where it is probable that more than 50 people will be present at an interment, the municipality may require that the caretaker be notified.

27. Occupation of chapel or shelter

- (1) No person may for the purpose of a funeral occupy a chapel or shelter in a cemetery for more than 45 minutes.
(2) A person who contravenes subsection (1) commits an offence.

28. Number on grave

- (1) No person may inter a corpse in a grave on which the number of the grave has not been appropriately marked.
(2) A person who contravenes subsection (1) commits an offence.

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE

29. Disturbance of mortal remains

- (1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 and the provisions of any other Act relating to the exhumation of corpses –
(a) no corpse or mortal remains or ground surrounding it in a cemetery may be disturbed;
(b) no grave may be re-opened; and
(c) no corpse may be removed from a grave,
without the written consent of the Municipality.
(2) The prescribed fee for exhumation must be paid to the municipality at least two days before the date fixed for the exhumation or removal of the corpse.
(3) A person who contravenes subsections (1) commits an offence.

30. Time of exhumation

- (1) No person may exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
(2) A person who contravenes subsection (1) commits an offence.

31. Re-opening of grave

- (1) No person may re-open a grave for the purpose of interring a second corpse in the same grave unless –
(a) the grave was initially made deeper for this purpose;
(b) if not made deeper, then only after 10 years have passed since the interment of the first corpse;

- (c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm;
 - (d) the consent contemplated in section 29(1) has been obtained; and
 - (e) the fee prescribed by the Municipality has been paid.
- (2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.
- (3) The Municipality has the right to re-open a grave for the purpose of establishing, by reading the inscription on the coffin, the identity of the corpse.

CHAPTER 6: CARE OF GRAVES

32. Shrubs and flowers

The Municipality may at any time prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

33. Care of grave

- (1) The maintenance of a grave is the responsibility of the person contemplated in section 9(2).
- (2) The Municipality may, on application by a person contemplated in subsection 9(2) and upon payment of the fee and subject to conditions prescribed by the Municipality, maintain any grave.
- (3) The Municipality may at its discretion undertake to keep, at its own expense, any grave in order for any period.

CHAPTER 7: CREMATION

34. Receptacles and ashes

- (1) Unless the ashes are to be buried by the Municipality, the person contemplated in section 10(2) must provide a receptacle, on which the full name of the deceased person is indicated.
- (2) The ashes must, after the cremation, be collected by the person contemplated in section 10(2), and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 35(1)..
- (3) Where a receptacle is intended to be placed in a niche in the columbarium –
 - (a) it must –
 - (i) be made of wood or stone; and
 - (ii) be of a size and design as to fit into the niche; and
 - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

35. Burial and exhumation of ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 34 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance, where such facility is available.
- (2) A person may deposit ashes in a –
 - (a) grave; or
 - (b) niche in a –
 - (i) columbarium;
 - (ii) wall of remembrance; or
 - (ii) memorial work.
- (3) A person must obtain the consent of the caretaker if he or she wishes to –
 - (a) bury ashes in a grave;
 - (b) exhume ashes from a grave; or
 - (c) scatter ashes,and the caretaker must, on receiving payment of the prescribed fee –
 - (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
 - (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
- (4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in length, 610 mm in width, and 610 mm in depth.

36. Cremation certificate

- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 34(1).
- (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK**37. Consent of Municipality**

- (1) No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Municipality.
- (2) When erecting a memorial work, the municipality may require the submission of the following:
 - (a) A plan which gives an indication of the measurements and the position;
 - (b) specification of the material of which the memorial work is to be constructed; and

- (c) the wording of the epitaph.
- (3) The plan must be submitted 30 days before the erection commences, and must be accompanied by the prescribed fee, and the Municipality may impose conditions.
- (4) No person may bring any material for the construction of memorial work into a cemetery unless the provisions of subsection (1) to (3) have been complied with and unless all charges due in respect such grave have been paid.
- (5) The Municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.
- (6) The grave number must be indicated, in clearly legible figures of 30 mm in size.
- (7) A person who contravenes a provision of subsection (1) or (4) commits an offence.

38. Requirements for erection of memorial work

- (1) A person erecting a memorial work must comply with the following:
 - (a) he or she must be in possession of a plan approved by the Municipality;
 - (b) conditions imposed in terms of section 37(3) must be complied with;
 - (c) no damage may be caused to any structure and no offence may be given;
 - (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
 - (e) with the permission of the next of kin, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm; and
 - (f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal.
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

39. Position, movement and removal of memorial work

- (1) No person may erect a memorial work on a grave before the position has been indicated by the Municipality.

(2) Should the provisions of subsection (1) not be complied with the Municipality has the right to alter the position of the memorial work and to recover the costs from the person who erected the memorial work.

(3) Where a memorial work has originally been placed in a certain position with the express consent of the Municipality or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Municipality.

(4) Memorial work in conflict with the provisions of this By-law may be removed, after due notice, by the Municipality at the cost of the person who erected the memorial work, and without payment of any compensation.

40. Repairs to memorial work

If the person who erected a memorial work allows it to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Municipality may serve a Notice of Compliance, as contemplated in section 61, on such person.

41. Supervision of work

A person engaged in work in a cemetery is under the supervision of the caretaker, and failure to follow his or her instructions constitutes an offence.

42. Damaging of memorial work

Unless due to the negligence of its employees, the Municipality is not responsible for any damage to a memorial work.

43. Conveying of memorial work

(1) No person may convey any stone, brick or memorial work in a cemetery upon a vehicle or truck which may cause damage to the paths or grounds or structures of the cemetery.

(2) A person who contravenes subsection (1) commits an offence.

44. Vehicle and tools

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances do not block any road, and failure to do so constitutes an offence.

45. Complying with Municipality's directions

A person carrying on work within a cemetery must in all respects comply with the directions of the Municipality, and failure to do so constitutes an offence.

46. Times for bringing in material and doing work

(1) No person may bring material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except

during the following hours: Mondays to Fridays between the hours of 7:00 and 18:00.

(2) No person may engage in work which may be disturbing or disruptive while a funeral is in progress.

(3) A person who contravenes subsections (1) or (2) commits an offence.

47. Inclement weather

(1) No person may fix or place any memorial work while the soil is in an unsuitable condition.

(2) A person who contravenes subsection (1) commits an offence.

48. Production of written permission

A person engaged in work or on his or her way to or from work within the cemetery must, upon demand from the Municipality or its authorized official, produce the written consent issued in terms of section 37, and failure to do so constitutes an offence.

49. Memorial work in crematorium

(1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the consent of the caretaker first having been obtained, erect a memorial work in a crematorium.

(2) A memorial work –

(a) if erected in a garden of remembrance –

(i) must be made of marble or granite; and

(ii) may not exceed a size of 250 mm in width, 305 mm in length, and 25 mm in thickness;

(b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or

(c) erected on a grave, may not exceed 1,2 m in height, 610 mm in length, and 610 mm in width.

(3) A person who erects a memorial work in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

CHAPTER 9: SECTIONS IN CEMETERY

50. Municipality may establish sections

(1) The Municipality may establish one or more of the following sections in a cemetery:

(a) Monumental section;

(b) garden of remembrance;

(c) heroes acre;

(d) aesthetic section; or

- (e) panoramic section.

51. Monumental section

(1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 38 must be complied with and that the following measurements may not be exceeded:

- (a) Height: 2000 mm.
 - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
 - (c) Thickness: 250 mm.
- (2) A person commits an offence if he or she exceeds the measurements stipulated in subsection (1);

52. Garden of Remembrance

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300 mm x 150 mm x 150 mm in size.
- (3) Flowers and wreaths may only be placed on the places provided therefore.
- (4) A person who contravenes a provision of subsection (2) or (3) commits an offence.

53. Heroes Acre

- (1) A heroes' acre consists of a structure erected for the purpose and contains no corpse but is a memorial only.
- (2) No person may erect such structure without the written approval of the Municipality.
- (3) The size of the structure must be 500 mm x 350 mm and must be manufactured from a non-corrodible metal or masonry.
- (4) A person who inter a corpse in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

54. Aesthetic section

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
- (a) Adult's grave:
 - (i) Single grave: 900 mm in length by 260 mm in width.
 - (ii) Double grave: 2200 mm in length by 260 mm in width.
 - (b) Child's grave:
 - (i) Single grave: 610 mm in length by 260 mm in width.
 - (ii) Double grave: 1200 mm in length by 260 mm in width.

- (3) No headstone may exceed a height of 1500 mm above the berm.
- (4) A person who contravenes a provision of this section commits an offence.

55. Panoramic section

- (1) Only a plaque may be embedded, and it must be –
 - (a) made of marble, granite or stainless steel or other non-corrosive metal materials;
 - (b) 500 mm in length, 500 in width, and 30 mm thick.
 - (c) embedded –
 - (i) 30 mm below the level of the grass;
 - (ii) horizontally on ground level; and
 - (iii) on a concrete foundation.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 10: PRIVATE CEMETERIES

56. By-laws apply

The provisions of this by-law apply mutatis mutandis to private cemeteries.

57. Establishment and continued use of cemeteries

- (1) No person may, without the prior consent of the Municipality establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the Municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the Municipality's consent to establish a cemetery or use as cemetery as contemplated in subsection (1), must submit a written application to the Municipal Manager together with –
 - (a) a locality plan to a scale of not less than 1: 10 000 which shows –
 - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated;
 - (ii) the registered description of the site;
 - (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
 - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, subdivisions, grave sites, drainage and any buildings existing or proposed to be erected;
 - (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must in

- this case conform with the National Building Regulations and the Water Services and Sanitation By-laws of the Municipality;
- (d) a list of registers or records kept or proposed to be kept with reference to –
 - (i) identification of graves;
 - (ii) sale or transfer of grave sites; and
 - (iii) interments;
 - (e) the full name and address of the proprietor;
 - (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust; and
 - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application the Municipal Manager must publish a notice in one or more newspapers circulating in its area stating the nature of the application and specifying a date, being not less than 30 days after the date of publication of the notice, by which objections to the granting of an application may be lodged with the Municipality.
- (4) The Municipality may, upon receipt of the payment by the applicant of the prescribed fee and if satisfied after consideration of the application and any objections which may have been lodged that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise, in writing grant consent for the establishment of the private cemetery or the continued use of the private cemetery.
- (5) No departure from the plans as approved are permitted without the written prior approval of the Municipality.
- (6) A person who contravenes a provision of subsection (1) or (5) commits an offence.

58. Duties of Proprietors

- (1) The proprietor of a private cemetery, approved by the municipality, must –
- (a) comply with any conditions imposed by the Municipality;
 - (b) keep a record which shows –
 - (i) the number of each grave site and the ownership of the site; and
 - (ii) the number of interments in each grave site and the name, age, gender, last known address, date and cause of death of the deceased;
 - (d) maintain the grounds, fences, gates, roads, paths and drains in good condition and clear of weeds and overgrowth;
 - (e) provide for the identification of grave sites by subdividing the cemetery into blocks and –

- (i) each block must be demarcated by means of signs showing the number and situation of each block;
 - (iii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
 - (iii) all signs and number plates must be maintained in a neat and legible condition;
 - (f) allow an official to enter or inspect the cemetery and all records kept in connection therewith;
 - (g) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the –
 - (i) name, last known address, age, sex, date and cause of death of each deceased person interred in the cemetery;
 - (ii) name of the medical practitioner who issued the death certificate;
 - (iii) authority who issued the burial order;
 - (iv) block and grave site number;
 - (v) date of burial; and
 - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 11: MISCELLANEOUS

59. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the Municipality is considered duly authenticated when signed by an official duly authorized to do so.
- (2) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served -
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the

Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or

- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (4) Service of a copy shall be deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

60. Complaint

A person wishing to lodge a complaint must lodge it in writing with the Municipal Manager.

61. Notice of compliance and representations

- (1) A notice of compliance served in terms of section 40 must state -
 - (a) the name and residential and postal address, if either or both of these be known, of the person;
 - (b) the nature of the state of disrepair;
 - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - (d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
 - (f) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to Municipality at a specified place.
- (2) The Municipality, when considering any measure or time period envisaged in subsections (1)(d) and (e), must have regard to -
 - (a) the principles and objectives of this by-law;
 - (b) the state of disrepair;
 - (c) any measures proposed by the person on whom measures are to be imposed; and
 - (d) any other relevant factors.
- (3) A person may within the time period contemplated in paragraph (1)(f) make representations, in the form of a sworn statement or affirmation to Municipality at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the Municipality condones the late lodging of the representations.

- (5) The Municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the Municipality must also consider the further response.
- (6) The Municipality must, after consideration of the representations and any responses received, make an order in writing and serve a copy of it on the person.
- (7) The order must -
- (a) set out the findings of Municipality;
 - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the order made by Municipality.
- (8) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Municipality will inform the person that he or she -
- (a) must discharge the obligations set out in the notice; or
 - (b) may elect to be tried in court.
- (9) If the person elects to be tried in court he or she must, within seven calendar days, notify the Municipality in writing of his or her intention to be so tried.
- (10) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the order.
- (11) Where there has been no compliance with the requirements of a notice, the Municipality may take any steps necessary to repair the monumental work and recover the costs in accordance with section 62.

62. Costs

Should a person fail to take the measures required of him or her by notice, the Municipality may recover all costs incurred as a result of it acting in terms of paragraph 61(11) from the person.

63. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

64. Charges

Should a person fail to pay a prescribed fee, the Municipality may act in accordance with the provisions of its Customer Care and Revenue Management By-law.

65. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

66. Limitation of liability

The Municipality is not liable for any damage or loss caused by the exercise or failure to exercise any power or the performance of any duty in good faith under this By-law.

67. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may grant or refuse an application for exemption or impose conditions and it may alter or cancel any exemption or condition in an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

68. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the burial or cremation of the dead in a dignified manner.
- (2) A liaison forum may consist of –
 - (a) a member of members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a cemetery or crematorium exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for cemeteries.

- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative, submit an input to the municipality for consideration.

69. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

70. Short title and commencement

This By-law may be cited as the Funeral Parlours, Cemeteries and Crematoria By-law, and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 138

NDLAMBE MUNICIPALITY IMPOUNDMENT OF ANIMALS BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-law
3. Impoundment
4. Pound to which animals are to be sent
5. Receiving of animals by pound master
6. Receipt for impounded animals
7. Number of enclosures
8. Destruction of dangerous or contagious animals
9. Notice of impounded animals
10. Keeping of pound register
11. Inspection of and extracts from pound register
12. Submission of pound register entries after pound sales
13. Inspection of pound register at place of sale
14. Pound master's fees
15. Fees payable
16. Notice of sale
17. Auctioneer
18. Sale of animals
19. Illegal impounding and penalties
20. Recovery of loss in respect of impoundment of animals from area of another municipality
21. Use, detention and ill-treatment of animals
22. Appeal
23. Offences and penalties
24. Revocation of by-laws
25. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates -

"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"cattle" means bulls, cows, oxen, heifers, steers and calves;

"goat" means an adult male or female goat, a wether and a kid;

"horse" means a stallion, mare, gelding, colt, filly, donkey and mule;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"occupier" means any person in actual occupation of land or entitled as owner to occupy land;

"owner", in relation to an animal, includes any person having possession, charge, custody of control of such animal;

"pound" means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;

"pound master" means a person who may be –

(a) a part-time or full-time employee of a municipality, or

(b) appointed under a service delivery agreement to keep and operate a pound;

"proprietor" means any owner, lessee, or occupier of land;

"sheep" means a ram, an ewe, a wether and a lamb;

"stallion" means a male horse, donkey or mule not castrated or partially castrated;

"veterinary surgeon" means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

2. Purpose of by-law

The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

3. Impoundment

Any person may impound an animal found abandoned upon his property or any street, road, road reserve or other public place.

4. Pound to which animals are to be sent

Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

5. Receiving of animals by pound master

(1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.

(2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

6. Receipt for impounded animals

A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

7. Number of enclosures

The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for–

(a) ostriches and horses;

(b) cattle;

(c) sheep, goats and pigs;

(d) dogs; and

(e) cats,

provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

8. Destruction of dangerous or contagious animals

- (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

9. Notice of impounded animals

- (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 6 of 2002, is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police Services office.

10. Keeping of pound register

- (1) A pound master must keep a pound register with the following particulars:
 - (a) the date when, and the cause for which, all animals received by him are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information, provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death of injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death of injury.

11. Inspection of and extracts from pound register

A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

12. Submission of pound register entries after pound sales

A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

13. Inspection of pound register at place of sale

Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

14. Pound master's fees

- (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

15. Fees payable

- (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.
- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

16. Notice of sale

- (1) Every pound master must –
 - (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
 - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
 - (c) post a copy of the notice at a noticable place at the pound, there to remain until the day of the sale; and
 - (c) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality shall make good the deficiency.

17. Auctioneer

- (1) Every sale of impounded stock must –
 - (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and

- (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

18. Sale of animals

At every such sale-

- (a) no animal may be put up for sale unless impounded for at least two weeks;
- (b) all animals, except sheep and goats must be sold individually;
- (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
- (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
- (e) the municipality may fix a reserve price for any animal offered for sale; and
- (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

19. Illegal impounding and penalties

Any person who illegally impounds any animal commits an offence.

20. Recovery of loss in respect of impoundment of animals from area of another municipality

Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

21. Use, detention and ill-treatment of animals

No person may furiously drive or ill-treat any animal found trespassing.

22. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

23. Offences and penalties

Any person who -

- (a) contravenes or fails to comply with a provision of this by-law;

- (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
- (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to –
 - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
 - (ii) 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
 - (iii) 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.

24. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

25. Short title and commencement

This by-law shall be known as the Impoundment of Animals By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 139**NDLAMBE MUNICIPALITY
OUTDOOR ADVERTISING AND SIGNAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe municipality, enacts as follows:-

Table of contents

1. Definitions
2. Principles and objectives

CHAPTER 1: SUBMISSION OF APPLICATIONS, CHARGES AND GENERAL FACTORS IN CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL, FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND COMMERCIAL SPONSORED SIGNS

3. Submission of applications
4. Charges and general factors in considering approval, amendments, conditions to approval
5. Factors relating to specific signs, areas of control, and commercial sponsored signs

CHAPTER 2: STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL

6. Standard conditions for approval
7. Electrical requirements
8. Illumination requirements
9. Road traffic safety requirements
10. Legal requirements
11. Approval

CHAPTER 3: GENERAL PROVISIONS

12. Appeal
13. Signs for which Municipality's approval not required
14. Disfigurement
15. Damage to municipal property
16. Entry and inspections
17. Offences
18. Presumptions
19. Enforcement and removal of signs
20. Service of notices
21. Liaison forums in community
22. Magistrate's court jurisdiction
23. Transitional arrangements
24. Repeal of by-laws
25. Short title and commencement

SCHEDULES

Schedule 1: Areas of control

Schedule 2: Billboards

Schedule 3: Locality bound freestanding and composite signs

Schedule 4: Signs attached to walls of buildings (Flat and Projecting Signs)

Schedule 5: Sky signs

Schedule 6: Roof signs

Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts

Schedule 8: Signs on boundary walls, fences and construction sites

Schedule 9: Newspaper Headline posters

Schedule 10: Banners, flags and balloons

Schedule 11: Posters

Schedule 12: Estate Agent signs

Schedule 13: Loose portable signs

Schedule 14: Aerial signs

Schedule 15: Transit Advertising

Schedule 16: Signs on Municipal Land/Buildings

Schedule 17: Signs by/for Non-Profit Bodies

1. Definitions

In this By-Law, unless the context otherwise indicates –

“**advertising structure**” means any physical structure which displays a sign;

“**advertisement**” means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any symbol, or any light which is not intended solely for illumination or as a warning against any dangers and “**advertising**” has a similar meaning;

“**aerial sign**” means a sign that is displayed or performed in the air, including but not limited to balloons and blimps that can be viewed from within the Municipality’s area of jurisdiction;

“**approval**” means approval by the Municipality and “**approve**” has a corresponding meaning;

“**areas of control**” means those areas set out in Schedule 1 of the By-Law; and which may be modified or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the Municipality.

“**banner**” means any material upon which a sign is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flagstaffs projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession. A flag which is not displayed on an approved flag pole shall for the purposes of this By-Law be deemed to be a banner;

“**billboard**” means any screen or board which stands free and is larger than 4,5 m² in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

“**class 2 roads**” means the roads which form the primary network for the urban areas as a whole and which are characterised by high volumes, restricted access and fairly high speeds;

“**class 3 roads**” means roads that distribute traffic between the principal residential, industrial and business districts of the town and which form the link between the primary network (class 2 roads) and the roads within residential areas;

“**clear height**”, in relation to a sign, means the vertical distance between the lowest edge of the sign and the natural level of the surrounding ground, footway or roadway immediately below the sign;

“**commercial advertising**” means any words, letters, logos, figures, symbols, pictures relating to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

“**commercially sponsored sign**” means a sign which advertises goods or services, but the erection of which has a secondary purpose, which is to promote or contribute to some recognised public or community goal or function;

“**common boundary façade**” means any façade of a building which is built abutting a rear or

side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

"composite sign" means a single freestanding advertising structure for the display of more than one advertising sign;

"consultant" means a suitably qualified independent person or company that acts on behalf of, or as an agent of, an applicant for approval of a sign in terms of this By-Law;

"continuing offence" means an offence in terms of this By-Law, which offence continues to exist after the expiry of the notice period referred to in a notice served in terms of this By-Law;

"custom made design" means the design of any sign, which features special effects such as specialist character cut outs or shapes or three dimensional presentations or moving parts or a combination thereof, and which is uniquely designed or constructed for erection in a particular location;

"development board" means a sign displayed at premises upon which building operations are currently in progress and relating to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Control Act, 1977 (Act 103 of 1977), as amended from time to time and defined in terms of the General Conditions of Contract and/or Specifications of the appropriate institutions;

"display" means the display of a sign and includes the erection of any billboard, sign or structure intended solely or primarily for the support of a sign or billboard, and includes the display of a sign of a business, trade partnership or individual connected with the contents of the sign or sign, and **"displayed"** has a corresponding meaning;

"electronic sign" means a sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways;

"Environmental Impact Assessment" (EIA) means an assessment carried out in accordance with the Municipality's guidelines for outdoor advertising;

"estate agency" means a person who markets or sells properties with or without buildings erected thereon and **"estate agent"** has a corresponding meaning;

"existing sign" means any sign previously approved by the Municipality;

"flat sign" means a sign which is affixed to, or painted directly onto a wall of a building but not onto or over windows or doors or architectural articulations and which at no point projects more than 250 mm in front of the surface of such wall;

"freestanding sign" means any sign or group of signs contained or displayed on one freestanding structure which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising;

"gateway route" means a prominent route with an entrance to or exit from a specific part of the Municipality's jurisdiction, consisting of man-made or natural features and creating a strong sense of arrival or departure and which is consistent with city planning or development framework plans or policy, and which may be geographically depicted by way of maps or listed by the Municipality.

"graphic" includes but is not limited to any component which contributes to the visual appearance or aesthetics of a sign, including its background;

"headline poster" means a temporary poster advertising the contents of a daily or weekly newspaper;

"height of a sign" is calculated by measuring the vertical distance between the uppermost and lowest parts of the structure;

"Heritage Impact Assessment" (HIA) means a visual assessment of the impact that any proposed sign may have on the cultural heritage, whether built or recognised, at the locality where the proposed sign will be displayed;

"internally illuminated sign" means an advertisement or structure used to display an advertisement which has been installed with electrical or other power and an artificial light source which is fully or partially enclosed within the structure or sign and which light is intended to illuminate the advertisement or a portion thereof;

"law" means any law, proclamation, ordinance, Act of Parliament or Provincial Legislature, or any other enactment having the force of law;

"locality bound advertising" means any sign displayed on a specific erf, premises or building and may include (subject to a prescribed encroachment fee) such a sign on municipal owned land, adjacent to, abutting on or within 5 metres of the aforementioned erf, premises or building, which sign refers to an activity, product, service or attraction, located, rendered or provided on or from that erf or those premises;

"loose portable sign" means a freestanding locality bound notice or advertising board placed or erected in the Road Reserve or in a public open space;

"movable sign" means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part on a fixed permanent sign;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"new sign" means any sign first displayed after the promulgation of this By-Law;

"non-profit body" means a body established primarily to promote a community goal or benefit without direct or personal financial gain, and may include educational, sporting, medical, municipal departments, bodies as well as charities or community organizations, and the Municipality may call for documentary proof, which may include the production of bank statements, of the non profit status or community benefit objective of the body;

"organ of state" means:

(a) any department of state or administration in the national, provincial or local sphere of government;

(b) any other functionary or institution –

(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any other Legislation;

"overall height", in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the ground, footway or roadway immediately below the centre point of the sign;

"perimeter of an intersection" means the perimeter of the area embraced within the prolongation of the road reserve lines of two or more public roads that join one another at any angle, whether or not one such public road crosses the other;

"person" includes:

(a) any organ of state;

(b) any company incorporated or registered as such under any law; and

(c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

"poster" means temporary signs capable of being attached to the Municipal electrical light standards or pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration and excluding signs advertising markets, exhibitions or events which are held on a regular basis;

“projected sign” means any sign projected by a laser projector, video projector, or other apparatus;

“projecting sign” means a sign which is affixed to a wall of a building and which at some point projects more than 250 mm in front of the surface of such wall;

“public façade” means any façade of a building that has architectural articulations and which is visible to the public

“public place” means any public road, public street, thoroughfare, bridge, subway, footway, foot pavement, footpath, sidewalk, (or similar pedestrian portion of a road reserve), lane, square, open space, garden, park or enclosed place vested in the Municipality, or other state authority or indicated as such on the Surveyor General’s records, or utilized by the public or zoned as such in terms of the applicable zoning scheme;

“public road” means public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

“road reserve” means the area contained within the statutory width of a road, and includes roadways, shoulders and sidewalks and the airspace above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

“roadway” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic as defined in the National Road Traffic Act, 1996;

“roof sign” means a sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed;

“scenic drive” means a road designated as such on an approved zoning scheme or from which landscapes or features of aesthetic or cultural significance can be seen or viewed as designated by the Municipality;

“security sign” means an outdoor sign for neighborhood watch and similar schemes, and a sign containing the name, logo, address and telephone number of a security company contracted to protect, or security system installed to protect, the premises on which the sign is displayed;

“service station facility sign” means freestanding signs at petrol filling stations, roadside rest and service areas and includes service station pylon signs;

“shop” means a building used for retail trade or services;

“sign” means any object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign or which is in itself a sign; and includes a poster and a billboard;

“signalised traffic intersection” means an intersection controlled by traffic signals;

“sky sign” means a sign where the top edge of any point of that sign exceeds the height of the roof plane to which it is affixed;

“sponsored sign” means a sign, the primary purpose of which is not to advertise goods or services but which displays a graphic or content which promotes community or public awareness of a recognised public or community goal;

“street name signs” means pole-mounted, double-sided, internally illuminated or unilluminated signs displayed in combination with names of streets, not exceeding 1 m²;

“street furniture” means public facilities and structures which are not intended primarily for advertising and includes but is not limited to seating benches, planters, bins, pole mounted bins, bus shelters, sidewalk clocks, drinking fountains, Telkom boxes, traffic signal controllers, electricity boxes, post boxes and telephone booths, but excludes road traffic signs, traffic signals, street lights or any other road-related structures;

“temporary signs” means signs which are displayed for a maximum period of 14 days, or such other period as may be approved by the Municipality;

“thickness”, in relation to a projecting sign, means the width of such sign measured parallel to the plane of the main wall to which such sign is affixed;

“third-party advertising” means the advertising of goods or services that are not made,

procured, sold or delivered from the property on which the sign or sign advertising of those goods or services is fixed or placed, and includes advertising which is not locality bound.

"three dimensional sign" means a sign containing more than 2 dimensions, including product replicas;

"Traffic Impact Assessment" (TIA) means a study carried out by a registered professional engineer with demonstrable experience in the field of traffic engineering that investigates the impact a proposed sign may have on vehicle, pedestrian, or cyclist safety and traffic operation, which study should recommend any mitigating measures that may be required as a result of that impact;

"traffic sign" means a road traffic sign as prescribed in the National Road Traffic Act, 1996;

"traffic signal" means a road traffic signal as prescribed in the National Road Traffic Act, 1996;

"transit advertising" means advertising by means of a movable sign which is capable of being transported by road either on or in conjunction with a motorized vehicle, including trailers primarily used for advertising;

"transportation terminals" means any area designated by the Municipality as such, where the formal interchange of modes of public transport takes place by the public, including, but not limited to designated railway stations, official taxi terminals and bus terminals;

"urban edge line" means a predetermined point to point boundary line as determined by the Municipality, which has as its purpose, the containment of urban development;

"verandah" includes a cantilevered canopy and sunblind;

"window signs" means signs which are temporarily or permanently painted on, or attached to the window-glass of a building;

"zone" means a land use zone as set out in the relevant zoning schemes or Town Planning Regulations as amended from time to time and applicable to any erf on which a sign is displayed or intended to be displayed and **"zoning"** has a corresponding meaning.

2. Principles and objectives

The object of this By-Law is to manage outdoor advertising in the jurisdiction of the Ndlambe municipality in a manner that is sensitive to the environmental quality of different parts of Ndlambe municipality. It seeks to strike a balance between outdoor advertising opportunities and economic development on the one hand, and the conservation of visual, tourist, traffic safety, environmental and heritage characteristics on the other hand. The object of this By-Law is to ensure that outdoor advertising respects the integrity of any site on which it is displayed, and complements the character of the locality in which it is displayed.

CHAPTER 1

SUBMISSION OF APPLICATIONS, CHARGES AND GENERAL FACTORS IN CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL, FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND COMMERCIAL SPONSORED SIGNS

3. Submission of applications

(1) Other than those signs referred to in section 13(3) to 13(10), no person may display any advertisement or erect or use any sign for advertising purposes without the Municipality's approval in terms of this By-Law and any other applicable legislation.

(2) Every person intending to display a new sign or to alter or to add to an existing approved sign, or submitting a signage plan in terms of a Site Development Plan proposal, must apply in writing to the Municipality which application must be accompanied by the following information in duplicate:

- (a) a site plan, drawn to a scale of not less than 1:200, showing-
 - (i) the site on which the sign is to be erected or displayed;
 - (ii) the position of the sign and the building, if any, to which it is to be attached;
 - (iii) every existing building and signs on the site;
 - (iv) existing and proposed landscaping, traffic signals and road traffic signs;
 - (v) the position, with dimensions, of the sign or signs in relation to the boundaries of the site;
 - (vi) the location of the streets abutting the site; and
 - (vii) existing approved zoning conditions ;
 - (b) a drawing, on a scale of not less than 1:20, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), showing-
 - (i) the appearance of the sign and all relevant construction detail;
 - (ii) the materials of which the sign is to be constructed; and
 - (iii) the colours to be used, and whether or not the sign is to be illuminated;
 - (c) in the case of an illuminated sign, the drawing must indicate whether or not the sign is an electronic sign and if so, full details in respect of the requirements set in sections 7 and 8 must be furnished.
 - (d) if a sign is to be attached to or displayed on the wall or façade of a building, the Municipality may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1:100, or the Municipality may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;
 - (e) if the applicant is not the registered owner of the property on which the sign will be erected, the applicant must obtain the signature of the registered owner of the land or building on which the sign is to be erected, indicating that person's knowledge of and consent to the application; and
 - (f) upon the request of the Municipality such additional drawings, calculations and other information as is necessary to enable the Municipality to establish the adequacy of the proposed means of securing, fixing or supporting any proposed sign, sign or billboard and its ability to resist all loads and forces to which the sign, advertising or billboard may be exposed and the sufficiency of the margin of safety against failure.
- (3) The Municipality may require the submission of any or all of the following studies or assessments-
- (a) an Environmental Impact Assessment (either the 1st stage thereof; being the completion of an Environmental Checklist or in its entirety),
 - (b) a Heritage Impact Assessment; and
 - (c) a Traffic Impact Assessment.
- (4) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval, which public participation process must comply with the Municipality's policy on public participation.
- (5) The Municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalisation of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.

(6) The Municipality must notify the applicant of any additional requirements it has, within 21 working days of the date of submission of the original application and payment of the application fee.

(7) The Municipality must retain a copy of every document supplied to it as part of an application.

(8) The Municipality may require written notification, by the applicant or person who erects an approved sign that such sign has been erected.

4. Charges and general factors in considering approval, amendments, conditions to approval

(1) Every person who applies to the Municipality for approval in terms of this By-Law must pay to the Municipality an application fee as determined by the Municipality and no sign may be erected until such time as the application fees have been paid in full.

(2) In considering an application for the display of an advertisement or the erection of a sign in terms of this By-Law, or an amendment or condition attached or to be attached to an approval, the Municipality must have regard to the following factors:

- (a) the area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1; provided further that if a sign falls into more than one possible area of control or if a proposed sign site is located in one area of control which may impact on an adjacent area of control, the Municipality may determine the area of control pertaining to that application;
- (b) the type of locality or landscape and the advertising opportunities pertaining to that area of control;
- (c) the number of signs already displayed or proposed to be displayed on the erf and in the area surrounding the erf concerned;
- (d) the findings of any Traffic Impact Assessment, Environmental or Heritage Impact Assessment and public participation processes where applicable.
- (e) locality bound signs must relate to the lawful use of a property provided that no such sign must be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses; and
- (f) that no sign or advertisement may be designed or displayed that –
 - (aa) will constitute a danger to any person or property;
 - (bb) will display any material or graphic which, does not comply with the requirements of the Advertising Standards Authority of South Africa.
 - (cc) will be detrimental to the environment or amenity of the neighborhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality.
 - (dd) will obscure any other signs approved in terms of this By-Law or its predecessor; and
 - (ee) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.

(3) Subject to any conditions in Schedule 16, all new advertising signs or advertising structures approved under this by-law and any successive by-law, may remain on display uninterrupted until such time as they do not comply with the provisions of this by-law or any other applicable legislation.

5. Factors relating to specific signs, areas of control, and commercial sponsored signs

(1) The Municipality must, in addition to the factors set out above, apply minimum standards to certain specific sign types and proposed localities and will apply specific criteria to applications for the erection of signs by non-profit bodies. These standards and criteria are set out as Schedules to this By-Law. Schedule 1 to this By-Law indicates the areas of control in which certain sign types may be permitted, subject always to approval in terms of this By-Law and furthermore subject to any additional requirement pertaining to a specific sign type as set out in the following Schedules:

- (a) Schedule 1: Areas of control;
- (b) Schedule 2: Billboards;
- (c) Schedule 3: Locality bound freestanding and composite signs;
- (d) Schedule 4: Signs attached to walls of buildings (flat and projecting signs)
- (e) Schedule 5: Sky signs;
- (f) Schedule 6: Roof signs;
- (g) Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts;
- (h) Schedule 8: Signs on boundary walls, fences and construction sites;
- (i) Schedule 9: Newspaper headline posters;
- (j) Schedule 10: Banners, flags and balloons;
- (k) Schedule 11: Posters;
- (l) Schedule 12: Estate agent signs;
- (m) Schedule 13: Loose portable signs;
- (n) Schedule 14: Aerial signs;
- (o) Schedule 15: Transit advertising;
- (p) Schedule 16: Signs on municipal land/buildings; and
- (q) Schedule 17: Signs by or for non-profit bodies.

(2) The Municipality may grant exemption from the terms of this By-Law in respect of the sign types or areas of control set out in Schedules 10, 11 and 12 hereto having regard to –

- (a) the area of control where it is proposed to display the sign/s;
- (b) nature of the event;
- (c) duration of the erection or display of the sign;
- (d) size of the proposed sign;
- (e) any traffic, safety, environmental or heritage impact assessment; and
- (f) the outcome of any public participation process.

CHAPTER 2

STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL

6. Standard conditions for approval

(1) All signs must be properly constructed of the requisite strength and must comply with the requirements of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977), as amended.

(2) The applicant to whom approval has been granted and the owner of the property or building to which a sign is attached shall be jointly and severally liable for the maintenance thereof.

(3) Where any sign becomes torn or damaged or otherwise falls into a state of disrepair, the

applicant or the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.

(4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.

(5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3 mm thick.

(6) Glass panels used in a sign must not exceed 0,9 m² in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.

(7) Every sign and its support structure must be kept in a state of good repair.

(8) No sign may obstruct the opening and closing of any window or opening provided for ventilation of a building or obstruct any stairway or doorway or other means of exit from the building or prevent movement of people from one part of a roof to another.

(9) No advertising structure may be closer to overhead electrical equipment than the minimum distance prescribed.

7. Electrical requirements

(1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.

(2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.

(3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.

(4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have a fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

8. Illumination requirements

(1) The Municipality may approve an illuminated sign, provided that the provisions of this By-Law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.

(2) Signs may not be illuminated if no sign content is displayed.

(3) Requirement for internal illumination and electronic signs:

(a) internally illuminated and electronic signs containing third party advertising may only be displayed in areas of partial and minimum control and must be less than 2,1 m². This size condition may be waived, up to a maximum size of 4,5 m² in any such area upon receipt of an Environmental and Heritage Impact Assessment showing no detrimental impact will be caused by the proposed display, or to any larger size specified by the Municipality in an area designated by the Municipality as a district in which illuminated or electronic signs are to be encouraged;

(b) electronic signs may not have subliminal flashes; and

(d) prior to erection, the Municipality may require a Traffic Impact Assessment, Environmental and Heritage Impact Assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the Municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.

- (4) Requirements for external illumination:
- (a) The light source emanating from floodlights may not be visible to traffic traveling in either direction;
 - (b) floodlights may not be positioned so as to create any undue light spillage beyond the surface area of the sign; and
 - (c) Approved way leaves must be obtained from the electricity department prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

9. Road traffic safety requirements

- (1) Signs may not be erected in an area where they are an unacceptable distraction for drivers..
- (2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, a gateway route or a scenic drive unless expressly approved in writing by the municipality.
- (3) Advertising on bridges, towers, telecommunication masts, pylons or street poles will not be permitted.
- (4) The graphic content of signs may not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:
 - (a) any stylised or pictorial presentation of a road traffic sign or traffic signal;
 - (b) any word, symbol, logo or other device used on a road traffic sign;
 - (c) use of combinations of colors specified for road traffic signs, in a manner likely to lead to confusion; and
 - (d) any reflectorised paint or material.
- (5) Signs may not be erected in an area where the traffic volume, the average following headway or accident history requires a higher than average degree of awareness from drivers.
- (6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.
- (7) Signs may not be erected within the road reserve of any public road unless expressly approved by the municipality.
- (8) When located at signalised traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.
- (9) Electronic signs will not be permitted within 80 metres of the perimeter of a signalised traffic intersection.
- (10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0,3 seconds or have transition effects between message changes will not be permitted if viewable from a public road.
- (11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.
- (12) All signs larger than 4,5 m² erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 below:

**TABLE 1:
LINEAR SPACING BETWEEN SIGNS**

TABLE 1: LINEAR SPACING BETWEEN SIGNS

Case	Spacing required when visible to traffic on a road with a speed of:		
	≤ 60 km/h	61-80 km/h	81-120 km/h
Where an advertising sign follows a road sign	300 m	425 m	475 m
Where an advertising sign follows an advertising sign	540 m	380 m	410 m
Where an advertising sign precedes a road sign	40 m	70 m	100 m

(14) The abovementioned minimum distances specified in Table 1 above may be decreased by the Municipality if the sign falls within an area of minimum control, or in other areas of control on submission of a Traffic Impact Assessment motivating a reduction of this spacing. The Municipality may prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable.

10. Legal requirements

All signs to be erected or displayed within the area of jurisdiction of the Municipality must, in addition to complying with this By-Law, comply with all other applicable legislation, including any applicable Zoning Scheme Regulations or condition of approval or any departure from the applicable Zoning Scheme Regulations.

11. Approval

- (1) The Municipality may refuse any application or grant its approval subject to conditions, including a condition that the owner of any sign or billboard or the land or building on which it is erected or displayed, or the person whose product or services are advertised, indemnify the Municipality against any consequences flowing from the erection, display or mere presence of such sign.
- (2) The Municipality may, at any time, withdraw an approval granted in terms of this By-Law or its predecessor or amend any condition or impose a further condition in respect of such approval, if a sign or advertising structure is in a state of disrepair, stands empty for more than 90 consecutive days, no longer complies with any provision of this By-Law or is substantially altered from the original approved application by way of either structure or graphic content.
- (3) Should an approved sign not be erected within 12 months from the date of approval or within such other time as is specified in the approval, such approval will lapse, unless that period is extended in writing by the Municipality prior to such lapse.
- (4) In the event that the structure supporting such sign is intentionally demolished before the expiry of the approval period, the approval shall lapse and no further sign or supporting structure may be erected or re-erected without the Municipality's approval.
- (5) All decisions by the Municipality regarding applications made in terms of this By-Law must be in writing and will be provided to applicants within 60 calendar days of date of submission of a complete application, alternatively, if so required by the Municipality, within 60 calendar days of its receipt of any additional information or assessments provided to the Municipality.
- (6) In notifying an applicant of its decision in terms of subsection (5), the municipality must inform such applicant and any person who has objected to the granting of an application of their right to appeal in terms of section 12.

CHAPTER 3 GENERAL PROVISIONS

12. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

13. Signs for which Municipality's approval not required

(1) Should any sign not comply with the conditions relative to each sign type listed below, an application in terms of section 3 will be required.

(2) Subject to compliance with the conditions relative to each sign provided for in subsections (3) to (12), and any other applicable legislation, or condition imposed by the Municipality, no application for approval is required in terms of this By-Law in respect of the signs provided for in subsections (3) to (12).

(3) *Development Boards.*

- (a) development boards must be removed when the building operations are complete or if the building operations are discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relate has ceased.
- (b) the Municipality may order the removal of a sign within a specified period if the building operations have been substantially completed or discontinued or an Occupancy Certificate has been issued by the Municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has ceased.
- (c) if the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed and such development board may not exceed 3 m² in total area.
- (d) if the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed and the aggregate area of both development boards may not exceed 5 m² in total;
- (e) if the signage, whether on freestanding boards, or flexible building covering material, include any other form of Third Party advertising, such sign must then comply with the provisions of Schedule 8 hereto and Municipal approval for the display thereof must first be obtained.

(4) *To Let/For Sale Signs.*

These include any sign not exceeding 400 mm x 500 mm displayed at existing premises or at properties upon which new buildings are erected and relating to accommodation being offered in the building; provided that any such sign must be removed within 60 days from the date upon which the accommodation to which it relates becomes capable of occupation.

(5) *On Premises Business Signs.*

These include any unilluminated sign not projecting over a public road and not exceeding 0,2 m² in total area indicating the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached, the name of such occupant, the type of activity, the address and telephone number of such premises and the hours of attendance; provided that only one such sign per occupant may be displayed.

(6) *Window Signs.*

These include any locality bound signs which are temporarily or permanently painted on or

		Wetlands		
		Community facilities (excluding sports facilities and stadia)		
		Core flora conservation sites as identified by the National Botanical Institute		
		Special Business zones		
		Residential components of mixed use buildings		
		Specific areas or sites designated as maximum urban by way of a map prepared by the Municipality		

SCHEDULE 2

BILLBOARDS

1. Subject to approval in terms of this By-law, the erection or display of Billboards, whether custom made or of standard design, is permitted only in areas of minimum control. In addition Billboards must:

- (a) If the proposed erf where the billboards are to be erected borders on class 2 and 3 roads the billboard may not be placed less than 5 metres from the property's boundary line. If the proposed site of erection of a billboard has been designated as a gateway then no billboards will be permitted within such gateway.
- (b) Comply with the standard conditions of approval set out in this By-law.
- (c) Not encroach over the boundary line of the property on which it is erected, whether such encroachment is aerial or on ground level.

- (d) Have a minimum clear height of 2.4m and a sign structure which does not exceed a maximum height of 7.5m above natural ground level.
 - (e) Not exceed a maximum total size of 6 x 3m (18m²) provided that on any V-shaped structure, two such panels may be permitted.
 - (f) Be displayed between the angles of 90° and 60° to the direction of oncoming traffic.
 - (g) Be spaced a minimum distance apart as specified in section 9 of this by-law.
 - (h) Only be externally illuminated.
 - (i) If located at signalized traffic intersections : may not be erected or displayed within 50m of the perimeter of the intersection if unilluminated; and within 80m of the perimeter of the intersection if illuminated.
 - (j) If erected along the right hand side of a section of road, such that its graphics are visible to a driver traveling on the left hand side of the road, shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road.
 - (k) Have a minimum letter or number height of 285mm.
2. The information content of a proposed advertisement will be measured in "bits". In calculating the information content of a proposed advertisement, the bit weights shown in the table below must be used.
 3. The total bits in a proposed advertisement may not exceed 15.
 4. No tri face signs are allowed.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller than 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2

SCHEDULE 3

LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS

Subject to approval in terms of this By-law, the erection or display of Locality Bound freestanding and composite signs are permitted only in urban areas of maximum, partial and minimum control. In addition:

1. Locality bound freestanding signs may only be permitted in the following instances:
 - (a) where business premises are set back 15 metres or more from the boundary of the road

- reserve; or
- (b) where it is not reasonably possible to affix appropriate signs to a building; or
 - (c) where such a sign is necessary to allow the public to locate the entrance to business premises; or
 - (d) where the existence of a freestanding composite sign may prevent the proliferation of signs.
2. Locality bound freestanding composite signs may not exceed 4.5 metres in height and in addition may not exceed 4.5m² in total area. This provision may be waived to a maximum height of 7.5 metres and a maximum total area of 10m² per side, having regard to the following factors:
 - (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
 - (b) if more than two significant roads approach the site in question;
 - (c) the number of businesses which will be advertising on such sign;
 - (d) the number of approach or exit routes to the site in question;
 - (e) the applicable zoning of the area surrounding the site in question.
 3. Service Station freestanding signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one Service Station freestanding facility sign per street boundary may be permitted.
 4. Service station freestanding signs may not exceed 7.5 metres in height and may not consist of more than eight advertising panels of 4.5m² each in total area. The provisions of this section may be waived to a maximum height of 16 metres and eight advertising panels not exceeding 6m² each in total area having regard to the factors mentioned in item 2 above. In areas of maximum control the maximum height is 4.5 metres and an area of 7.0m² on each side.

SCHEDULE 4

SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS

Subject to approval in terms of this By-law, the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control. In addition, flat and projecting signs may:

1. Not be allowed within 0.6 metres of the edge of a roadway nor may it extend to within 0.6 metres of the edge of a roadway.
2. Not project in front of a wall more than 1.5 metres in the case of a sign which has a clear height of more than 7.5 metres or more than 1 metre in the case of any lesser clear height.
3. Not project more than 250mm over a footway unless such sign has more than 2.4 metres clear height.
4. Not obstruct the view from any window or any other external opening of any building and no portion of any such sign may obstruct the opening or closing of any window, door or any other openings.
5. Not exceed 54m² in total area and may not exceed one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser. This size restriction may be waived on condition that:
 - (a) an Environmental Impact Assessment be submitted to the Municipality indicating no detrimental environmental impact is envisaged;

- (b) if it is proposed to erect or projecting sign in a conservation area, a Heritage Impact Assessment be submitted indicating no detrimental impact in respect of Heritage resources is envisaged; and
 - (c) only graphics designed and created by a suitably qualified consultant be displayed on such sign;
6. Be considered for approval on blank common boundary facades of non-residential buildings.
7. If the sign appears on public facades of any building-
- (a) be so designed as to become an integral part of the building design; and
 - (b) when third party, only be permitted if custom-made and subject to the requirements of 5(a) to (c) above.

SCHEDULE 5

SKY SIGNS

Subject to approval in terms of this By-law, the erection or display of sky signs whether custom made or of standard design, is permitted in areas of minimum control only. In addition:

1. Sky signs must:
 - (a) be limited to a maximum total size of 4.5m², provided that this size requirement may be waived up to a maximum of 18m² upon receipt of an Environmental Impact Assessment indicating no detrimental environmental impact is envisaged; and
 - (b) not obstruct the view from any other building.
2. Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, unilluminated and consist of individual cut-out letters or logos.
3. The information content of a proposed advertisement will be measured in "bits". In calculating the information contents of a proposed advertisement, the bit weights shown in the table below should be used.
4. The total bits in a proposed advertisement may not exceed 15.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller the 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2.0

SCHEDULE 6

ROOF SIGNS

Subject to approval in terms of this By-law, the erection or display of roof signs is permitted in all urban areas of control except areas zoned for residential purposes in areas of maximum control. In addition:

1. The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.
2. When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1 metre in height and its total area may not exceed 25% of the roof area to which it is affixed.
3. It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area (6 x 0.6m); with a maximum height of 1 metre.

SCHEDULE 7

SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS

Subject to approval in terms of this By-law, the erection or display of signs on a verandah, balcony, canopy, supporting columns, pillars and posts may be permitted in all areas of control on condition that they also comply with the following:

1. No such signs will be allowed on or over architectural features of buildings.
2. Such signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a verandah or balcony, and beam or fascia of a verandah or balcony. The sign may not exceed 1m in height or project above or below or beyond either end of the surface to which it is affixed, or project more than 250mm in front of the surface to which it is affixed or project over a roadway or within 0.6 metres of the edge of the roadway.
3. Such signs may be affixed flat onto or painted on supporting columns, pillars and posts. In this regard, no sign may project more than 50mm in front of the surface to which it is affixed and may not extend beyond any of the extremities of such column, pillar or post. Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure. Only one sign per column, pillar or post will be allowed.
4. Such signs suspended below the roof of a verandah, canopy or the floor of a balcony may not exceed 1.8 metres in length or 600mm in height. Every such sign must be at right angles to the building line. No signs suspended under a canopy may extend beyond the external edge of the canopy or verandah to which it is attached. All suspended signs must have a clear height of at least 2.4m².
5. Such signs on the roof of a verandah, canopy or balcony, excluding the main roof of a building, must be composed of a single line of freestanding individual, cut-out silhouette letters without visible bracing or other visible means of support and may not be erected along more than two edges of such roof of a verandah or balcony.

SCHEDULE 8**SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE
HOARDINGS**

Subject to approval in terms of this By-law, the erection or display of signs on boundary walls and fences is permitted only for locality bound signs in urban areas of maximum, minimum or partial control and in addition:

1. In urban areas of maximum and partial control, the Municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, unilluminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
2. In areas of minimum control, the Municipality may approve-
 - (a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and
 - (b) an application to affix a locality bound flat sign with a maximum size of 0.5m² onto the permanent fence of an erf.
3. Third party and locality bound advertising on construction site hoardings and fences must comply with the following conditions:
 - (a) any one sign may not exceed a vertical dimension of 3 metres and total area of 18m² and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising Standards Association of South Africa.
 - (b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;
 - (c) it may not be illuminated in areas of maximum and partial control; and
 - (d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

SCHEDULE 9**HEADLINE POSTERS**

Subject to approval in terms of this By-law, the erection or display of headline posters is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Headline posters may not exceed 0.9m x 0.6m in area.
2. The commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster.
3. The posters may be attached to Municipal electrical light poles only where available and only pasted posters may be affixed to designated structures which are approved by the Municipality for the express purposes of pasting posters.
4. They are not to be affixed to traffic signal poles, or other poles which carry road traffic signs, or poles erected for any other purpose, or any other street furniture, wall, fences, trees, rocks or other natural features.
5. Headline posters may not be pasted on municipal electric light poles but are to be mounted on board and affixed securely with stout string or plastic ties unless a permanent frame has been approved for this purpose.

6. Only one headline poster per pole, regardless of which newspaper group it is, will be permitted.
7. The number of posters as well as the designated areas for the display of headline posters as submitted by each newspaper group must be strictly adhered to.
8. All "special events" posters are to comply with the following:
 - (a) the name of the newspaper group, the "special event" and the date of the "special event" must appear on the posters in letters not less than 50mm in height;
 - (b) the special event posters may not be displayed more than 7 days before the date of the event and they must be removed within 24 hours after the date of the event shown on the poster.
9. Headline posters and fastenings are to be removed on a daily basis failing which the posters will be removed, at the newspaper group's expense, in accordance with the standard charges for removal of posters.
10. The Municipality may recover the costs of the removal of unauthorised posters, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such posters or the newspaper group concerned.
11. The Municipality may remove any poster displayed in contravention of the abovementioned conditions.
12. Any poster not removed on a daily basis or a poster relating to a "special event" by due date referred to in item 7(b) may be removed by the Municipality.
13. The display of unauthorised posters is illegal and the Municipality may also remove such posters.
14. The Municipality may determine the costs involved for the removal of unauthorised posters..
15. Application must be made on an annual basis by each newspaper group for permission to display such signs subject to an annual fee per newspaper group.
16. A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the Municipality.

SCHEDULE 10

ADVERTISING ON BANNERS, FLAGS AND BALLOONS

Subject to approval in terms of this By-law, the erection or display of banners, flags or balloons is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Approval for third party advertising on banners, flags and balloons may only be granted for a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Municipal, Provincial or Parliamentary election or referendum.
2. The display of banners is prohibited on any bridge or across any public road, and along any road designated by the Municipality, unless consent has been obtained from the Municipality.
3. Banners may not be attached so as to interfere with or constitute a danger to passing pedestrians or vehicular traffic.
4. No banner may be larger than 3m² except with the prior written approval of the Municipality.
5. No banner may be displayed within 30 metres of any road traffic sign or traffic signal.

6. Banners are not to be affixed to trees, traffic signal poles, electrical or service authority distribution boxes, or other poles which carry road traffic signs, rock, other natural features, street furniture or other Municipal property.
7. Banners may not be affixed in such a way that they unfairly prejudice other businesses or organisations or obscure any approved existing signs.
8. Only one advertising banner per premises will be permitted unless the Municipality's written permission is obtained for more than one banner and the applicant is to submit in writing the time frame required for the erection of such banner, which time frame may not exceed ten days unless the Municipality has specified, in its approval, that a longer period has been granted.

SCHEDULE 11

POSTERS

Subject to approval in terms of this Bylaw, the erection or display of posters is permitted in all areas of control except natural and rural areas of maximum control. In addition

1. The name of the host organisation, the date and venue must appear on the posters in letters not less than 50 mm in height.
2. Posters may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the poster.
3. The Municipality may levy a tariff to cover the cost for the removal of the posters which have been erected without the approval of the Municipality.
4. Posters may be displayed for a maximum period of fourteen days prior to the event and must be removed within 2 days from the date of the event or the last day thereof as applicable.
5. Posters with a maximum measurement of 80 cm x 50 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damage caused to the poles. No securing material with a metal content is permitted.
6. Posters, excluding election posters, may only be erected in the streets as indicated by the Municipality and may not be erected in residential areas or bridges.
7. Only one poster per organisation may be erected on every second streetlight pole.
8. Posters must be erected at a uniform height of approximately 2 metres.
9. No posters may be affixed to trees, traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings or over hydrant identification signs.
10. No posters may be displayed within 30 m of any road traffic sign or traffic signal.
11. All materials used to affix the posters must be removed together with the posters.
12. The Municipality may remove any indecent or torn posters or any posters which creates a traffic hazard.
13. The display of posters purely for commercial advertising is not permitted, provided that any poster which relates to a sport, the arts, or cultural event may be permitted, despite such posters containing commercial elements.
14. Organisations or persons intending to display posters must pay a deposit as determined by the municipality, which shall entitle that person to display the said poster for a maximum period of 14 days, or such time as stipulated by the Municipality. No poster may be displayed without such deposit having been paid.
15. The Municipality may remove or request the applicant to remove all posters should any of the above conditions not be complied with.
16. Posters that are not removed by the due date may be removed by the Municipality in which case the deposit paid in terms of item 14 will be forfeited to the municipality.

SCHEDULE 12**ESTATE AGENT SIGNS**

Subject to approval in terms of this By-law, the erection or display of estate agent signs is permitted in all areas except natural areas of maximum control. In addition:

1. "Show House" signs may be displayed only from 12h00 on Friday to 20h00 on Sundays.
2. Estate Agent signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorised by the Municipality in writing.
3. On each sign, the wording "On Show", "Show House", "Show Flat" or "Show Plot" with the Agency's name and directional arrow must be displayed.
4. Signs may be displayed on stakes making use of a design approved by the Municipality. Estate Agent signs may not be displayed on concrete, premix or paved surfaces. It is not permissible for stakes to penetrate the ground deeper than 15cm.
5. Estate Agent signs may not exceed 0.3m² in total area.
6. Not more than six estate agent directional signs will be permitted in total per show house, show plot or block of flats in which a show flat is on display. The definition of one sign will include the display of two signboards only when such boards are sandwiched back to back around an electric light pole.
7. Estate Agent signs may not be displayed along Scenic Drives or on any bridge, public park or public open space.
8. Only one directional sign per show house / flat / plot may be displayed along class 2 or 3 roads, excluding roads referred to in item 7 above.
9. No Estate Agent sign may obscure a road traffic sign.
10. No Estate Agent sign may be erected on center islands.
11. No Estate Agent sign may be erected in such a way that any part of it is closer than 1.5m from a road verge.
12. Directional signs may be displayed along main routes only, being the shortest route from a main road to the property.
13. No Estate Agent signs may be erected on any tarred area of pavements.
14. "Sold" / "For Sale" / "To Let" signs may be erected flush against the fence or wall of the property.
15. "Sold" signs may be displayed flush against the fence or wall of the property for a maximum period of two weeks only.
16. No signs indicating anything other than property for sale may be erected or displayed by Estate Agents.
17. Estate Agencies must apply annually for permission to display Estate Agent signs and approval may be subject to payment of an annual fee in accordance with the Municipality's Schedule of Tariffs.
18. A deposit may be required by the municipality against which a charge for the removal of any sign which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such signage may be withdrawn until a further deposit is paid to the Municipality.
19. Any Estate Agent sign unlawfully erected, or in contravention of the provisions of this Schedule, will be subject to a charge by the Municipality; in the event of the said sign not

being removed by the Municipality, photographic evidence of the unlawful sign may be obtained by the Municipality prior to levying the said charge.

SCHEDULE 13

LOOSE PORTABLE SIGNS

Subject to approval in terms of this By-law, the erection or display of loose portable signs is permitted in areas of minimum and partial control as well as designated areas within urban areas of maximum control. In addition:

1. Loose portable signs may not be placed in a road reserve or in public open spaces without the written permission of the Municipality.
2. The Municipality may remove and impound loose portable signs placed without permission in a road reserve or on Municipal property. Owners can recover their signs on payment of the prescribed fee as determined the Municipality which will be used to defray the cost of removal, storage and transportation.
3. The following criteria will apply in respect of an application in terms of item 1:
 - (a) that it does not pose a hazard in terms of safety to the public;
 - (b) that it does not obstruct or cause inconvenience to the public either by its physical size or location;
 - (c) that it does not unfairly prejudice other traders;
 - (d) that the loose portable sign or proposed number thereof does not detract from the amenity of the local streetscape or local environment;
 - (e) that it is intended solely to advertise the name of the business, goods or services for sale from the advertiser's premises;
 - (f) that the maximum dimensions of the proposed loose portable sign shall be 1.2m (height) x 0.6m (width).
 - (g) that it may be placed directly in front of the advertiser's premises, provided that the above criteria are met; and
 - (h) that a minimum clear footway width of 1.8 metres must remain clear and 2.5 metres in the central business district and sidewalks with high pedestrian volumes.
4. The municipality may demarcate areas within the road reserve or on municipal property where, during normal trading hours, applicants may then place the approved loose portable signs. The said signs must be removed outside normal trading hours and stored away from public view.
5. The municipality may levy tariffs for displaying the loose portable signs, which tariffs shall be payable in advance for a maximum period of six months.
6. Applicants will be required to indemnify the Municipality against any claims from third parties that may arise, due to the placement of loose portable signs within the road reserve or on municipal property.
7. Notwithstanding the above, the Municipality may cause the removal or impoundment of the sign or signs should the applicant contravene any of the above conditions.

SCHEDULE 14**AERIAL SIGNS**

Subject to approval in terms of this By-law, the erection display of aerial signs is permitted only in urban areas of partial or minimum control. In addition:

1. No aerial signs affixed to any building or structure may be flown at a height of more than 45 metres from the surface measured from ground level.
2. Aerial signs may not be flown above a public road.

SCHEDULE 15**TRANSIT ADVERTISING**

Subject to approval in terms of this By-law, the erection or display of transit advertising signs is permitted only in urban areas of partial or minimum control. In addition:

1. The parking of a transit advertising sign which is visible from a public road or a public place for the purpose of third-party advertising is prohibited, except if it is displayed on a designated display site approved in terms of this By-law.
2. Transit advertising signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
3. The advertising panel or portion of the vehicle used for transit advertising may not exceed a cumulative total of 18m² in areas of partial control, which size may be increased to a maximum size of 36m² in areas of minimum control.
4. The Municipality may designate sites in areas of partial and minimum control for transit advertising and may publish notices indicating such sites.
5. Notwithstanding any provisions of this By-law, the Municipality may, without prior notice remove any unauthorised transit advertising signs from municipal property, and, in the case of unauthorised transit advertising on private property, the Municipality may serve a notice ordering the removal thereof in terms of this By-law.
6. Transit advertising signs must be fixed to the ground at the parking location.

SCHEDULE 16**SIGNS ON MUNICIPAL LAND OR BUILDINGS**

1. No advertising sign may be displayed or erected on municipal land or buildings without the written permission of the municipality.
2. The following specific conditions and criteria will apply to the signs mentioned in items (a) to (c) below:
 - (a) *Commercially sponsored signs other than those in section 13(10)*

Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on municipal land or buildings, and subject to compliance with all other provisions of this By-law, the Municipality may consider a commercially sponsored sign for approval, subject to the following:

 - (i) community needs or goals must be identified or adopted by the Municipality

and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored signs, the Municipality may call for public input on such community needs or goals and the related advertising opportunity.

- (ii) in order to identify such community needs or goals, the municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.
- (iii) the Municipality's Supply Chain Management Policy will apply.
- (iv) that any proposal be evaluated on the following factors:
 - (aa) the adherence to the principles of this By-law;
 - (bb) the design contribution;
 - (cc) the best community benefit offered;
 - (dd) the creativity and public safety;
 - (ee) the permanence of the contribution to the community goals or needs; and
 - (ff) the recovery cost over the period of the erection of the sign as opposed to the largest advertising opportunity or financial gain.
- (v) when contributions in kind are to be recovered by the Municipality, a conversion thereof to a monetary contribution to the Municipality's income base will be assessed.
- (vi) the Municipality, as landowner, reserves the right not to proceed with any proposal prior to final approval thereof and the call for invitations for proposals in any respect shall not be regarded as decision by the Municipality to proceed with the erection of a sign in respect of a specific site.
- (vii) once accepted, any sign to be erected in terms of this schedule must be the subject matter of a written agreement between the Municipality as landowner and the person responsible for the erection of the sign.

(b) *Sponsored signs*

Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land or buildings and subject to compliance with all other provisions of the By-law, the Municipality may consider a sponsored sign for approval on condition that:

- (i) written detail which clearly indicates the recognised community goals which will be promoted by the erection or display of the proposed sign;
- (ii) signs with a political content will not be permitted;
- (iii) no more than 5% of the total surface of the sign is used for third party advertising.
- (iv) the maximum size of any such sign will be 6m x 3m; provided in the event of a V-shaped sign where the size may not exceed two panels of 6m x 3m each.
- (v) applications for billboards to be erected in terms of this section comply with the requirements as set out in Schedule 2.
- (vi) no sign erected in terms of this clause be located within 5 metres of a property's boundary line.

(c) *Non-profit body signs*

Notwithstanding the area of control within which it is proposed to erect a sign, and subject to compliance with all other provisions of this By-law, the Municipality may consider the erection of a sign by or for the benefit of a non-profit body subject to compliance with the requirements set out in Schedule 17 hereto.

SCHEDULE 17**SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT BODIES**

1. Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit body, and subject to compliance with all other provisions of this By-law, the Municipality may consider such a sign for approval subject to the following:
 - (a) written details from the host non-profit body regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the Municipality together with the other information set out in section 3 of this By-law;
 - (b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;
 - (c) that any proposal be evaluated on the following factors;
 - (i) the adherence to the principles or provisions of this By-law;
 - (ii) the design contribution;
 - (iii) the best community benefit offered;
 - (iv) the creativity and public safety; and
 - (v) the permanence of the contribution to the community goals or needs as opposed to the largest advertising opportunity or financial gain.
 - (d) in the event of it being proposed that the said sign will be erected on municipal property:
 - (i) the municipality must evaluate the proposal;
 - (ii) the municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof; and
 - (iii) if accepted, a written agreement between the Municipality, the person responsible for the erection of the sign and the non-profit body must be entered into.
 - (e) In addition the following conditions will apply:
 - (i) signs with a political content will not be permitted;
 - (ii) the maximum size of any such sign is 6m x 3m; provided in the event of a V-shaped sign being proposed, its maximum size will not exceed two panels of 6m x 3m each;
 - (iii) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2;
 - (iv) no sign erected in terms of this clause may be located within 5 metres of a property's boundary line;
 - (v) the name of the non-profit body must be displayed prominently along the top width of the sign with a maximum 300mm lettering height;
 - (vi) all parties that may be affected by the erection or display of such sign must be given opportunity for their input;
 - (vii) the Municipality may require submission of impact assessment studies; and
 - (viii) no more than two individual signs of 6m x 3m each may be permitted, or alternatively one V-shaped sign with a maximum of two panels of 6m x 3m each on any one property. In addition, only one sign per street frontage will be permitted.

LOCAL AUTHORITY NOTICE 140**NDLAMBE MUNICIPALITY
PREVENTION OF PUBLIC NUISANCES AND KEEPING OF ANIMALS
BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Application of by-law

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

CHAPTER II: GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals
5. Plans for structures and management
6. Consideration of application and imposition of conditions
7. Visibility of structures on premises
8. Wavering of requirements and withdrawal of authorisations
9. Validity of authorisations
10. Duties of owner or keeper of animal
11. Animals kept in unsatisfactory manner
12. Destruction of animals
13. Hawking of animals

CHAPTER III: PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats
15. Breeders of dogs and cats
16. Breeders of pets
17. Conditions and restrictions
18. Withdrawal of permission
19. Dogs or cats in public places

Part 2 – Specific provisions relating to dogs

20. Control of dogs

CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

21. Permission to operate

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

22. Service delivery agreements

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY

23. Failure or omission by District Municipality

CHAPTER VII: GENERAL PROVISIONS

24. Right of entry and inspection
25. Service of documents and process
26. Transitional provisions
27. Appeal
28. Penalties
29. Exemptions
30. Liaison forums in Community
31. Repeal of by-laws
32. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

“agent”, in relation to the owner of a property, means a person appointed by the owner of the property-

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“cattery” means any establishment where cats are bred or boarded;

“district municipality” means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“kennel” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

“municipality” means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“municipal manager” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person –

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility;

“owner” –

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

"pet" means a tame animal which is kept in a household for companionship or amusement;

"pet parlour" means an establishment where pets are groomed;

"petshop" means an establishment where pets are kept for trading purposes;

"poultry" means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

"premises" means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

"public nuisance" means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public;

"public place" means any square, building, park, recreation ground or open space which:–

(a) is vested in the municipality;

(b) the public has the right to use; or

(c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"responsible authority" means the Ndlambe Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

"street" means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access,;

"structure" means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. Application of by-law

(1) Sections 4(1), 14(1), 15(1), 21(1) and 24 do not apply to –

(a) premises which is used for bona fide agricultural purposes; or

(b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.

(2) A person who keeps animals on premises contemplated in subsection (1) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

CHAPTER I

GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

(1) No person may –

- (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
 - (b) carry on any trade, business, profession or hobby which may be a source of discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
 - (f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the municipality;
 - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
 - (i) defoul, misuse or damage public toilets;
 - (j) carry or convey in any street or public place, any objectionable material or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
 - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (l) by an action allow that a nuisance be created or continued;
 - (m) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
 - (n) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
 - (o) cause a nuisance by loitering in any street or public place;
 - (p) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (q) in any street or public place use any abusive or threatening language;
 - (r) cleanse or wash any vehicle or part in any street or public place;
 - (s) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(1)(a) to (l), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the

premises whether or not such owner or occupier is responsible therefore.

- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder is guilty of an offence.

CHAPTER II

GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- (3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants or surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

5. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of –
 - (a) the input or comments obtained in terms of section 4(3);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and site plans submitted in terms of section 5; or
 - (d) any other information relating to the application,refuse to grant consent or grant consent.

(2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

(3) Where consent is granted, the municipality may impose conditions.

7. Visibility of structures on premises

(1) All structures in which animals are kept must be suitably screened from any street.

(2) A person who fails to comply with subsection (1) commits an offence.

8. Wavering of requirements and withdrawal of authorisations

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

9. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

10. Duties of owner or keeper of animal

(1) The owner or keeper of an animal –

- (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with shelter, water and proper food ; and
- (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance.

(2) A person who contravenes a provision of subsection (1) commits an offence.

11. Animals kept in unsatisfactory manner

(1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.

(2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.

(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.

(4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.

(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

12. Destruction of animals

(1) The municipality may order the euthanization or destruction of an animal which is –

- (a) dangerous or ferocious; or
- (b) injured or diseased to such an extent that it would be humane to do so.

- (2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

13. Hawking of animals

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

CHAPTER III

PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
- (a) more than two dogs; and
 - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

15. Breeders of dogs and cats

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats who wishes to keep more than two cats must obtain permission from the municipality.
- (2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.
- (4) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

16. Breeders of pets

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 15(2),(3) and (4) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

17. Conditions and restrictions

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

18. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

19. Dogs or cats in public places

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

Part 2 – Specific provisions relating to dogs

20. Control of dogs

- (1) No person who owns or keeps a dog may –
- (a) permit a bitch on heat to be in a street or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
 - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
 - (d) permit a dog –
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;
 - (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
 - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
 - (e) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by–
 - (i) barking, yelping, howling or whining;
 - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection 2 may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER IV DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes subsection (1) or (2) commits an offence.

CHAPTER V CO-OPERATION BETWEEN MUNICIPALITIES

22. Service delivery agreements

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

CHAPTER VI POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY

23. Failure or omission by District Municipality

- (1) If the service delivery referred to in section 22 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, Act 108 of 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

CHAPTER VII GENERAL PROVISIONS

24. Right of entry and inspection

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

25. Service of documents and process

(1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –

- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
- (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

(2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

26. Transitional provisions

(1) A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2), may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

27. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

28. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment and a further amount equal to any costs and expenses incurred by the municipality as result of any contravention.

29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

30. Liaison forums in community

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
- (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a commonage has been established;
 - (c) a designated official or officials of the municipality; and
 - (d) a councillor.
- (3) (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

31. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

32. Short title and commencement

This by-law is called the Prevention of Public Nuisances and Keeping of Animals By-law and will come into operation on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 141**NDLAMBE MUNICIPALITY
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality enacts as follows:-

TABLE OF CONTENTS

1. Definitions
2. Principles and objectives

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

3. Number of visitors
4. Admission to public amenity
5. Entrance fees
6. Notice boards
7. Consent required for certain activities
8. Use of public amenities
9. Permit
10. Prescribed fees
11. Animals
12. Prohibited behaviour
13. Vehicles
14. Camping
15. Caravan Parks

CHAPTER II: MISCELLANEOUS PROVISIONS

16. Powers of official and offences
17. Appeal
18. Penalties
19. Limitation of liability
20. Authentication and service of notices and other documents
21. Presumption
22. Liaison forums in community
23. Repeal of by-laws
24. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

"animal" means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

"authorised officer" means any person authorized by the municipality to perform the functions of an authorised officer under this By-law, or a member of the South African Police;

"camp" or **"camping"** means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

"camping area" means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

"camping permit" means a document printed and issued by the municipality for the purposes contemplated in this by-law or the municipality's officials receipt issued against payment of the prescribed camping charges;

"camping site" means any part of a camping area, demarcated or assigned for the purpose of camping thereon;

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

"erect" in relation to a notice board means construct, post, affix or place;

"garden" means any piece of land under the control of the municipality and maintained by it as a garden for the use of by the public;

"mobile home" means a factory assembled structure approved by the municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"Municipal Manager" means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"nature reserve" means a nature reserve established as a local nature reserve by the Ndlambe Municipality in terms of section 7(1) of Ordinance 19 of 1974;

"notice board" includes a sign, poster or other device on which the municipality displays information;

"Ordinance" means the nature and Environmental Conservation Ordinance, 1974 (Ordinance 19 of 1974);

"person" includes an association or organisation;

“public amenity” means –

- (a) any land, square, camping area, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

“public gathering or procession” means a procession or gathering of more than 10 people;

“public open space” means –

- (a) any flower bed, grass plot, pleasure ground, plantation, side-walk, temporary enclosures, or other public open spaces and town land within the municipality, under the control of the municipality and include all buildings, improvements, ground and spaces comprised in such areas;
- (b) any land which is owned by an organ of State and which has in terms of any zoning scheme of an organ of State been set aside or demarcated for the purpose of conservation; or
- (c) any undeveloped land which is owned by an organ of State and which has not yet been set aside or demarcated by an organ of State for the purpose of conservation;

“vehicle” means any vehicle driven by mechanical, animal, natural or human power, and includes any craft or aircraft, but does not include a wheeled chair or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or invalid.

2. Principles and objectives

The municipality adopts this By-law with the aim of controlling access to and use of all public amenities owned by or under the control of the municipality.

CHAPTER I

GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

3. Number of visitors

The municipality may determine –

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
- (b) different classes of vehicles that may be in or at a public amenity at any time and it may differentiate between public amenities.

4. Admission to public amenity

- (1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public and having due regard to section 6(1)(a).
- (2) The municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to –
 - (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
 - (b) kite flying, wind surfing, surfing, kite surfing and similar activities on beaches at which these activities are allowed; and
 - (c) sea bathing in such bathing areas on the beach, which areas were demarcated by the municipality.
- (3) The municipality may grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (4) The municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently –
 - (a) close a public amenity or a portion thereof; or
 - (b) suspend all or any activities thereon.
- (5) Where a person in a public amenity has committed an offence in terms of this by-law, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;
- (6) Where an official on reasonable grounds suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.

5. Entrance fees

- (1) The municipality may levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.

- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice board in terms of section 6(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee which has been paid in respect of each full day which has not been utilised may, with the approval of the municipality, be repaid upon application, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket, or a person who enters a public amenity without having paid the entrance fee commits an offence.

6. Notice boards

- (1) The municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
- (a) The times, dates and conditions of entry and activities that may be undertaken;
 - (b) the fees payable; and
 - (c) a notice of closure referred to in section 4(4).
- (2) No person other than an official or other person authorised to do so in this By-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality.
- (3) A notice posted by municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

7. Consent required for certain activities

- (1) No person may, without the prior written consent of the municipality at, in or upon a public amenity –
- (a) arrange, hold, present or attend –
 - (i) a public entertainment;
 - (ii) a meeting;

- (iii) a public gathering or procession, exhibition or performance; or
 - (iv) an auction;
 - (b) collect money or any other goods;
 - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
 - (f) engage in any for of trade..
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice board erected in terms of section 6(1).
- (3) No person may without the prior written consent of the municipality erect or establish any fence, structure, dam, shelter or anything else and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the municipality bring into, or have in his or her possession in a public amenity a firearm, and the municipality may grant consent in the following instances only:
- (a) For the firing of blank cartridges during organised competitions or sports meetings;
 - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
 - (c) for the lawful culling of a whale, dolphin, or animal; or
 - (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the municipality may refuse or grant consent subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the consent form in his or her possession, and must produce the form on request of an official.

8 Use of public amenities

The municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

9. Permit

- (1) Notwithstanding the provisions of section 4, 5(1), 5(3), and 6(1), the municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit –
- (a) to a group of people, such as, but not limited to, a group of bona fide students; or

- (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may –
 - (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove, fauna under the supervision, control and in accordance with the instructions of an official;
 - (b) pick, collect or remove fauna;
 - (c) take or remove anything of historical or scientific importance;
 - (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
 - (e) remove any flora or carcase which has been plucked or hunted only if the official has –
 - (i) inspected such flora or carcase;
 - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcase; and
 - (iii) in writing authorised the permit holder to remove such flora or carcase; or
 - (iv) excavate soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

10. Prescribed fees

The municipality may determine fees payable in terms of this By-law.

11. Animals

- (1) No person may in contravention of any prohibitions displayed on a notice board bring any animal into the public amenity.
- (2) A person who is permitted to bring an animal upon a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) Any animal not under the control or apparently not under the control of a person, may, if found in or on a public amenity be impounded by the municipality and removed to a pound of the municipality where it may be dealt with in terms of the by-law relating to the impoundment of animals.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

12. Prohibited behaviour**(1) No person –**

- (a) who is in a state of intoxication or under the influence of any drug may enter or remain in, and such person will not be admitted to a public amenity;
- (b) may in or at a public amenity –
 - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the municipality;
 - (ii) throw or roll a rock, stone or object;
 - (iii) except if authorised to do so under section 8(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
 - (iv) walk on a flowerbed;
 - (v) walk, stand, sit or lie on grass in contradiction with a notice;
 - (vi) write, paint, draw graffiti or a symbol, emblem or the like on a structure or path;
 - (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 8;
 - (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
 - (ix) deface or disfigure anything provided by the municipality by pasting or affixing in any way any bills, papers, placards, notices or anything else;
 - (x) wash, polish or repair a vehicle, except emergency repairs;
 - (xi) burn refuse;
 - (xii) litter or dump any refuse, garden refuse or building materials;
 - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
 - (xiv) use or try to use anything provided by the municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
 - (xv) dispose of any burning or smouldering object;
 - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
 - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
 - (xviii) lie on a bench or seating place provided by the municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;

- (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
 - (xx) swim, walk or play in a fish-pond, fountain, dam, river artificial feature or pond; in contravention with a notice prohibiting such action;
 - (xxi) having an open wound on his or her body, enter any bath provided by the municipality;
 - (xxii) perform any act that may detrimentally affect the health of another person;
 - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
 - (xxiv) stay or sleep over night other than in terms of section 13;
 - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 8(2);
 - (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of section 7(4);
 - (xxvii) discharge a bow, fireworks or use a slingshot or catapult;
 - (xxiii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
 - (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety;
 - (xxx) expose his or her body or clothe indecently; or
 - (xxxi) discard of a burning or smouldering object or throw it out of a vehicle;
 - (c) may enter –
 - (i) or leave a public amenity other than by way of the official entry and exit point;
 - (ii) a public amenity without having paid the entrance fees as contemplated in section 5(1);
 - (d) may release any wild animal, bird or flora into a public amenity;
 - (e) may, in inland waters –
 - (i) swim, catch fish or angle if not authorised to do so in terms of a notice board erected in terms of section 6(1);
 - (ii) wash himself or herself or clean anything;
 - (f) may use any craft on inland waters at any place other than that which has been indicated on a notice board erected in terms of section 6(1);
- (2) A person who contravenes a provision of subsection (1) commits an offence.

13. Vehicles

- (1) Where a person is permitted to drive a vehicle in a public amenity he or she may not –
 - (a) travel with the vehicle elsewhere than on a road constructed by the municipality;
 - (b) drive the vehicle at a speed in excess of the speed indicated on a notice board erected by the municipality.
- (2) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

14. Camping

- (1) No person may camp on any land belonging to or which is under the control of the municipality except on a camping site within the boundaries of a camping area.
- (2) No person may camp in a camping area whether continuous or otherwise for a period exceeding three months in any period of twelve months without the written consent of the municipality.
- (3) The municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit but not for any period in excess of a further three consecutive months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights thereunder.
- (5) Reservation of camping sites will only be considered upon receipt of a written application.
- (6) The municipality may determine conditions additional to those contained in this by-law for the use of camping sites that fall under the control of the municipality.
- (7) The municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4) or any condition imposed by the municipality in terms of subsections (6) and (7) commits an offence.

15. Caravan parks

- (1) Notwithstanding the provisions of section 13(1) the municipality may allocate ten percent (10%), or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
- (2) The municipality may determine conditions for the establishment of private caravan parks.

- (3) The municipality may determine conditions additional to those contained in this by-law for the use of caravan parks that fall under the control of the municipality.
- (4) Any person who contravenes or fails to comply with any condition imposed in terms of sub sections (2) and (3) commits an offence.

CHAPTER II: MISCELLANEOUS PROVISIONS

16. Powers of official and offences

The official appointed by the municipality to monitor and enforce this By-law may investigate any act or omission which on reasonable suspicion may constitute an offence, and a person commits an offence if he or she -

- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution or his or her duties; or
- (b) falsely holds himself or herself out to be an official;
- (c) furnishes false or misleading information when complying with a request of an official; or
- (d) fails to comply with a request of an official.

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this By-law is, on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

19. Limitation of liability

The municipality is not liable for any damage or loss caused by -

- (a) the exercise of any power or the performance of any duty in good faith under this By-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

20. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

21. Presumption

In any prosecution under this by-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

22. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality;

- (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a public amenity exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for public amenities.
- (3)
 - (a) The municipality may, when considering an application or registration in terms of this By-law request the input of a liaison forum.
 - (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

23. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

24. Short title and commencement

This By-law may be cited as the Public Amenities By-law, and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 142**NDLAMBE MUNICIPALITY
ROADS AND TRAFFIC BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-Law
3. Construction of Streets
4. Advertisements visible from streets
5. Animals or objects causing an obstruction
6. Trees in streets
7. Trees or growth causing an interference or obstruction
8. Dumping of waste.
9. Prohibition of certain activities in connection with objects in streets and public places
10. Prohibition of games and other acts in streets and public places
11. Animal manure and conveyance of animal carcasses or other waste products through streets and public places
12. Building materials in streets and public places
13. Balconies and verandahs
14. Drying of washing on fences on boundaries of streets and public places
15. Outspanning in streets
16. Protection of street surface and public places
17. Damaging of notice-boards
18. Collections and distribution of handbills
19. Excavations in streets
20. Poison in streets or public places
21. Processions
22. Roller-skating and skating on skate-boards
23. Persons to be decently clad
24. Overflow of water into streets and public places
25. Behaviour in streets and public places
26. Animals in a street or public place
27. Display of street number of places
28. Bridges and crossings over gutters and sidewalks
29. Control of amusement shows and devices
30. Control of animal-drawn vehicles
31. Vehicles to be attended
32. Municipality may act and recover costs
33. Closure of streets and public places
34. Construction, maintenance and naming of streets and public places
35. Declaration of streets and public places
36. Parking of heavy vehicles and caravans
37. Parking attendants
38. Encroachments
39. Penalty
40. Appeal
41. Repeal of by-laws

41. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates -

"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 the municipal council of Ndlambe;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal area" means the area of jurisdiction of Ndlambe Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

"municipal manager" means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 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) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) a 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;

"nuisance" means any act, omission or condition on any premises, street or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public;

"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 at any time been declared or rendered such by the municipality or other competent authority;

"semi-trailer" means a trailer having no front axle 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 of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

"street" means any street, road, cycle path, thoroughfare or any other place, and 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, 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;
- (e) 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, 1997 (Act 8 of 1997), 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;

"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 sub-section (a) or (b);

"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, tyres 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;

"work" means work of any nature whatsoever undertaken on any land within the area of jurisdiction of Ndlambe 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 a street or public place, or delivery to or removal from any site of any soil or material of any nature whatsoever.

2. Purpose of by-Law

The purpose of this by-law is to promote the achievement of a safe environment for the benefit of residents within the area of jurisdiction of the municipality, and to

provide for procedures, methods and practices to manage the use and utilisation of streets in the area of jurisdiction of the municipality.

3. Construction of streets

No person may -

- (a) make, construct, reconstruct, or alter a street or sidewalk except with the written permission of the municipality and 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 or public place except with the written permission of the municipality.

4. Advertisements visible from streets

- (1) No person may display any advertisement, placard, poster or bill in a street except with the written permission of the municipality and subject to any conditions that may be imposed by the municipality.
- (2) This section does not apply to signs which have been exempted under the provisions of the municipality's by-law relating to Advertising Signs.

5. Animals or objects causing an obstruction

No person, except with the written permission of, and subject to any conditions that may be imposed by the municipality, may -

- (a) deposit or leave any goods or articles in a street or public place other than for a reasonable period during the course of the loading, off-loading or removal thereof; or
- (b) obstruct the traffic in a street or 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.

6. Trees in streets

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

7. Trees or growth causing an interference or obstruction

- (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a street or public place, the municipality may by written notice order the owner or occupier to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (2) Any person who fails to comply with a notice issued in terms of subsection (1) commits 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.

8. Dumping of waste.

No person may –

- (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.

9. Prohibition of certain activities in connection with objects in streets and public places

No person may, in a street or public place –

- (a) repair or service 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.

10. Prohibition of games and other acts in streets and public places

No person may –

- (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 public place; or
- (b) do anything in a street or public place which may endanger the life or safety of any person, animal or thing or create a nuisance, obstruction or annoyance to the public.

11. Animal manure and conveyance of animal carcasses or other waste products through streets and public places

(1) No person may carry or convey through a street or public place the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless –

- (a) it is properly covered; and
- (b) 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 or public place.

(2) The owner or person in charge of animals which are brought onto or driven along a street or public place must remove or clean up manure or droppings caused by such animals.

12. Building materials in streets and public places

No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a street or public place except with the written permission of the municipality, and subject to the conditions imposed by the municipality.

13. Balconies and verandahs

No person may, except with the written permission of the municipality –

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

14. Drying of washing on fences on boundaries of streets and public places

No person may hang, display or dry any washing on a balcony facing onto a street or which is visible to the neighbours, neither may any person hang, display, dry or spread any washing on a fence on the boundary of a street or public place.

15. Outspanning in streets

No person may outspan a vehicle drawn by animals in any street or public place, or detach or leave in any street or public place 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.

16. Protection of street surface and public places

(1) No person may –

- (a) use a vehicle or allow it to be used in any street or public place if such vehicle is in such a defective condition that it will or may cause damage to any street or public place; or
- (b) drive, push, roll, pull or propel any object, machine or other material through or along a street or public place in such a way that the surface of the street or public place is damaged, broken or destroyed.

(2) If the municipality identifies a person whose actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street or public place, the cost of repairs may be recovered from the offender.

(3) Any person who is the owner of land on which any work is done is liable for any damage to any portion of a street or public place 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 may not commence, or allow any other person to commence, any such work 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 such street or public place 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) (a) After completion of the work referred to in subsection (4), the municipality may repair or damage caused by such work and may set off the cost of such repairs against the deposit.

(b) 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.

(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 or public place.

17. Damaging of notice boards

No person may deface, damage or 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 or public place by or with the permission of the municipality.

18. Collections and distribution of handbills

(1) No person may -

- (a) collect or attempt to collect money in a street or public place or organise or in any way assist in the organisation of such collection, except with the written permission of the municipality and subject to any conditions that may be imposed by the municipality;
- (b) collect from door to door, beg or solicit or accept alms, except with the written permission of the municipality; or
- (c) distribute a handbill or similar advertising material or cause it to be distributed in any street or public place, by placing it on or in any vehicle without prior permission of the municipality.

(2) An application fee may be levied in respect of any application in terms of subsection (c).

19. Work in street or public place

(1) No person may without the prior written permission of the municipality and subject to any conditions that may be imposed undertake any work in a street or public place.

(2) A person referred to in subsection (1) must pay the prescribed fee as set out in the municipality's annual list of Tariffs.

- (3) (a) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any condition contemplated in subsection (1).
- (b) The municipality may -
- (i) grant an exemption in writing and set conditions and the period for which such exemption is granted;
 - (ii) alter or cancel any exemption or condition in an exemption; or
 - (iii) refuse to grant an exemption.
- (c) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (1), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (d) If any condition of an exemption is not complied with, the exemption lapses immediately.

20. Poison in streets or public places

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

21. Processions

(1) Subject to the provisions of sub-section (6), no person may hold, organise, initiate, control or actively participate in a procession or gathering in a street or public place, 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 public place, or 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) must submit a written application for permission, which must reach the municipality at least seven days before the date upon which any such action is intended to be performed or carried out, provided that persons who intend to participate actively in a procession, or gathering need not apply to the municipality for permission and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller has obtained the permission of the municipality. An application made in terms hereof must contain the following:

- (a) Full details of the name, address and occupation of the applicant;
- (b) full details of the street or public place 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 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 likely to be in conflict with the interests of public peace, good order or safety, the municipality may issue a certificate granting permission and imposing conditions.

(4) The municipality may refuse to approve applications in terms of subsection (2) if an action will 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, the action will be in conflict with the interests of public peace, good order or safety.

(6) The provisions of this section do not apply to –

- (a) wedding or funeral processions; and
- (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993).

22. Roller-skating and skating on skate-boards

No person may, 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 street or public place or where skating is prohibited by a sign.

23. Persons to be decently clad

No person may appear in any street or public place if he or she is not decently clothed.

24. Overflow of water into streets and public places

Subject to the provisions of the municipality's Storm Water Management By-law, no person may cause or allow any water other than rain water to flow into a street or public place.

25. Behaviour in streets and public places

No person may, in a street or public place –

- (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) defecate, 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; or
- (l) spit.

26. Animals in a street or public place

No owner or person –

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

27. Display of street number of places

- (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 34(c) must be displayed, and the owner must, 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) must –
 - (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.

28. Bridges and crossings over gutters and sidewalks

No private crossing, pathway, bridge or culvert may be made or built to or in front of any dwelling or other premises in any street or public place except with the written permission of the municipality, and subject to the conditions imposed by the municipality.

29. Control of amusement shows and devices

- (1) No person may set up or use in any street or public place any circus, whirligig, roundabout or other show or device for the amusement or recreation of the public –
- (a) except with the written permission of the municipality and subject to such conditions as may be determined by the municipality;
 - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
 - (c) 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.

30. Control of animal-drawn vehicles

No person may –

- (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a street or public place;
- (b) drive or be in control of an animal-drawn vehicle in a street or public place 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.

31. Vehicles to be attended

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

32. Municipality may act and recover costs

- (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 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) commits 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.

33. Closure of streets and public places

- (1) No person may, without the approval of the municipality, close or barricade any street or public place or restrict access thereto.
- (2) The municipality may permanently close or divert any street or public place or part thereof or restrict access to any street or public place.
- (3) When the municipality decides to act in terms of subsection (2), it shall give notice of such intention in terms of its communication policy, and in the absence of

such policy the municipality shall give notice of its intention in a local newspaper in at least two official languages;

(4) Any objection against the action referred to in subsection (2) must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (3) for submission to Council or a committee or person who has delegated powers to decide the matter.

(5) The municipality may, without complying with subsection (3) -

(a) temporarily close a street or public place -

(i) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street or public place;

(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 or public place -

(aa) if such street or public place is dangerous to traffic;

(bb) by reason of any emergency or public event which requires special measures for the control of traffic or special provision for the accommodation of crowds; or

(cc) for any other reason which renders the temporary closing of a street necessary; and

(b) divert a street which has been temporarily closed in terms of paragraph (a).

(6) The municipal manager has the discretion to, for general information, place a notice of such temporary closure in terms of subsection (5) in a local newspaper.

34. Construction, maintenance and naming of streets and public places

The municipality may -

(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.

35. Declaration of streets and public places

(1) The municipality may -

(a) declare any land or portion of land under its control as a street, or any street or portion thereof to be a public place;

(b) declare any private street or portion thereof as a public street, or any place or portion thereof to be a public place.

(2) When the municipality acts in terms of subsection (1), it must give notice of such intention in terms of its communication policy, and in the absence of such policy, in a local newspaper in at least two official languages.

(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. Parking of heavy vehicles and caravans

(1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy vehicles, park on a street -

(a) a motor vehicle with a tare exceeding 3500 kg;

- (b) a trailer;
 - (c) a semi-trailer, or
 - (d) a caravan,
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

37. Parking attendants

- (1) No person may, in exchange for money or some other thing of value or in anticipation thereof:
- (a) direct the operator or occupant of a motor vehicle to a public parking space; or
 - (b) provide any other parking or related services in a public place.
- (2) Notwithstanding subsection (1), the Municipality may, subject to such requirements and conditions as determined by it and published in the Provincial Gazette, on application by a person, permit such person, upon payment of a fee, to direct the operator or occupant of a vehicle to a public parking space or to provide any other parking or related service.

38. Encroachments

- (1) Subject to section 3 and to such further conditions as it deems necessary, the municipality may by agreement permit encroachment on municipal property or the erection or maintenance of a verandah, balcony, sign, projecting sign or similar structure which projects in or over any street or public place;
- (2) When any immovable property owned by a municipality or under the control or management of the municipality is encroached upon without permission, the municipality may take the steps necessary to remove or regularise such encroachment.
- (3) The municipality may reduce the extent of a public place or street which is encroached upon by the extent of the encroachment or by such greater extent as may be desirable.
- (4) A permit issued under subsection (1) is, for the purposes of subsection (2), deemed to be a regularisation of the encroachment referred to in such permit.
- (5) A person who wishes to obtain the permission of the municipality as contemplated in subsection (1) must complete and submit to the municipality the prescribed form, and the municipality may issue a permit subject to the prescribed fee having been paid.
- (6) A person who contravenes a provision of subsection (5) commits an offence, and a person who fails to comply with any condition imposed under subsection (1) commits an offence and the municipality may, in addition to any other penalty which may be imposed –
- (a) demolish, remove or fill in the projection or projecting structure concerned; or
 - (b) cause such projection or projecting structure to be demolished, removed or filled in,
at the cost of the owner thereof.

39. Penalty

A person who contravenes or fails to comply with any provision of this by-law commits an offence and is liable upon conviction to –

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

- (b) 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
- (c) 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.

40. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

41. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

42. Short title and commencement

This by-law shall be known as the Roads and Traffic By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 143**NDLAMBE MUNICIPALITY
SOLID WASTE DISPOSAL BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-laws
3. Applicable legislation
4. Establishment and control of disposal site
5. Access to disposal site
6. Off-loading of waste
7. Ownership of waste
8. Categories of waste
9. Separation of waste
10. Provision of waste bins
11. Location of waste bins
12. Maintenance of waste bins
13. Collection of waste
14. Access to premises
15. Right of entry
16. Dumping and littering
17. Burning of waste
18. Charges
19. Exemptions
20. Liaison forums in community
21. Authentication and service of order, notice or other document
22. Appeal
23. Penalties
24. Revocation of by-laws
25. Short title and commencement

1. Definitions

In this By-law, unless the context otherwise indicates –

"attendant", means an employee of the municipality or agent of the municipality duly authorised to be in charge of the disposal site;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"owner" also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

"premises" means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township; **"removal**

"day" means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

"waste" includes -

- (a) "business waste" which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;
- (b) "domestic waste" which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as garden waste which is of such size that it may be deposited in a refuse bin.
- (c) "garden waste" which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;
- (d) "hazardous waste" which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste;
- (e) "materials" which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

"waste bin" means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

"waste management activities" means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989) and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1st February 2002, bears that meaning.

2. Purpose of by-laws

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

3. Applicable legislation

The Directions in terms of section 20(5)(b) of the Environment Conservation Act, 1989 (Act 73 of 1989) with regard to the Control and Management of General Communal and General Small Waste Disposal Sites as published in GN 91 in GG 23053 of 1 February 2002 apply.

4. Establishment and control of disposal site

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site

on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

5. Access to disposal site

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- (4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

6. Off-loading of waste

- (1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.
- (2) The municipality may-
 - (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited.
 - (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.
 - (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
 - (d) the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
- (4) The municipality reserves the right not to permit the dumping of toxic or offensive waste at a disposal site.
- (5) A person who contravenes any of the provisions of this section commits an offence.

7. Ownership of waste

- (1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.
- (2) A person who contravenes subsection (1) commits an offence.

8. Categories of waste

The municipality may, for the purposes of this by-law, categorise waste into different categories.

9. Separation of waste

The municipality may, for the purposes of this by-law, require that waste be separated into different kinds and nature of waste.

10. Provision of waste bins

(1) The municipality may –

- (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
- (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.

(2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.

(3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.

(4) Where any waste bin provided on premises is –

- (a) of a size likely to hinder the efficient removal of waste there from by the servants of the municipality;
- (b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
- (c) dilapidated; or
- (d) likely to cause a nuisance,

the municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.

(5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.

(6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.

(7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions –

- (a) a central refuse collection point must be provided by the managing body;
- (b) the managing body must apply in writing for the reduction of waste bins issued to the development;
- (c) the reduced number of bins must be approved by the municipality; and
- (d) the managing body shall be held liable for payment of the account for waste removal.

(8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

11. Location of waste bins

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must –
- (a) comply with requirements imposed by the municipality by notice to the owner;
 - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
 - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
 - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

12. Maintenance of waste bins

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is –
- (a) at all times maintained in good order and repair;
 - (b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
 - (c) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

13. Collection of waste

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bin or other container approved by it or is which bundled or packaged in a manner approved by the municipality.
- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.

- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may –
 - (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
 - (b) increase the number of collections as it may deem necessary or desirable; or
 - (c) make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

14. Access to premises

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

15. Right of entry

- (1) Any duly authorised employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:
 - (a) for collecting and supervising the collection of waste;
 - (b) for replacing waste bins; or
 - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality.
- (3) An owner of premises commits an offence if he or she –
 - (a) denies access to the premises to an authorised employee of the municipality in the performance of his or her duties; or
 - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

16. Dumping and littering

- (1) No person may –
 - (a) except by permission of the owner or of the person or authority having control thereof; or
 - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –
 - (i) any road, highway, street, lane, public footway or pavement or any road verge;

- (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
 - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or
 - (iv) private or municipal land,
- (2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
- (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
 - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
 - (c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor.
- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and –
- (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
 - (b) there is no occupier of the land; or
 - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it–
 - (i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
 - (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

17. Burning of waste

No person may burn waste without the written approval of the municipality.

18. Charges

- (1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.
- (2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

19. Exemptions

- (1) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

20. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality; and
 - (c) promoting the waste management activities of the municipality.
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f) – (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
 - (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
 - (c) a designated official or officials of the municipality;
 - (d) a councilor; and
 - (e) such other person or persons the municipality may decide on.
- (3)
 - (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.
 - (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

21. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;

- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

22. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

23. Penalties

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, 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, 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.

24. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

25. Short title and commencement

This by-law may be cited as the Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 144
NDLAMBE MUNICIPALITY
SPORTING FACILITIES BY-LAW

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

TABLE OF CONTENTS

Section

1. Interpretation
 2. Principles and objectives
 3. Application of By-laws
 - Chapter 1: Administration, access, fees and prohibited behaviour
 4. Administration, control over, and maintenance of sporting facilities
 5. Access to sporting facilities and storage facilities
 6. Admission fees and other fees
 7. Prohibited behaviour in or on a sporting facility or its premises
 - Chapter 2: Organised sporting activities
 8. Organised sporting activities
 9. Reservation and hiring of sporting facilities
 10. Cancellation, postponement or extension of reservation
 11. Termination of hire
 12. Duties of organisation
 - Chapter 3: Miscellaneous provisions
 13. Enforcement
 14. Indemnity
 15. Appeal
 16. Penalty
 17. Revocation of by-laws
 18. Short title and commencement
- 1. Definitions**
- In this by-law, unless the context otherwise indicates –
- "accessories"** means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;
- "appurtenance"** means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;
- "equipment"** means gear used by a person in a sporting activity;
- "facility"** means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;

"**municipality**" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"**organised sporting activity**" means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

"**organisation**" means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

"**sporting facility**" means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

2. Principles and objectives

The municipality recognizes the right of the community, whether associated to an organization or not, to use and enjoy sporting facilities, and accepts the duty to maintain and develop the resources of the municipality to the best interest of the community, and aims, in this by-law, to control and administer sporting facilities.

3. Application of By-laws

This by-law apply to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.

CHAPTER 1: ADMINISTRATION, ACCESS, FEES AND PROHIBITED BEHAVIOR

4. Administration, control over and maintenance of sporting facilities

(1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.

(2) All sporting facilities must be administered by the municipality in accordance with this By-law.

(3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.

(4) A person or organisation who uses or hires sporting facilities does so subject to the provisions of this by-law and in terms of conditions as may be determined by the municipality.

(5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.

(6) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person –

(a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;

(b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.

(7) If the municipality permits the sale or consumption of alcohol on or in a facility by an organization or body, the sale or consumption is subject to the following conditions:

(a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;

(b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;

(c) the organization or body must maintain good order within the sporting facility.

(8) The municipality may close a facility when:

(a) The facility is substantially unusable due to -

(i) destruction;

(ii) severe damage; or

(iii) the absence of municipal services;

(b) the facility constitutes a danger to human life or property;

(c) an emergency has arisen which requires such closure.

(9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.

(12) A person who or organization that contravenes subsection (6) or (7) commits an offence.

5. Access to sporting facilities and storage facilities

(1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.

(2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this by-law to leave the facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed.

(3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

6. Admission fees and other fees

The municipality may prescribe fees to be charged for admission to or the hire or use of a sporting facility or equipment.

7. Prohibited behavior in or on sporting facility or its premises

- (1) No person may –
 - (a) enter any part of a facility otherwise than by an entrance designated for that purpose;
 - (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of the public, or when access to the facility has been denied;
 - (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
 - (d) wear footwear that may damage the surface of a facility;
 - (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
 - (f) relieve him or herself in any part of the sporting facility other than in the ablution facilities;
 - (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
 - (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
 - (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
 - (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behavior towards other persons;
 - (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
 - (l) discard rubbish other than in a container provided for that purpose;
 - (m) in any manner, interfere with the substance covering the surface of a sporting facility;
 - (n) light any fire;

- (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
- (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of bicycles;
- (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;
- (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
- (s) tamper or interfere with an appurtenance in or on the premises of a sporting facility;
- (t) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
- (u) bring into or keep on a facility a weapon or any other dangerous object.
- (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
- (w) behave or conduct himself or herself in a manner which may prejudice good order;
- (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
- (y) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
- (z) fail to comply with a lawful instruction given by an official.
- (2) A person who contravenes any of the provisions of this section commits an offence.

CHAPTER 2: ORGANISED SPORTING ACTIVITIES

8. Organised sporting activities

- (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons such as, but not limited to free lance instructors.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members

use the facility, and should it be impossible for the organisation to use the facilities at those times, the organization must notify the official in charge of the sporting facility beforehand, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

9. Reservation and hiring of sporting facilities

- (1) The municipality may set aside or hire out a sporting facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire a sporting facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
 - (a) The principles and objectives of this by-law;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (b) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (c) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (6) The municipality may approve the use of a sporting facility subject to any condition it may impose, or it may refuse consent.
- (7) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and –
 - (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the sporting facility is subject.
- (8) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (9) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality –
 - (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and

(b) public liability insurance.

(10) An organization which supplies false information in an application form or with respect to the requirements in subsection (9), or which contravenes subsection (8) commits an offence.

10. Cancellation, postponement or extension of reservation

(1) An organisation who has applied for the reservation of a sporting facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.

(2) (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.

(b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.

(c) Postponement may be refused if the facility has been reserved.

(3) An organisation may apply for an extension of the period of use of the sporting facility, and -

(a) the application must be in writing and lodged at the Municipal Manager's offices; and

(b) the facility must be available for such use.

(4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 4(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation; or

(5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section (4)(8), the notice is deemed to be effective from the date on which the destruction or damage took place.

(6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

11. Termination of hire

(1) On termination of the hire an organisation and an official must inspect the facilities for the purpose of assessing the conditions of the facilities.

(2) The organisation must -

(a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;

(b) repair any damage or breakages;

(c) comply with any instructions by the municipality in respect of

- the cleaning of the sporting facility; and
 - (d) vacate the sporting facility within the period stated in the application;
- and should the organisation fail to comply with –
- (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
 - (ii) (d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

12. Duties of organisation

- (1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.
- (2) The organisation must comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7.

CHAPTER 3: MISCELLANEOUS PROVISIONS

13. Enforcement

- (1) An official may search any person, vehicle or container in, entering into or being brought onto a facility.
- (2) An official may confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility, or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person that which was confiscated when he or she leaves the sporting facility.
- (3) If the official finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.

14. Indemnity

Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

15. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

16. Penalty

A person who or organisation which has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

17. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

18. Short title and commencement

This by-law may be cited as the Sporting Facilities By-law, and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 145**NDLAMBE MUNICIPALITY
STORM WATER MANAGEMENT BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-laws
3. Application of by-laws
4. Prohibited conduct
5. Application and conditions which municipality may impose
6. Storm water systems on private land
7. Powers of municipality
8. Authentication and service of notices and other documents
9. Appeal
10. Exemptions
11. Penalties
12. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

"floodplain" means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"private storm water system" means a storm water system which is owned, operated or maintained by a person and not the municipality;

"pollute" bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

"storm water" means water resulting from natural rainfall or the accumulation thereof, and includes –

(a) groundwater and spring water ordinarily conveyed by the storm water system; and

(b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

"storm water system" means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of storm water;

"watercourse" bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

"organ of state" bears the meaning assigned to it in section 239 of the Constitution.

2. Purpose of by-laws

The purpose of this by-law is to regulate storm water management and activities which may have an adverse impact on the development, operation and maintenance of the storm water system.

3. Application of by-laws

This by-law –

- (a) binds an organ of state; and
- (b) applies to storm water systems in built-up areas.

4. Prohibited conduct

(1) No person may, except with the written consent of the municipality–

- (a) discharge, place or permit to enter into the storm water system –
 - (i) anything other than storm water;
 - (ii) anything likely to damage the storm water system or interfere with the operation thereof;
 - (iii) anything likely to pollute the water in the storm water system;
- (b) discharge from any place, or place onto any surface, any substance other than storm water, where that substance could reasonably be expected to find its way into the storm water system;
- (c) undertake any action that is likely to destroy, damage, endanger or interfere with the storm water system or the operation thereof, which action includes, but is not limited to –
 - (i) obstructing or reducing the capacity of the storm water system;
 - (ii) opening a pipe, culvert or canal which forms part of the storm water system;
 - (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the storm water system or the operation thereof;
 - (iv) draining, abstracting or diverting any water directly from the storm water system;
 - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the storm water system;
 - (vi) changing the design or the use of, or otherwise modify any feature of the storm water system which alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
 - (vii) any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.

- (d) undertake any action or allow storm water to overflow onto municipal property or to flood such property in a manner which causes damage thereto or is likely to cause damage thereto
- (2) When an incident contemplated in subsection (1)(a) or (b) occurs without the consent of the municipality—
 - (a) if the incident is not the result of natural causes, the person responsible for the incident; or
 - (b) the owner of the property on which the event took place or is taking place, must immediately report the incident to the municipality, and take, at own cost, all reasonable measures to contain and minimise the effects of the incident, which measures include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

5. Application and conditions which municipality may impose

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application form obtainable from the municipality.
- (2) When considering an application the municipality may require the applicant to provide the municipality, at own cost, with impact studies such as, but not limited to, environmental impact studies or environmental impact investigations which are required by environmental legislation.
- (3) The municipality may also require the applicant to establish and provide documentation indicating on flood lines.

6. Storm water systems on private land

- (1) An owner of property on which a private storm water system is located —
 - (a) may not carry out any activity which may impair the effective functioning of the storm water system or which could reasonably be expected to impair the effective functioning of the storm water system; and
 - (b) must, at own cost, keep the storm water system functioning effectively, including undertaking, on written instruction by the municipality, the refurbishment and reconstruction thereof if the municipality has reasonable grounds for issuing such instruction.
- (2) Subsection (1)(b) does not apply where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.
- (3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b), the municipality may undertake measures to refurbish or reconstruct the storm water system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.
- (4) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

7. Powers of municipality

- (1) The municipality may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test to determine the current status of a storm water system.
- (2) The municipality may, for the purpose of providing and maintaining infrastructure for a storm water system- -
- (a) construct, expand, alter, maintain or lay any drain, pipe or other structure related to the storm water system on or under any immovable property, and may do any other thing necessary or desirable or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance;
 - (b) drain storm water or discharge water from any municipal service works into any watercourse;
 - (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to -
 - (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
 - (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
 - (d) remove anything -
 - (i) discharged or permitted to enter into the storm water system or watercourse in contravention of section 4(1)(a) or (b);
 - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the storm water system;
 - (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;
 - (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
 - (g) by written notice, instruct any owner of property -
 - (i) to retain storm water on such property or to lay, at the cost of such owner, a storm water drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
 - (ii) to allow the owner of a higher lying property to lay a storm water drain pipe or gutter over his or her property for the draining of concentrated storm water;
 - (h) discharge storm water into any watercourse, whether on private land or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such storm water or to lay such storm water drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of this by-law, the municipality may notify, in writing, such person or owner to comply with such requirement as may be necessary to prevent the occurrence of such contravention.

- (5) The municipality may recover all reasonable costs incurred as a result of action taken –
- (a) in terms of subsection (2)(c) or (d), from the person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred; or
 - (b) in terms of subsection (3), from the owner of the property.
- (6) Any drain, pipe or structure provided in terms of subsection (2)(a) vests in the municipality.
- (7) A person commits an offence if he or she –
- (a) fails to comply with a notice contemplated in subsection (2)(g);
 - (b) threatens, resists, hinders, obstructs or otherwise interfere with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this by-law; or
 - (c) impersonates an employee or contractor of the municipality.

8. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the municipal manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager, or a person in attendance at the municipal manager's office.

9. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

10. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

11. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

12. Short title and commencement

This by-law may be cited as the Storm Water Management By-law and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 146**NDLAMBE MUNICIPALITY
STREET TRADING BY-LAW**

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of Contents

1. Definitions
2. Principles and objectives
3. Application

CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING

4. Restricted and prohibited areas
5. Places where street trading is prohibited
6. Duties of street trader
7. Prohibited conduct
8. Removal and impoundment
9. Disposal of impounded goods

CHAPTER 2: MISCELLANEOUS PROVISIONS

10. Penalty
11. Responsible person
12. Appeal
13. Liaison forums in community
14. Revocation of by-laws
15. Short title and commencement

1. Definitions

- (1) In this by-law, unless the context otherwise indicates –

“**Act**” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

“**approval**” means approval by the municipality and “**approve**” has a corresponding meaning;

“**garden**” means a garden to which the public has a right to access;

“**goods**” means any movable property;

“**intersection**” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**litter**” means any object or matter which is discarded by a person;

“**motor vehicle**” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**municipality**” means the Municipality of Ndlambe, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

"official" means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

"park" means a park to which the public has a right to access;

"premises" includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

"prescribed" means prescribed by the municipality by resolution;

"property", in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

"public amenity" means –

(a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

(b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and

(c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

"public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"sell" includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and "sale" or "selling" has a corresponding meaning;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"street furniture" means any furniture installed by the municipality on the street for public use;

"street trader" means a person who, as hawker, vendor or pedlar as contemplated in the Businesses Act, 1991 (Act 71 of 1991), carries on the business of the selling of any goods or the supplying of or offering to supply any service for reward in a public road or public amenity;

"street trading" means the carrying on of the business as a street trader;

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and

any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

- (2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.

- (3) A reference to a person carrying on the business of street trader includes the employee of the person.

2. Principles and objectives

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean and healthy environment, in this by-law provides mechanisms, procedures and rules to manage street trading.

3. Application

This by-law apply to all persons who carry on the business of street trading within the area of jurisdiction of the Ndlambe Municipality.

CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING

4. Restricted and prohibited areas

(1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) up to and including (j), declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.

(2) The municipality must by public notice and by erected sign indicate such areas, and the notice and sign must indicate –

- (a) the restriction of prohibition against street trading;
- (b) if street trading is restricted –
 - (i) the boundaries of the area or stand set aside for restricted street trading;
 - (ii) the hours when street trading is restricted or prohibited; and
 - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
- (c) that the area has been let or otherwise allocated.

(3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.

(4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.

5. Places where street trading is prohibited

(1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:

- (a) In a garden or a park to which the public has a right of access; or
- (b) on a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the municipality;
 - (ii) a church or other place of worship; or
 - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
- (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
 - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view.
 - (c) within 5 metres of an intersection as defined in Regulation 322 of National Road Traffic Act, 1996;
 - (d) at a place where street trading obstructs –
 - (i) a fire hydrant;
 - (ii) the entrance to, or exit from, a building;
 - (iii) vehicular traffic;
 - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
 - (v) access to, or the use, of street furniture or any other facility designed for the use of the general public;
 - (vi) or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
 - (vii) or obscures a marking, notice or sign displayed or made in terms of this by-law;
 - (e) that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto; or
 - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act must –
- (a) comply with conditions of the lease of allocation; and
 - (b) be in possession of written proof that municipality has let or allocated the area or stand to him or her.
- (4) A person who contravenes a provision of this section commits an offence.

6. Duties of street trader

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except any structure permitted by the municipality, to a place which is not part of a public road or public amenity;
 - (b) when requested by an official of the municipality or a by a person

- who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
- (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
 - (d) ensure that the area is free of litter, and must, when he or she concludes business for the day, dispose of litter generated by his or her business –
 - (i) at the dumping sites of the municipality; or
 - (ii) in receptacles provided by the municipality for the public;
 - (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
 - (f) regarding the size and location of the area or stand occupied by him or her, –
 - (i) ensure that the area which he or she uses does not exceed 6 m² in size and not exceed 3 metres in length;
 - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
 - (iii) leave a space of not less than 0,5 metre from the kerb of the roadway.
- (2) A person who contravenes a provision of subsection (1) commits an offence.
- 7. Prohibited conduct**
- (1) A street trader –
- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
 - (b) may not place or stack his or her property in such a manner that it –
 - (i) constitutes a danger to any person or property; or
 - (ii) is likely to injure any person or cause damage to any property;
 - (c) may not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
 - (d) may not release onto a public road or public amenity or into a storm water drain or fat, oil or grease in the course of conducting his or her business;
 - (e) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
 - (f) may not erect a structure for the purpose of providing shelter;
 - (g) may not place his or her property in a public road or public amenity;
 - (h) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996;
 - (i) may not place, on a public road or public amenity, his or her property that cannot be easily removed to a place of safety, which may not be a public road or public amenity, at the end of the day's business;

- (j) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
 - (k) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity;
 - (l) may not carry on his or her business in such a manner as to –
 - (i) create a nuisance;
 - (ii) damage or deface the surface of a public road or public amenity or public or private property; or
 - (iii) create a traffic hazard;
 - (m) may not make an open fire that poses a health or environment hazard to any person or property or to street furniture;
 - (n) may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit any litter on –
 - (i) any land or premises;
 - (ii) any public road or public amenity or;
 - (iii) any public or private property;
 - (o) may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and
 - (p) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of section 6A(2)(a) of the Act.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

8. Removal and impoundment

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
- (a) the address where the impounded property will be kept and the period it will be kept;
 - (b) the conditions for the release of the impounded property; and
 - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (6) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

9. Disposal of impounded goods

(1) Any perishable goods removed and impounded in terms of section 8(1) may at any time after the impoundment thereof be sold or destroyed by the municipality and in the case of a sale of such goods, the proceeds thereof, less any expenses incurred by the municipality in connection with the removal and impoundment thereof, shall upon presentation of the receipt contemplated by section 8(2)(a), be paid to the person who was the owner thereof when it was impounded. If such owner fails to claim the said proceeds within three months of the date on which it was sold, the proceeds may be forfeited to the municipality.

(2) The owner of any goods other than perishable goods already dealt with by the municipality in terms of subsection (1) who wishes to claim the return thereof must, within a period of one month of the date of the impoundment thereof, apply to the municipality and must present the receipt contemplated in section 8(2)(a), failing which the goods may be sold by the municipality, and in the event of a sale thereof the provisions of subsection (1) relating to the proceeds of a sale likewise apply to the proceeds of the sale.

(3) If the owner of any goods impounded in terms of section 8(a) claims the return of the goods from the municipality and he or she is unable or refuses to refund any expenses incurred by the municipality in connection with the removal and impoundment, the goods may be sold by the municipality and the proceeds of any sale thereof, less any expenses shall be paid to him or her..

(4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the municipality, the owner thereof shall in terms of section 8(3)(a) remain liable for the difference.

CHAPTER 2: MISCELLANEOUS PROVISIONS**10. Penalty**

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

11. Responsible person

When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention himself or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

12. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of

the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

13. Liaison forums in community

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
- (c) promoting economic development;

(2) A liaison forum may consist of –

- (a) a member or members of an interest group, or an affected person;
- (b) a member or members of a community in whose immediate area a commonage has been established;
- (c) a designated official or officials of the municipality; and
- (d) a councillor.

(3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.

- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

14. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

15. Short title and commencement

This by-law may be cited as the Street Trading By-law and commences on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 147**NDLAMBE MUNICIPALITY
WATER SUPPLY AND SANITATION SERVICES BY-LAW**

Under the provisions of Sections 3(1) and 21 of the Water Services Act, 1997 (Act 108 of 1997), and Sections 27(1)(b), 152(1)(b) and 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Ndlambe Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Principles and objectives
- CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION
3. Customer Care and Revenue Management By-laws apply
- CHAPTER 2: APPOINTMENT: WATER SERVICES PROVIDER
4. Appointment of Water Services Provider
5. Water Services Provider – Approval
6. Application for approval
7. Additional information to make decision
8. Procedure on approval
9. Water scheme categories
10. Water Services Provider categories
11. Monthly report
12. Quarterly report
13. Disputes
- CHAPTER 3: SERVICE LEVELS
14. Service levels
- CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES
- Part 1: Connection to water supply systems*
15. Application for water service
16. Special agreements for water services
17. Change in purpose for which water services are used
18. Provision of connection pipe
19. Location of connection pipe
20. Provision of single water connection for supply to several consumers on same premises
21. Interconnection between premises or water installations
22. Disconnection of water installation from connection pipe
23. Communal water services works and provision of water service work for water supply to several consumers
24. Temporary supply from water supply system
- Part 2: Standards and conditions of supply*
25. Quantity, quality and pressure

26. General conditions of supply
27. Testing of pressure in water supply system
28. Pollution of Municipality's water supply
29. Owner to prevent pollution of water
30. Water restrictions
31. Specific conditions of supply

Part 3: Measurement

32. Measuring of quantity of water supplied
33. Quantity of water supplied to consumer
34. Special measurement
35. Sampling of water
36. Supply of non-potable water by Municipality
37. Pipes in streets or public places

Part 4: Audit

38. Water audit

Part 5: Installation work

39. Approval of installation work
40. Persons permitted to do installation and other work
41. Technical requirements for water installation
42. Provision and maintenance of water installations
43. Use of pipes and water fittings to be authorized
44. Labelling of terminal water fittings and appliances
45. Water demand management

Part 6: Communal water supply services

46. Provision of water supply to several consumers

Part 7: Temporary water supply services from fire hydrant

47. Water supplied from fire hydrant

Part 8: Boreholes

48. Notification of boreholes

Part 9: Fire services connections

49. Connection to be approved by Municipality
50. Special provisions
51. Dual and combined installations
52. Connection pipes for fire extinguishing services
53. Valves and meters in connection pipes
54. Meters in fire extinguishing connection pipes
55. Sprinkler extinguishing installations
56. Header tank or double supply from main
57. Sealing of private fire hydrants

CHAPTER 5: CONDITIONS FOR SANITATION SERVICES

Part 1: Connection to sanitation system

58. Obligation to connect to sanitation system
59. Standards for sanitation services
60. Objectionable discharge to sewage disposal system

Part 2: On-site sanitation services and associated services

61. Application for infrastructure
62. Use of on-site sanitation services not connected to sanitation system
63. Septic tanks and on-site sewage treatment plants
64. French drains
65. Conservancy tanks
66. Operation and maintenance of on-site sanitation services
67. Disused conservancy and septic tanks
68. Services associated with on-site sanitation services
69. Charges in respect of services associated with on-site sanitation services

Part 3: Sewage disposal

70. Provision of connecting sewer
71. Location of connecting sewer
72. Provision of one connecting sewer for several consumers on same premises
73. Interconnection between premises
74. Disconnection of draining installation from connecting sewer

Part 4: Standards and Conditions of Supply

75. Standard for sanitation services

Part 5: Methods for determining discharges

76. Measurement of quantity of standard domestic effluent discharged
77. Measurement of quantity and determination of quality of industrial effluent discharged
78. Reduction in measured quantity of effluent discharged

Part 6: Drainage installations

79. Installation of drainage installations
80. Construction or installation of drainage installations
81. Disconnection of drainage installations
82. Drains in streets or public places
83. Construction by Municipality
84. Maintenance of drainage installation
85. Technical requirements for drainage installations
86. Drains
87. Sewer blockages
88. Grease traps
89. Industrial grease traps
90. Mechanical appliances for lifting sewage
91. Installation of pre-treatment facility

Part 7: Protection of infrastructure

92. Protection from ingress of flood waters
93. Trespassing on sewage disposal system
94. Interference with sewage disposal system
95. Damage to sewage disposal system
96. Consequential maintenance of sewers
97. Obstruction to access to sewage disposal system

98. Work by private person

Part 8: Industrial effluent

99. Application for disposal of industrial effluent

100. Approval to discharge industrial effluent

101. Letter of approval

102. Unauthorized discharge of industrial effluent

103. Quality standards for disposal of industrial effluent

104. Conditions for disposal of industrial effluent

105. Withdrawal of approval to discharge industrial effluent

Part 9: Sewage delivered by road haulage

106. Acceptance of sewage delivered by road haulage

107. Approval for delivery of sewage by road haulage

108. Conditions for delivery of sewage by road haulage

109. Withdrawal of permission for delivery of sewage by road haulage

Part 10: Other sanitation services

110. Stables and similar premises

111. Mechanical food-waster or other disposal units

Part 11: Installation work of sanitation sewers

112. Approval of installation work

113. Persons permitted to do installation and other work

114. Use of pipes and water fittings to be authorized

115. Testing of drainage installations

116. Cisterns

CHAPTER 6: WATER SERVICES INTERMEDIARIES

117. Application for registration

118. Additional information to make decision

119. Approval of application

120. Provision of water services

121. Charges for water services provided

CHAPTER 7: UNAUTHORIZED WATER SERVICES AND RELATED MATTERS

122. Unauthorized use of water services

123. Interference with infrastructure for provision of water services

124. Obstruction of access to infrastructure for provision of water services

125. Waste of water unlawful

126. Unauthorized and illegal discharges

127. Illegal connection

128. Interference with infrastructure

129. Use of water from sources other than water supply system provided by Municipality

CHAPTER 8: ENFORCEMENT

130. Responsibility for compliance with By-laws

131. Notice of compliance and representations

132. Costs

CHAPTER 9: MISCELLANEOUS PROVISIONS

- 133. Provision of information
 - 134. Appeal
 - 135. Authentication and serving of notices and other documents
 - 136. Offences
 - 137. Prima facie evidence
 - 138. Power of entry and inspection
 - 139. Indemnification from liability
 - 140. Exemption
 - 141. Availability of By-laws
 - 142. Conflict of law
 - 143. Co-operation between municipalities and application
 - 144. Liaison forums in community
 - 145. Transitional arrangements
 - 146. Repeal of existing water services by-laws
 - 147. Short title and commencement
- Schedules

1. Definitions

(1) In this by-law, unless the context otherwise indicates –

“accommodation unit” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

“Act” means the Water Services Act, 1997 (Act 108 of 1997);

“approved” means approved by the Municipality in writing;

“area of supply” means any area within or partly within the area of jurisdiction of the Municipality to which water services are provided;

“authorized agent” means –

- (a) any person authorized by the Municipality to perform any act, function or duty in terms of, or exercise any power under this by-law;
- (b) any person to whom the Municipality has transferred the performance of certain rights, duties and obligations in respect of providing water services; or
- (c) any person appointed by the Municipality in terms of a written contract as a services provider to provide water services to consumers on its behalf, to the extent authorized in such contract;

“authorized officer” has the meaning assigned to the word “officer” in Section 1 of the Customer Care and Revenue Management By-laws;

“average consumption” means the average water consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service during the specific period by the specific period of consumption;

“best practicable environmental option” means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

"**borehole**" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

"**Building Regulations**" means the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"**charges**" means the rate, charge, tariff, flat rate or subsidy determined by the Municipality;

"**cleaning eye**" means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal cleaning;

"**combined installation**" means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

"**commercial consumer**" means any consumer other than a domestic consumer and indigent consumer, including, without limitation, business, industrial, governmental and institutional consumers;

"**communal water services work**" means a consumer connection through which services are supplied to more than one person;

"**connecting point**" means the point at which the drainage installation joins the connecting sewer;

"**connecting sewer**" means a pipe owned by the Municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

"**connection**" means the point at which a consumer gains access to water services;

"**connection pipe**" means a pipe, the ownership of which is vested in the Municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a "communication pipe" referred to in SABS 0252 Part I;

"**conservancy tank**" means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;

"**consumer**" means a person with whom the Municipality has concluded a services agreement for the provision of a municipal service as provided for in the Customer Care and Revenue Management By-laws,

"**Council**" means the council of the Ndlambe Municipality;

"**Customer Care and Revenue Management By-laws**" means the Customer Care and Revenue Management By-laws of the Municipality;

"**delivery system**" means a water delivery mechanism, which delivers a predetermined quantity of water to a consumer on agreed terms;

"**determined**" means determined by the Municipality by resolution and published in the Provincial Gazette;

"**domestic consumer**" means a consumer using water for domestic purposes and producing domestic sewage;

"**domestic purposes**" in relation to the supply of water means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

"drain" means that portion of the drainage installation that conveys sewage within any premises;

"drainage installation" means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

"drainage work" includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

"duly qualified sampler" means a person who is authorized to take samples for analysis from the sewage disposal system, and stormwater disposal system, from public waters, bulk water supply sources, water treatment works, water reticulation systems and natural water sources and who has been certified to do so by an authorized agent;

"DWAF" means the Department of Water Affairs and Forestry;

"dwelling unit" means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

"effluent" means any liquid whether or not containing matter in solution or suspension;

"emergency" means any situation that poses a risk or potential risk to life, health, the environment or property;

"environmental cost" means the cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

"estimated consumption" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of water supply services for a specific level of service during a specific period in the area of supply of the Municipality;

"fire installation" means a potable water installation that conveys water for fire-fighting purposes only, and "fire hydrant" has a similar meaning;

"fixed charge" means the average fixed cost per consumer associated with providing water services in a continuous, effective and efficient manner;

"fixed quantity water delivery system" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"french drain" means a soil soak pit for the disposal of sewage and effluent from a septic tank;

"high strength sewage" means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge 14 may be charged;

"household" means a traditional family unit, as determined by the Municipality from time to time taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of the household and any other relevant factor;

"illegal connection" means a connection to any system through which water services are provided that is not authorized or approved by the Municipality;

"industrial effluent" means effluent emanating from the use of water for industrial purposes and includes for purposes of this by-law any effluent other than standard domestic effluent or stormwater;

"industrial purposes" in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"installation work" means any work done in respect of a water services installation, including the construction, rehabilitation, improvement and maintenance thereof;

"JASWIC" means the Joint Acceptance Scheme for Water Installation Components;

"manhole" means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

"main " means a pipe, other than a connection pipe, of which the ownership vests in the Municipality and which is used by it for the purpose of conveying water to consumers;

"measuring device" means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

"meter" means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act 77 of 1973) or, in the case of water meters of sizes greater than 100 mm, a device which measures the quantity of water passing through it, including a pre-paid water meter;

"municipal account" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"municipality" means the Municipality of Ndlambe established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"municipal manager" means the person appointed as the municipal manager of the Municipality by the Municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person –

(a) acting in such position; and

(b) to whom the municipal manager has transferred a power, function or duty in respect of such a power, function or duty;

"**municipal services**" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"**occupier**" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"**on-site sanitation services**" means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

"**owner**" has the meaning assigned to it in the Customer Care and Revenue Management By-laws;

"**person**" means any person, whether natural or juristic and includes, but is not limited to a local government body, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"**plumber**" means a person who has passed a qualifying trade test in plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act 56 of 1981), or such other qualification as may be required under national legislation;

"**pollution**" means the introduction of any substance into the water supply system, a water installation or a water resource that may make the water harmful to health or the environment or impair its quality for the use for which it is normally intended;

"**premises**" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws and includes a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"**prescribed charge**" means a charge prescribed by the Municipality;

"**professional Engineer**" means a person registered in terms of the Engineering Profession Act, 2000 (Act 46 of 2000), as a professional engineer;

"**public notice**" means publication in appropriate media that may include one or more of the following:

- (a) publication of a notice, in the official languages determined by the Municipality –
 - (i) in any local newspaper or newspapers circulating in the area of supply of the Municipality;
 - (ii) in the newspaper or newspapers circulating in the area of supply of the Municipality determined by the Municipality as a newspaper of record;
 - (iii) by means of radio broadcasts covering the area of supply of the Municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the Municipality; or
- (c) communication with consumers at public meetings and ward committee meetings;

"public water" means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or access;

"sanitation services" has the meaning assigned to it in Section 1 of the Act and includes for purposes of this by-law the disposal of industrial effluent;

"sanitation system" means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Municipality and which may be used by it in connection with the disposal of sewage, and "sewage disposal system" has the same meaning;

"septic tank" means a water tight tank designed to receive sewage and to effect the decomposition of organic matter in sewage by bacterial action;

"service agreement" means the contractual relationship between the Municipality and a consumer, whether written or deemed as provided for in Section 5(3) of the Customer Care and Revenue Management By-laws;

"service pipe" means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

"sewage" means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but does not include stormwater;

"sewer" means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for the conveyance of sewage from the connecting sewer, and does not include a drain as defined;

"shared consumption" means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer's premises are situated for the same period by the number of consumers within that supply zone, during the same period;

"standpipe" means a connection through which water is supplied in a public space or a yard, and which is supported by various means, in a vertical or near vertical position, with a stopcock at its end;

"standard domestic effluent" means domestic effluent with prescribed strength characteristics as determined by the Municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the Municipality, but shall not include industrial effluent;

"stormwater" means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

"terminal water fitting" means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

"trade premises" means premises upon which industrial effluent is produced;

"trap" means a pipe fitting or portion of a sanitary appliance designed to retain in position a water seal which serves as a barrier against the flow of foul air or gas;

"unauthorized services" means receipt, use or consumption of any water services which is not in terms of a services agreement, or authorized or approved by the Municipality;

"waste water" means waste water resulting from the supply of water to a household, offices, shops or any other premises other than industrial premises;

"water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"water installation" means the pipes and water fittings which are situated on any premises and ownership of which vests in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the Municipality;

"Water Services Authority" means a local authority duly established in accordance with law and appointed as Water Services Authority;

"Water Services Provider" has the meaning assigned to it in Section 1 of the Act, and includes -

- (a) an entity established or appointed by the Municipality as its authorized agent to operate and maintain a water supply scheme in accordance with these By-laws and in accordance with the Act; and
- (b) the Municipality where it has not appointed an agent to act as water services provider on its behalf and fulfills this duty itself;

"water services" means water supply services and sanitation services;

"water supply services" has the same meaning assigned to it in Section 1 of the Act and includes, for purposes of this by-law, water for industrial purposes and fire extinguishing services;

"water supply system" means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the Municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

"working day" means a day other than a Saturday, Sunday or public holiday.

(2) Unless the context indicates otherwise and subject to subsection (1), any word or expression used in this By-law to which a meaning has been assigned in -

- (a) the Act and Regulation 22355 promulgated in terms of the Act on 8 June 2003, has that meaning; and
- (b) the National Building Regulations and Building Standards Act, 1977, has that meaning.

2. Principles and objectives

(1) The Municipality adopts the following principles:

- (a) The Municipality recognises that all consumers have the right of access to basic water supply and basic sanitation in the area of jurisdiction of the Municipality within an environment not harmful to human health or well being;

- (b) the Municipality acknowledges that it has the authority to administer water supply services and sanitation services and arising therefrom a concomitant duty to ensure the supply of water services of an acceptable quality within its area of jurisdiction in an efficient, affordable, economical and sustainable manner for subsistence and sustainable economic activity;
 - (c) the Municipality recognizes that, in striving to provide water services it, together with all role-players in the sector and all spheres of government, must observe and adhere to the principle of co-operative governance;
 - (d) the Municipality acknowledges the requirement to draft and promulgate by-laws to govern the provision of water services to its consumers and to govern the relationship between it and its consumers within its area of jurisdiction;
 - (e) the Municipality recognizes that, in the supply of water services, the interests of the consumers and the broader goals of public policy must be promoted;
 - (f) the Municipality acknowledges that there is a duty upon it to prepare and adopt a water services development plan for its area of jurisdiction after thorough consultation with all stakeholders and thereafter to update, manage and report thereon on an annual basis;
 - (g) the Municipality recognises that the provision of water supply services and sanitation services, although an activity distinct from the overall management of water resources, must be undertaken in a manner consistent with the broader goals of water resource management;
 - (h) the Municipality through its Customer Care and Revenue Management By-laws recognises its duty in terms of regulation 16 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, to have a consumer service to which non-compliance with the provisions of above Regulation, as contained in this by-law, can be reported;
 - (i) the Municipality confirms its duty to provide access to water services in an orderly manner within the nation's available water resources.
- (2) The Municipality, in this by-law strives to –
- (a) provide for the rights of access to basic water supply and basic sanitation within its area of jurisdiction, as contemplated in Section 27(1)(b) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and regulations 2 and 3 of Regulation 22355 promulgated in terms of the Act on 8 June 2001;
 - (b) provide for the establishment of a regulatory framework within which to deliver water services;

- (c) provide for the setting of terms and conditions to ensure compliance with the legislation relating to the water sector;
- (d) provide for the monitoring of water services within its area of jurisdiction, and being the Water Services Authority and Provider as provided for in terms of the Act, within its area of jurisdiction, where necessary, to provide for –
 - (i) the gathering of information within its area of jurisdiction;
 - (ii) the collation thereof to a central data base; and
 - (iii) the distribution of information to all stakeholders and role-players; and
- (e) provide for matters related to the supply of water services within its area of jurisdiction.

CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION

3. Customer Care and Revenue Management By-laws apply

The provisions of the Municipality's Customer Care and Revenue Management By-law apply to all matters relating to and incidental to –

- (a) the application for and supply of municipal services;
- (b) municipal service agreements;
- (c) the payment and non-payment of a municipal accounts; and
- (d) the limitation and termination of water services.

CHAPTER 2 : APPOINTMENT : WATER SERVICES PROVIDERS

4. Appointment of water services provider

- (1) Subject to compliance with the provisions of Section 78 of the Municipal Systems Act, No 32 of 2000, the Water Services Authority may elect to perform the function of a Water Services Provider itself or it may enter into a written contract with a Water Services Provider as authorised agent, or form a joint venture with another water services institution to provide water services within its area of jurisdiction.
- (2) When performing the function of a Water Services Provider as authorised agent, a Water Services Authority must manage and account separately for those functions.
- (3) When the Water Services Authority appoints a Water Services Provider as authorised agent to provide water services on its behalf the said Water Services Provider shall be designated as the authorised agent of the Water Services Authority and thereby shall be enabled as Water Services Provider to fulfil the said function as Water Services Provider on behalf of the Water Services Authority in terms of the contract entered into between the Water Services Authority and Water Services Provider.
- (4) When the Water Services Authority, in the event it decides not to perform the function of a Water Services Provider for any local Municipality within its

jurisdiction may appoint the said local Municipality as its Water Services Provider as authorised agent and shall then and thereafter enter into written contract with the said local Municipality to provide water services within the local Municipality's area of jurisdiction, in line and in accordance with this by-law.

(5) If, after carrying out an assessment in terms of Section 78 of the Municipal Systems Act, No 32 of 2000, it is decided by the Water Services Authority not to act as the Water Services Provider in respect of such area of jurisdiction or of a specific water scheme and the said Water Services Authority decides not to appoint a local Municipality or a state or parastatal entity, as its Water Services Provider as authorised agent then it may, in respect of any water scheme established or to be established in its area of jurisdiction as contemplated in Section 19(1)(a) of the Act, by public notice, call for proposals from suitable persons or institutions to seek the approval of the Water Services Authority to be the Water Services Provider as authorised agent in respect of such water scheme as contemplated in Section 22 (1), read with Section 19(1)(b), of the Act.

5. Water services provider – approval

(1) The public notice referred to in Section 4(5) shall be delivered to every public sector Water Services Provider as authorized agent known to the Water Services Authority and shall also be published in a newspaper or newspapers circulating in the area where the water scheme is situated, which notice shall be published in the predominant language of such newspaper and of the majority of people to be served by such water scheme.

(2) The Water Services Authority shall give prior consideration to any proposals submitted by any public sector Water Services Provider as authorised agent as contemplated in Section 19(2) of the Act before considering any proposals submitted by any private sector Water Services Provider as authorised agent.

(3) The Water Services Authority shall, in respect of every water scheme for which it intends to approve a Water Services Provider as authorised agent

(a) prepare a full and detailed description of the water scheme or scheme which will be operated by the Water Services Provider as authorised agent and which shall provide that the Water Services Authority complies with the criteria set in Section 11 of the Act, this by-law and the water development plan adopted by the Water Services Authority in terms of Section 15 of the Act, which description shall include, but not be limited to :

- (i) the name or names of the water scheme or scheme,
- (ii) an indication of the nature of the water services to be provided by the Water Services Provider as authorised agent;
- (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or scheme, including

- all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the proposal;
- (iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the Water Services Provider as authorised agent;
 - (v) details of the source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained; and
 - (vi) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are; and
 - (vii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitudes where appropriate;
- (b) make such information available to all persons or institutions who wish to submit a proposal in response to the public notice published in terms of Section 5(1) above of this by-law.
- 4) Any proposal submitted in response to the public notice contemplated herein shall include the following:
- (a) A certified copy of the identity document of the applicant, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for a approval as a Water Services Provider as authorised agent;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
 - (e) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the Water Services Provider as authorised agent will undertake the supply of water services as contemplated in the proposal, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;

- (f) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes;
- (g) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculations such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act; and
- (h) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

6. Application for approval

(1) Any person or institution seeking approval from the Water Services Authority in terms of Sections 6(1) or 22(1) of the Act under circumstances other than in response to a notice published in terms of Section 5(1), or the renewal of an existing approval, shall do so in accordance with the provisions of this by-law and at its own expense.

- (a) No application for approval in terms of Section 6(1) of the Act shall be granted in respect of any water scheme where the clients or potential clients exceed fifty (50) persons or where the population density exceeds one person per hectare.
- (b) Any application for an approval in terms of Section 30(2)(d) of the Act shall be made under the provisions of Section 22(1) of the Act.

(2) An application for such approval, or the renewal of such approval, shall be made to the Water Services Authority in writing.

(3) Immediately on receipt of an application made in terms of Section 22(1) of the Act, if the applicant is a private sector Water Services Provider as authorised agent the Water Services Authority shall, in terms of Section 19(2) of the Act, notify all public sector water providers known to it and -

- (a) request such public sector water services providers to notify the Water Service Authority within a period of 30 days from the date of the receipt by the public sector water provider of such notice whether it is willing and able to perform the functions contained in the application, and if it is, to provide the Water Services Authority with the documents and particulars referred to in Section 5 and 6, and
- (b) on receipt of such documentation and particulars, the Water Services Authority shall consider such application and decide whether to approve a public sector Water Services Providers or a private sector Water Services Provider as authorised agent in respect of the water scheme concerned.

(4) Any application for approval in terms of Sections 5 and 6, or the renewal of any approval granted by the Water Services Authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the Water Services Authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication :

- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
- (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a Water Services Provider as authorised agent;
- (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
- (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
- (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the Water Supply Authority to determine whether the water scheme or schemes complies with the criteria set in Section 11 of the Act, this by-law and the water development plan adopted by the Water Services Authority in terms of Section 15 of the Act, which description shall include, but not be limited to :
 - (i) the name or names of the water scheme or schemes,
 - (ii) indication of the nature of the water services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the applicant;
 - (v) details of source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained;

- (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
- (viii) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act.
- (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
- (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
- (xi) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

7. Additional information to make decision

(1) The Water Services Authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, this by-law and the water development plan of the Water Services Authority, and whether the obligations of the Water Services Authority, imposed on it by the Act, will be met.

(2) The Water Services Authority may, and it shall, if it initially decides to refuse to accept a proposal made as contemplated in Sections 5 and 6, or if it, initially decides to refuse an application made in terms of Sections 5 and 6, including an application made by a public sector water provider, prior to making a final decision, meet with the proposer or applicant, as the case may be, and any organization reasonably representative of the clients or potential clients of the water scheme or schemes, in order to hear representations made by the applicant and such representative organizations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

8. Procedure on approval

- (1) In the event of the Water Services Authority granting such approval it shall,
 - (a) in the case of an application for approval in terms of Section 7(1) of the Act, issue a letter of approval to the applicant containing such conditions as the Water Services Authority may deem appropriate, which conditions shall be binding on the applicant, and which may contain an obligation to comply with any provision of the by-laws as though such person or institution was an approved Water Services Provider as authorised agent;
 - (b) In the case of an application for approval in terms of Section 22(1) of the Act -
 - (i) if the applicant is a private sector Water Services Provider as authorised agent, cause a notice to be published in a newspaper or newspapers circulating in the area where the water scheme to which the application relates is situated, publicly disclosing its intention to approve such application; and
 - (ii) enter into a contract with the applicant, as contemplated in Section 19(1)(b)(i) of the Act, provided that, in the case of a private sector Water Services Provider as authorised agent, such contract shall not commence until a period of thirty days has elapsed after the date of publication of the notice contemplated in Section 19(1)(b)(i) of the Act and after the Water Services Authority has taken into account any representations made by any person or institution in response to the said notice; and
 - (iii) enter into a joint venture agreement with the Water Services Provider as authorised agent as contemplated in Section 19(1)(b)(ii) of the Act upon such terms and conditions as may be negotiated by such parties, provided that, in the case of a private sector water services provider, such agreement shall not commence until a period of thirty days has elapsed after the Water Services Authority has taken into account any representations made by any person or institution in response to the said notice.
- (2) Any notice contemplated in Section (1)(b)(i) of the Act shall be published in a newspaper or newspapers, and in the predominant language of such newspaper, which is or are most likely to be read by a majority of the clients or potential clients of the water scheme and by the public generally in the area of jurisdiction of the Water Services Authority.
- (3) The by-laws in this Section shall apply in all cases where the Water Services Authority has granted its approval to a person or institution in terms of Section 22(1) of the Act read with the provisions of this by-law.

- (4) The Water Services Authority shall designate each water scheme in its area of jurisdiction into one or other category defined in Section 9 of this by-law.

9 Water scheme categories

- (1) The categories of water scheme contemplated in Section 5 and 6 shall be -
- (a) "Category A" being a range of water schemes from either elementary or rudimentary water schemes providing water supply services by drawing water from a hand pump or protected spring, or the provision of sanitation services to a rural community, to more advanced water schemes providing water supply services by way of an abstraction system which is more sophisticated, which has a metered connection to a bulk main and the capacity to supply both communal stand-pipes and private connection provision, or sanitation services to a rural or semi-urban community;
 - (b) "Category B" being a range of water schemes from either water schemes where the abstraction and reticulation provides water to laid out or clearly identified sites, or sanitation services, to small towns, including un-proclaimed towns, to water schemes providing water supply services or sanitation services to a township proclaimed or approved under any law relating to the establishment of townships or water supply services for industrial use, or for the disposal of industrial effluent.
- (2) The Water Services Authority may from time to time in appropriate circumstances change the category to which any water scheme has been allocated to.
- (3) A Water Services Authority shall give written notice to the appropriate approved Water Services Provider as authorised agent of its intention to change the category to which any water scheme is allocated to such water services of its intention to change the category to which any water scheme is allocated to such Water Services Provider as authorised agent, and the change in allocation shall take effect from the date upon which such notice is delivered to the relevant Water Services Provider as authorised agent.
- (4) The decision of the Water Services Authority to allocate a category to a water scheme shall be final, provided that any person or institution which has an interest in a particular water scheme who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the Water Services Authority against such allocation in accordance with the following provisions -
- (a) an appeal shall be noted in writing delivered to a recognized main office of the Water Services Authority or by pre-paid post addressed to the recognized postal address of the Water Services Authority;
 - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;

- (c) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) The decision of the Council shall be final, but does not preclude the appellant from approaching and utilizing the Courts of Law.
- (5) Subject to the provisions of this By Law, the Water Services Authority may, in its discretion, in respect of any water scheme falling into Category "A", suspend any by-laws .
- (6) Any such suspension shall be reviewed at each Council sitting thereafter with a full motivated submission placed before the full Council as to why the suspension should remain in place. No by-law shall be suspended if the consequences of such suspension shall constitute a contravention of the Act.

10. Water services provider categories

- (1) Every approved Water Services Provider as authorised agent shall be designated as a Category 1 or a Category 2 provider in accordance with the following criteria -
- (a) a Category 1 provider shall be a person or institution which, in the opinion of the Water Services Authority, has the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
 - (b) a Category 2 provider shall be a person or institution which, in the opinion of the Water Services Authority, does not have the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22 (1) of the Act and maintain and operate the water scheme efficiently and effectively.
- (2) The decision of the Water Services Authority to allocate a category to an approved Water Services Provider as authorised agent shall be final, provided that any person or institution which has an interest in a particular provider who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the Council of the Water Services Authority against such allocation in accordance with the following provisions -
- (a) an appeal shall be noted in writing delivered to a recognized main office of the Water Services Authority or by pre-paid post addressed to the recognized postal address of the Water Services Authority;
 - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - (c) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) the decision of the council shall be final.

(3) The Water Services Authority may, in its discretion, require a Category 2 Water Services Provider, as a condition of approval in terms of Section 22(1) of the Act, to enter into a contract with a support services agent who shall in the opinion of the Water Services Authority, have the capacity to provide resources and assistance to the Water Services Provider as authorised agent required to enable the Water Services Provider as authorised agent to comply with the provisions of the Act, this by-law and any contract or joint venture agreement contemplated in Section 19(1)(b)(i) or (ii) of the Act.

(4) A certified copy of the agreement referred to in Section 8 above of this by-law shall be lodged with the Water Services Authority and such copy shall at all times reflect the true agreement between the parties to it.

(5) Any contract entered into in terms of Section 8 above of this by-law shall be approved by the Water Services Authority and may not be amended by the Water Services Provider as authorised agent and the support services agent without the prior written consent of the Water Services Authority.

11. Monthly report

(1) An approved Water Services Provider as authorised agent shall submit a monthly report to the Water Services Authority providing at least the following information -

- (a) such information as the Water Services Authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of the Act, the applicable water development plan, this by-law and the contract or joint venture contemplated in Section 19(1)(b)(i) or (ii) of the Act;
- (b) Failure to submit the said report shall constitute grounds upon which the Water Services Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Services Provider as authorised concerned;
- (c) Such information pertaining to the quality of water so that the Water Services Authority may monitor and evaluate to such quality of water being delivered to the community within the area of jurisdiction of the Water Services Provider as authorised agent.

12. Quarterly report

(1) An approved Water Services Provider as authorised agent shall submit a quarterly report to the Water Services Authority providing the following information :

- (a) the names and addressed of all clients;
- (b) the quantity of water consumed by each client;
- (c) the record of payments made by each client;

- (d) arrears owing by clients to the approved Water Services Provider as authorised agent and the steps being taken to recover such arrears;
 - (e) arrears written off as irrecoverable and reasons why they are deemed to be irrecoverable; and
 - (f) circumstances where water services are limited or discontinued and the reasons why such services are so limited or discontinued.
- (2) Failure to submit the said report shall constitute grounds upon which the Water Services Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Services Provider as authorised agent concerned.

13. Disputes

Any dispute or conflict arising between the Water Services Authority and an approved Water Services Provider as authorised agent shall be resolved by mediation and arbitration and every agreement made and entered into under the provisions of this by-law shall contain appropriate provisions to that effect.

CHAPTER 3: SERVICE LEVELS

14. Service levels

- (1) The Municipality may in accordance with national policy, but subject to principles of sustainability and affordability determine the service levels it is able to provide to consumers and must make these known by public notice.
- (2) The Municipality may, in determining service levels, differentiate between types of consumers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the Municipality:
 - (a) Communal water supply services and on-site sanitation services –
 - (i) constituting the minimum level of service provided by the Municipality;
 - (ii) consisting of reticulated standpipes or a stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises, with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;
 - (iii) installed free of charge;
 - (iv) provided free of any charge to consumers; and
 - (v) maintained by the Municipality;

- (b) a yard connection not connected to any water installation and an individual connection to the Municipality's sanitation system –
 - (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the Municipality's sanitation system;
 - (ii) installed free of charge;
 - (iii) provided free of any charge to consumers; and
 - (iv) maintained by the Municipality; and
- (c) a metered pressured water connection with an individual connection to the Municipality's sanitation system –
 - (i) installed against payment of the relevant connection charges;
 - (ii) provided against payment of the prescribed tariff; and
 - (iii) with the water and drainage installations maintained by the consumer.

CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES

Part 1: Connection to water supply systems

15. Application for water service

- (1) Application for water services is to be made in terms of Section 5 of the Customer Care and Revenue Management By-laws.
- (2) Where premises or a consumer are provided with a water service, it is deemed that a services agreement contemplated in Section 5(3) of the Customer Care and Revenue Management By-laws, exists.
- (3) The Municipality must, on application as contemplated in subsection (1), inform the applicant of the different levels of services contemplated in Section 14(3) and the tariffs or charges associated with each level of services, and the applicant must elect the level of services to be provided to him or her or it.
- (4) A consumer may at any time apply that the level of services elected in terms of the agreement entered into be altered, provided that –
 - (a) such services are available; and
 - (b) any costs and expenditure associated with altering the level of services are payable by the consumer.
- (5) When a person applies in terms of Section 5 of the Customer Care and Revenue Management By-laws, the Municipality must ensure, through a process of interaction with the applicant, that the applicant understands the contents of the application form.
- (6) In the instance where an illiterate or similarly disadvantaged person applies, the Municipality must take additional steps to ensure that the applicant understands such contents.

16. Special agreements for water services

The Municipality may enter into a special agreement with an applicant for the provision of water services to –

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the form contemplated in Section 5(1) of the Customer Care and Revenue Management By-laws; and
- (b) an applicant outside its area of jurisdiction, if such application has been approved by the Water Services Authority having jurisdiction or supplying water services in the area in which the water is sourced.

17. Change in purpose for which water services are used

Where the purpose for or extent to which water services used is changed from that provided for in the agreement, the responsibility is on the consumer to advise the Municipality of such change, and the consumer must then enter into a new agreement with the Municipality.

18. Provision of connection pipe

- (1) If a services agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner must apply on the prescribed form, and pay the prescribed tariff for the installation of such a pipe.
- (2) If an application is made for a water supply service which is of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.
- (3) Only the Municipality may install a connection pipe, but the owner or consumer may connect the water installation to the connection pipe.
- (4) A person may not commence any development on any premises unless the Municipality has installed a connection pipe and meter.

19. Location of connection pipe

- (1) A connection pipe provided and installed by the Municipality must –
 - (a) be located in a position agreed to between the owner and the Municipality and be of the size determined by the Municipality;
 - (b) terminate at –
 - (i) the boundary of the land owned by or vested in the Municipality, or over which the Municipality has a servitude or other right;
 - (ii) the outlet of the water meter if it is situated on the premises; or
 - (iii) the isolating valve if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the Municipality must ensure that the owner is aware of –

- (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe; and
 - (c) whether or not the Municipality requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the Municipality to connect to such installation.
- (3) The Municipality may on application by any person agree, subject to such conditions as it may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises, but the applicant is responsible for any extension of the water installation to the connection point designated by the Municipality and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge in advance before a water connection can be effected.

20. Provision of single water connection for supply to several consumers on same premises

- (1) Despite Section 18, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the Municipality may provide and install either –
- (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the Municipality has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be –
- (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connection pipe to the different accommodation units –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and
 - (b) is liable to the Municipality for the tariffs and charge for all water supplied to the premises through such a single measuring device,

irrespective of the different quantities consumed by the different consumers served by such measuring device.

(4) Despite subsection (1), the Municipality may authorise that more than one connection pipe be provided on the water supply system for the supply of water to any premises –

- (a) comprising sectional title units; or
- (b) if undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.

(5) Where the provision of more than one connection pipe is authorized by the Municipality under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.

(6) Where premises is supplied by a number of connection pipes, the Municipality may require the owner to reduce the number of connection points and alter his or her water installation accordingly.

21. Interconnection between premises or water installations

(1) An owner of premises must ensure, subject to subsection (2), that no interconnection exists between –

- (a) the water installation on his or her premises and the water installation on other premises; or
- (b) where several accommodation units are situated on the same premises, between the water installations of the accommodation units.

(2) Interconnection may exist only if he or she –

- (a) has obtained the prior written consent of the Municipality; and
- (b) complies with any conditions that it may have imposed.

22. Disconnection of water installation from connection pipe

The Municipality may disconnect a water installation from the connection pipe and remove the connection pipe if –

- (a) the agreement for supply has been terminated and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

23. Communal water services works and provision of water services work for water supply to several consumers

The Municipality may install a communal water services work for the provision of water services to several consumers at a location that the Municipality deems appropriate, provided that the consumers to whom water services will be provided by that water services work have been consulted in respect of –

- (a) the level of service;
- (b) the tariff that will be payable; and

- (c) the location of the work.

24. Temporary supply from water supply system

- (1) The Municipality may authorise a temporary supply of water to be taken from one or more water supply systems specified by it, subject to such conditions and period as it may prescribe.
- (2) A person who desires a temporary supply of water referred to in subsection (1) or the use of a portable water meter in terms of subsection (4) or both a supply and a meter, must apply to the Municipality for such service.
- (3) Supply of water in terms of subsection (1) must be measured.
- (4) The Municipality may for purposes of measuring provide a portable water meter to be returned to the Municipality on termination of the temporary supply, and the portable meter and all other fittings and apparatus used for the connection of the portable water meter to the system –
- (a) remain the property of the Municipality; and
 - (b) may be provided subject to any conditions imposed by the Municipality.

Part 2: Standards and conditions of supply

25. Quantity, quality and pressure

Water supply services provided by the Municipality must comply with the minimum standards set for the provision of water supply services as required in terms of regulations 3, 5 and 15 of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

26. General conditions of supply

- (1) The Municipality may specify the maximum pressure to which water will be supplied from the water supply system but where a consumer requires water to be supplied at a greater pressure and this is technically feasible the consumer will be responsible for the costs.
- (2) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If the consumption of water by a consumer adversely affects the supply of water to another consumer, the Municipality –
- (a) may apply restrictions to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer; and
 - (b) must in writing inform the first mentioned consumer of the restrictions.

27. Testing of pressure in water supply system

The Municipality may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the value of the pressure

in the water supply system relating to his or her premises over such period as he or she may request.

28. Pollution of Municipality's water supply

(1) A person may not, unless the person is specifically authorized to do so in writing by the Municipality on application and if the water is used by it in connection with the water supply, in any manner pollute –

- (a) water in a reservoir or other place –
 - (i) which is either in whole or in part vested in the Municipality; or
 - (ii) which the Municipality owns or controls, either in whole or in part; and
 - (b) water or the environment in the jurisdiction of the Municipality, including but not restricted to all water sources such as streams, rivers, and dams.
- (2) (a) A person may not deposit or discharge rubbish, night-soil, industrial waste or other matter which may cause pollution of any nature on a portion of a catchment area, which has been designated by notice boards as an area where such acts are prohibited, relating to the Municipality's water supply.
- (b) A person may deposit or discharge rubbish, night-soil, industrial waste or other matter only at places designated by notice boards or in receptacles as are provided by the Municipality.
- (3) If a person contravenes subsection (1) or (2)(a), the Municipality may –
- (a) by written notice require the person immediately to stop the prohibited act and to take specified action within the specified period; or
 - (b) if the situation is a matter of urgency, without prior notice take such action as may be necessary and recover the cost from the person.

29. Owner to prevent pollution of water

(1) An owner must provide and maintain approved measures to prevent the entry of a substance which may be a danger to health or adversely affect the possibility of water or affect its fitness for use into –

- (a) the water supply system; and
 - (b) any part of the water installation on his or her premises,
- (2) If an owner fails to comply with subsection (1) and pollution occurs, the Municipality may serve a notice contemplated in Section 131 on the owner.

30. Water restrictions

(1) The Municipality may –

- (a) for the purposes of water conservation;
- (b) where drought conditions prevail or are imminent;
- (c) to prevent the wasteful use of water, or;

- (d) in the event of a water shortage, drought or flood, by public notice –
 - (i) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –
 - (aa) specified purposes;
 - (bb) during specified hours of the day or on specified days; or
 - (cc) in a specified manner;
 - (ii) determine and impose –
 - (aa) a limit on the quantity of water that may be consumed over a specified period;
 - (bb) charges additional to those the prescribed tariff in respect of the supply of water in excess of a limit contemplated in item (aa); or
 - (cc) a general surcharge on the prescribed tariff in respect of the supply of water; or
 - (iii) impose restrictions or prohibitions on –
 - (aa) the use or manner of use or disposition of an appliance by means of which water is used or consumed; or
 - (bb) the connection of such appliances to the water installation.
- (2) A public notice contemplated in subsection (1) must, except in the event of a flood or other disaster necessitating the immediate restriction or prohibition of the consumption of water, set out the date and time when such restrictions become effective, being not less than three days after the date of publication of the public notice.
- (3) The Municipality may –
 - (a) limit the application of the provisions of a public notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities; or
 - (b) permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (4) The Municipality may –
 - (a) take measures, or by written notice require a consumer at his or her own expense to take measures, including the installation of measurement devices and devices for restricting the flow of water, as may be necessary to ensure compliance with a public notice published contemplated in subsection (1); or
 - (b) for such period as it may deem fit, limit the supply of water to any premises in the event of –
 - (i) a contravention of the public notice on such premises; or
 - (ii) failure to comply with the terms of a public notice contemplated in of subsection (1),and where the supply has been limited, it shall only be restored when the prescribed tariff for reconnecting the supply has been paid.

(5) The provisions of this Section also apply in respect of water supplied directly by the Municipality to consumers outside its area of jurisdiction, despite anything to the contrary in the conditions governing such supply, unless otherwise specified in the public notice contemplated in subsection (1).

31. Specific conditions of supply

(1) Despite Section 25, the granting of a supply of water by the Municipality does not constitute an undertaking by it to maintain at all times or at all points in its water supply system –

- (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
- (b) a specific pressure or rate of flow in such supply other than required in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

(2) The Municipality may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.

(3) If an owner requires –

- (a) that any of the standards referred to in subsection (1); or
- (b) a higher standard of service than specified in Section 25,

be maintained on his or her premises, he or she must take the necessary steps to ensure that his or her water installation is able to meet such standards.

(4) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.

(5) The Municipality is not liable for any damage to property caused by water flowing from any water installation left open when the water supply is re-instated, following an interruption in supply.

(6) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water must have a storage tank where water can be stored when the continuous supply is disrupted, and the storage tank –

- (a) must comply with the specification for water storage tanks as stipulated in SABS 0252 Part 1; and
- (b) must have a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption.

Part 3: Measurement

32. Measuring of quantity of water supplied

(1) The Municipality may install at any point on the service pipe on the premises a measuring device, and its associated apparatus.

(2) If the Municipality installs a measuring device on a service pipe in terms of subsection (4), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section is deemed to form part of the water supply system.

(3) If the Municipality installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner –

- (a) must provide a suitable place in which to install it;
- (b) must ensure that unrestricted access is available at all times;
- (c) is responsible for its protection and is liable for the costs arising from damage thereto, excluding damage arising from normal wear and tear;
- (d) must ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation;
- (e) must provide for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the Municipality on the measuring device; and
- (f) may not use or permit to be used on any water installation, any fitting, machine or appliance which causes damage or is likely to cause damage to any meter.

(4) A person other than the Municipality may not –

- (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
- (b) break a seal which the Municipality has placed on a meter; or
- (c) in any other way interfere with a measuring device and its associated apparatus.

(5) If the measuring device is a meter and its size is unsuitable by reason of the quantity of water supplied to premises, the Municipality may –

- (a) install a meter of such size as is necessary; and
- (b) recover from the owner of the premises concerned the prescribed tariff for the installation of the meter.

(6) The Municipality may require that the owner, at his or her expense, install a measuring device to each dwelling unit on any premises, to determine the quantity of water supplied to each unit, but where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

33. Quantity of water supplied to consumer

(1) Where water supplied by the Municipality to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the Municipality, the Municipality, for the purpose of rendering an account, may estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period that water is so taken by the consumer.

(2) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer is based on, as the Municipality may decide –

- (a) the average monthly consumption of water on the premises registered over three succeeding measuring periods after the date on which the irregularity referred to in subsection (2) was discovered and rectified; or
 - (b) the average monthly consumption of water on the premises during any three consecutive measuring periods during the 12 months' period before the date on which it was discovered that the water was taken in the manner mentioned in subsection (2).
- (3) Nothing in this by-law may be construed as imposing on the Municipality an obligation to cause any measuring device installed by the Municipality on any premises to be read at the end of every month or any other fixed period, and the Municipality may charge the consumer an average consumption during the interval between successive readings of the measuring device.
- (4) Until such time as a measuring device has been installed in respect of water supplied to a consumer, the estimated or shared consumption of that consumer must be based on the average consumption, during a specific period, of water supplied to the specific supply zone within which the consumer's premises is situated.
- (5) Where it is not reasonably possible or cost effective to measure water supplied to each consumer within a determined supply zone, the Municipality may determine a tariff or charge based on the estimated or shared consumption of water supplied to that supply zone.
- (6) The Municipality must, within seven days measure the quantity of water supplied to the consumer at a time or on a day other than that upon which it would normally be measured –
- (a) on receipt of a written notice from the consumer; and
 - (b) subject to payment of the determined charge.

34. Special measurement

- (1) If the Municipality requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner concerned of its intention to install a measuring device at such point in the water installation as it may specify.
- (2) The installation of a measuring device, its removal, and the restoration of the water installation after such removal must be carried out at the expense of the Municipality.
- (3) Section 32(2) and (3) apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

35. Sampling of water

- (1) The Municipality must determine times and must, at those times, at its cost, take samples of water in the water supply systems for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of Section 9 of the Act.

(2) The Municipality may take samples of water obtained from a source, authorized in terms of Section 6 or 7 of the Act, other than the water supply system for domestic purposes, and cause the samples to be tested for compliance with any national standards prescribed in terms of Section 9 of the Act.

(3) The person to whom approval was granted in terms of Section 6(1) or 7(1) of the Act to use the water for potable water, must pay the relevant charge in the prescribed tariff for the taking and testing of the samples referred to in subsection (1).

36. Supply of non-potable water by Municipality

(1) The Municipality may on application, and subject to such terms and conditions as it may impose, agree to supply non-potable water to a consumer.

(2) Any supply of water agreed to in terms of subsection (1) may not be used for domestic or any other purposes if it may give rise to a health risk.

(3) No warranty, expressed or implied, applies to the purity of any non-potable water supplied by the Municipality or its suitability for the purpose for which the supply was granted.

(4) The supply of non-potable water, both as to condition and use, is entirely at the risk of the consumer, who is liable for any consequential damage or loss arising to himself, herself or others, including the consequences of any bona fide fault without negligence of the Municipality or the malfunction of a treatment plant.

37. Pipes in streets or public places

No person may, for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any the Municipality, except with the prior written permission of the Municipality and subject to such conditions as it may impose.

Part 4: Audit

38. Water audit

(1) The Municipality may, in order to assist it in its duty under regulations 10, 11 and 13 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, require a consumer, within one month after the end of a financial year of the Municipality, to undertake an annual water audit at his or her or its own cost.

(2) A copy of the audit must be available for inspection by officials from –

- (a) the Department of Water Affairs and Forestry; and
- (b) the Municipality.

(3) The audit must contain details in respect of –

- (a) the amount of water used during the financial year;
- (b) the amount paid for water for the financial year;
- (c) the number of people living on the stand or premises;
- (d) the number of people permanently working on the stand or premises;

- (e) the seasonal variation in demand according to monthly consumption figures;
- (f) the water pollution monitoring methods;
- (g) the plans to manage demand for water;
- (h) estimates of consumption by various components or uses, and a comparison of the above factors with those reported in each of the previous three years, where available;
- (i) the current initiatives to manage demand for water; and
- (j) a comparison of the above factors with those reported in each of the previous 3 years (where available).

Part 5: Installation work

39. Approval of installation work

- (1) If an owner wishes to have installation work done, he or she must first obtain the Municipality's written approval, but the approval is not required –
 - (a) in the case of water installations in dwelling units or installations where no fire installation is required in terms of SABS Code 0400; or
 - (b) for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1) must be made on the prescribed form, and must be accompanied by –
 - (a) the prescribed tariff, if applicable;
 - (b) copies of the drawings as prescribed by the Municipality, giving information in the form required by Clause 4.1.1 of SABS Code 0252: Part I; and
 - (c) a certificate certifying that the installation has been designed in accordance with SABS Code 0252: Part 1 or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) do not apply to a plumber who replaces a fixed water heater or its associated protective devices.
- (4) Approval given in terms of subsection (1) lapses at the expiry of a period of 24 months after the first day of the month succeeding the month in which the approval is given.
- (5) Where approval was required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.
- (6) If installation work has been done in contravention of subsection (1) and (2), the Municipality may by written notice require the owner of the premises concerned to –
 - (a) rectify the contravention within a specified period;
 - (b) if work is in progress, to cease the work; or
 - (c) remove all such work which does not comply with this Section.

40. Persons permitted to do installation and other work

- (1) A person, except a plumber or a person working under a plumber may not –
 - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
 - (b) replace a fixed water heater or its associated protective devices;
 - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
 - (d) service, repair or replace a back flow preventer; or
 - (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) A person may not require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Despite subsection (1), the Municipality may on application in writing permit a person who is not a plumber to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her immediate household, but such work must be inspected and approved by a plumber at the direction of the Municipality.

41. Technical requirements for water installation

Subject to regulation 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, application for approval must be accompanied by a certificate and drawings in terms of SABS 0252, and all water installations must comply with SABS 0252 Part 1, and all fixed electrical storage water heaters must comply with SABS 0254.

42. Provision and maintenance of water installations

- (1) An owner must provide and maintain his or her water installation situated within the boundary of his or her premises at his or her own cost.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner must obtain the written permission of the Municipality or the owner of the land on which such portion is situated, as the case may be.
- (3) An owner must install an isolating valve –
 - (a) in the case of a meter installed outside the boundary, at a suitable point on a service pipe immediately inside the boundary of the property; and
 - (b) in the case of a meter installed on the premises, at a suitable point on his or her service pipe.
- (4) In accordance with regulation 12 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality must repair any major, visible or reported leak in its water services system within 48 hours of becoming aware thereof.

43. Use of pipes and water fittings to be authorized

- (1) A person may not, without the prior written authority of the Municipality, install or use a pipe or water fitting in a water installation within the Municipality's area of jurisdiction, unless it is included in the schedule of approved pipes and fittings contemplated in subsection (6) as compiled by the Municipality.
- (2) Application for the inclusion of a pipe or water fitting in the schedule referred to in subsection (1) must be made on the prescribed form, and be accompanied by the relevant charge set out in the prescribed tariff.
- (3) A pipe or water fitting may be included in the schedule referred to in subsection (1) if –
 - (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau;
 - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years; or
 - (c) it is deemed acceptable by the Municipality.
- (4) The Municipality may, in respect of any pipe or water fitting included in the schedule, impose such additional conditions as it may deem necessary in respect of the use or method of installation thereof.
- (5) A pipe or water fitting must be removed from the schedule if it –
 - (a) no longer complies with the criteria upon which its inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The schedule of approved pipes and fittings must be available for inspection at the office of the Municipality at any time during working hours.
- (7) The Municipality may sell copies of the current schedule at the relevant charge set out in the prescribed tariff.

44. Labelling of terminal water fittings and appliances

All terminal water fittings and appliances using or discharging water must be marked, or must have included within the packaging of each item –

- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate; and
- (b) the flow rates, in litres per minute, related to the design pressure range, and this information must be given for at least the water pressures of 20kPa, 100kPa, and 400 kPa.

45. Water demand management

- (1) A shower head with a maximum flow rate of greater than 10 litres per minute may not be installed in any water installation where –
 - (a) the dynamic water pressure is more than 200 kPa at a shower control valve; and

- (b) the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve.
- (2) The maximum flow rate from any tap installed on a wash hand basin may not exceed six litres per minute.

Part 6: Communal water supply services

46. Provision of water supply to several consumers

- (1) The Municipality may install a communal standpipe for the provision of water supply services to several consumers at a location it deems appropriate, provided that the consumers to whom water supply services will be provided by that communal standpipe have been consulted.
- (2) The Municipality may provide communal water supply services by a communal installation designed to provide a controlled volume of water to several consumers.

Part 7: Temporary water supply services from fire hydrant

47. Water supplied from fire hydrant

- (1) The Municipality may in writing authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and period as may be stated by it in the authority, and payment of such applicable charges, including a deposit, as may be determined by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1) must apply for such water supply services in terms of provisions of the Customer Care and Revenue Management By-laws of the Municipality.
- (3) The Municipality must provide a portable water meter and all other fittings and apparatus necessary for the temporary supply of water from a hydrant.
- (4) The portable meter and all other fittings and apparatus provided for the temporary supply of water from a hydrant remains the property of the Municipality on termination of the temporary supply, and failure to return the portable meter and all other fittings and apparatus is an offence.

Part 8: Boreholes

48. Notification of boreholes

- (1) A person may not sink a borehole on premises situated in a dolomite area, and a person must, before he or she sinks a borehole, determine if the premises on which the borehole is to be sunk is situated within a dolomite area.
- (2) The Municipality may require the owner or occupier of any premises who intends to sink a borehole as contemplated in subsection (4)(b) to undertake an environmental impact assessment for such intended borehole before sinking the borehole.

- (3) Boreholes are subject to the requirements of the National Water Act, 1998 (Act 36 of 1998).
- (4) The Municipality may, by public notice, require –
 - (a) the owner of any premises within the area of jurisdiction of the Municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the a form similar to the DWAF form DW805 of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
 - (b) the owner or occupier of any premises who intends to sink a borehole on premises to notify it on a form similar to the DWAF form DW805 of such intention before work in connection therewith is commenced.
- (5) The Municipality may –
 - (a) by notice require an owner or occupier who has an existing borehole used for water services; or
 - (b) or by public notice require owners or occupiers who have existing boreholes used for water services,to obtain approval from it for the use of a borehole for potable water supply services in accordance with Sections 6, 7 and 22 of the Act.
- (6) The Municipality may, in the notices contemplated in subsection (5)(a) and (b) –
 - (a) impose conditions in respect of the use of a borehole for potable water services; and
 - (b) impose a fixed charge in respect of the use of a borehole.

Part 9: Fire services connections

49. Connection to be approved by Municipality

- (1) The Municipality may grant or refuse an application for the connection of a fire extinguishing installation to the Municipality's main.
- (2) No water may be supplied to any fire extinguishing installation until a certificate in terms of Section 39(2)(c) has been submitted to the Municipality and until the installation complies with the requirements of this by-law and any other relevant by-laws of the Municipality.
- (3) The Municipality is entitled, if it has allowed a fire extinguishing installation to be connected to its main, either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the consumer's expense, if the fire extinguishing installation is –
 - (a) not being kept in proper working order;
 - (b) otherwise not being properly maintained; or
 - (c) is being used for a purpose other than fire fighting.

50. Special provisions

The provisions of SABS 0252-1:1994 apply to the supply of water for fire fighting purposes.

51. Dual and combined installations

All new buildings erected after this by-law commence, must comply with the following requirements in relation to the provision of fire extinguishing services:

- (a) If boosting of the system is required, a dual pipe system must be used, one for fire extinguishing purposes and the other for general domestic purposes;
- (b) combined installations are only permitted subject to paragraph (c) where no booster pumping connection is provided on the water installation, and in such case the Municipality must provide a fire hydrant, at the consumer's expenses within 90m of the property to provide a source of water for the fire tender to extinguish the fire;
- (c) combined installations where a booster pumping connection is provided are only permitted when designs have been approved and certified by the Municipality; and
- (d) all pipes and fittings –
 - (i) must be capable of handling pressures in excess of 1 800 kPa, which could be expected when boosting takes place; and
 - (ii) must maintain their integrity when exposed to fire conditions.

52. Connection pipes for fire extinguishing services

- (1) The Municipality must provide at all premises where provision has been made for fire extinguishing services, a single connection pipe for both fire extinguishing services (excluding sprinkler systems) and potable water supply services.
- (2) At all premises where provision has been made for fire extinguishing services, the Municipality must provide and install at the cost of the owner a combination meter on the connection pipe.
- (3) A separate connection pipe must be laid and used for every fire sprinkler extinguishing system unless otherwise approved.
- (4) A connection pipe must be equipped with a measuring device that will not obstruct the flow of water while operating under fire fighting conditions.

53. Valves and meters in connection pipes

Every connection pipe to a fire extinguishing installation must be fitted with valves and a measuring device which is –

- (a) supplied by the Municipality at the expense of the consumer;
- (b) installed between the consumer's property and the main; and
- (c) installed in such position as may be determined by the Municipality.

54. Meters in fire extinguishing connection pipes

If it appears to the Municipality that water has been drawn for purposes other than for the purpose of extinguishing a fire from a connection pipe which is used solely for fire extinguishing purposes, the Municipality is entitled to install a water meter in the pipe, and the owner of the premises is liable for all costs in so doing.

55. Sprinkler extinguishing installations

A consumer may install a sprinkler installation in direct communication with the main, but the Municipality is not regarded to guarantee any specified pressure at any time.

56. Header tank or double supply from main

- (1) The consumer must, unless the installation is provided with a duplicate supply from a separate main, install a header tank for its sprinkler installation at such elevation as will compensate for any failure or reduction of pressure in the Municipality's main.
- (2) The main pipe leading from such header tank to the sprinkler installation may be in direct communication with the main, provided that such main pipe must be equipped with a reflux valve which, if for any reason the pressure in the main fails or is reduced, will shut off the supply from the main.
- (3) Where a sprinkler installation is provided with a duplicate supply from a separate main, each supply pipe must be equipped with a reflux valve situated within the premises.

57. Sealing of private fire hydrants

- (1) Except in the case of a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the Municipality and the seals may not be broken by any person other than the Municipality, except
 - (a) for the purposes of opening the hydrant in the case of fire; or
 - (b) in the course of servicing and testing.
- (2) The consumer must give the Municipality at least 48 hours written notice prior to a fire extinguishing installation being serviced and tested.
- (3) The consumer must bear the cost of resealing such a hydrant and hose-reel except when such seals are broken by the Municipality's officers for testing purposes.
- (4) The consumer must pay for any water consumed by a fire installation or sprinkler system at the relevant charges in the prescribed tariff.

CHAPTER 5 : CONDITIONS FOR SANITATION SERVICES

Part 1: Connection to sanitation system

58. Obligation to connect to sanitation system

- (1) Unless consent for the use of on-site sanitation services was obtained in accordance with Section 64, a premises on which sewage is produced must be connected to the Municipality's sanitation system if –
 - (a) a connecting sewer is available; or
 - (b) it is reasonably possible or cost effective for the Municipality to install a connecting sewer.
- (2) The Municipality may, by serving a written notice, require the owner of premises which is not connected to the Municipality's sanitation system to connect to the sanitation system.
- (3) The owner of premises required to connect to the Municipality's sanitation system in accordance with subsection (2), must inform the Municipality in writing of the on-site sanitation services provided by the Municipality that will no longer be required as a result of the connection to the sanitation system, and the owner remains liable for any charges payable in respect of on-site sanitation services until the agreement for such services has been terminated in accordance with Section 9 of the Customer Care and Revenue Management By-laws,.
- (4) If the owner fails to connect to the sanitation system in accordance with the notice contemplated in subsection (2) the Municipality may, despite any other actions it may take in terms of this by-law, impose penalties as determined by it.

59. Standards for sanitation services

Sanitation services provided by the Municipality must comply with the minimum standards for basic sanitation services as required in terms of regulation 2 of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

60. Objectionable discharge to sewage disposal system

- (1) Subject to regulations 7 and 8 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, a person may not discharge, or permit the discharge or entry into the sewage disposal system or sea outfalls discharge point or in any public water of any sewage or other substance which does not comply with the standards and criteria set out in Section 59, and which –
 - (a) contains any substance in such concentration as will produce or be likely to produce in the effluent for discharge at any sewage treatment plant or sea outfalls discharge point or in any public water, any offensive or otherwise undesirable taste, colour, odour, temperature or any foam;
 - (b) may prejudice the re-use of treated sewage;
 - (c) may adversely affect any of the processes whereby sewage is treated for re-use;

- (d) may adversely affect any of the processes whereby sewage is treated to produce sludge for disposal;
 - (e) contains any substance or thing of whatever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant;
 - (f) contains any substance or thing of whatever nature which causes or is likely to cause a breakdown or inhibition of the processes in use at a sewage treatment plant;
 - (g) contains any substance or thing of whatever nature which is of such strength, or which is amendable to treatment only to a degree as will result in effluent from the sewage treatment plant or discharge from any sea outfalls not complying with standards prescribed under the National Water Act, 1998 (Act 36 of 1998);
 - (h) may cause danger to the health or safety of any person;
 - (i) may be injurious to the structure or materials of the sewage disposal system;
 - (j) may prejudice the use of any ground used by the Municipality; or
 - (k) may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) A person may not cause or permit any storm water to enter the sewage disposal system.
- (3) Subject to regulation 6 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with this by-law and to report such findings to an authorized agent.
- (4) If any person becomes aware of a contravention of any provision of subsection (1) or (2) he or she must within 12 hours, or earlier if possible, advise the Municipality of the details of the contravention and the reasons for it.

Part 2: On-site sanitation services and associated services

61. Application for infrastructure

- (1) If a services agreement for on-site sanitation and associated services has been concluded or if it is not reasonably possible or cost effective for the Municipality to install a connecting sewer or no infrastructure in connection therewith exists on the premises, the owner must immediately make application for on-site sanitation services on the prescribed form and –
- (a) pay the prescribed charge for the installation of necessary infrastructure; or
 - (b) with the approval by the Municipality, install the connection sewer or on- site sanitation services in accordance with the specifications of the Municipality.

- (2) The Municipality may specify in the approval the type of on-site sanitation services to be installed.

62. Use of on-site sanitation services not connected to sanitation system

- (1) A person may not use or permit the use, for domestic, commercial or industrial purposes, of on-site sanitation services which are not connected to the Municipality's sanitation system, except with the consent of the Municipality first having been obtained, and in accordance with such conditions as it may impose.
- (2) A person desiring the consent referred to in subsection (1) must provide the Municipality with evidence that the sanitation facility is not likely to have a detrimental effect on health or the environment.
- (3) The Municipality may withdraw consent given in terms of subsection (1) if –
- (a) a condition imposed in terms of subsection (1) is breached; or
 - (b) the sanitation facility has a detrimental impact on health or the environment.
- (4) The Municipality may undertake investigations to determine if a sanitation facility has a detrimental impact on health or the environment.
- (5) The person to whom consent was granted in terms of subsection (1) is liable for the costs associated with an investigation undertaken in terms of subsection (4) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

63. Septic tanks and on-site sewage treatment plants

- (1) The Municipality may, on such conditions as it may specify, approve the disposal of sewage or other effluent by means of septic tanks or other on-site sewage treatment plants.
- (2) A septic tank or other on-site sewage treatment plant may not be situated nearer than three metres to any dwelling unit or to any boundary of the premises on which it is situated.
- (3) Effluent from a septic tank or other on-site sewage treatment plant must be disposed of by french drains approved under Section 64.
- (4) A septic tank must be watertight, securely covered and provided with gas-tight means of access to its interior adequate to permit the inspection of the inlet and outlet pipes and adequate for the purpose of removing sludge.
- (5) A septic tank serving a dwelling unit must –
- (a) have a capacity below the level of the invert of the outlet pipe of not less than 500 litres per bedroom, subject to a minimum capacity below such invert level of 2 500 litres;
 - (b) have an internal width of not less than one metre measured at right angles to the direction of the flow;
 - (c) have an internal depth between the cover and the bottom of the tank of not less than 1,7 m; and
 - (d) retain liquid to a depth of not less than 1,4 m.

- (6) The design of septic tanks serving premises other than a dwelling unit must, prior to construction, be approved and certified by the Municipality.

64. French drains

- (1) The Municipality may approve the disposal of waste water or other effluent by means of french drains, soakage pits or other approved works on such conditions as it may specify having regard to the quantity and the nature of the effluent and the nature of the soil as determined by the permeability test prescribed by the South African Bureau of Standards.
- (2) A french drain, soakage pit or other similar work may not –
- (a) be situated closer than five metres to any dwelling unit or to any boundary of any premises on which it is situated;
 - (b) be in any position as will cause contamination of any borehole or other source of water which is or may be used for drinking purposes; or
 - (c) cause dampness in any building.
- (3) The dimensions of any french drain, soakage pit or other similar work must be determined in relation to the absorbent qualities of the soil and the nature and quantity of the effluent.
- (4) The design of french drains serving premises other than a dwelling house must be approved and certified by the Municipality.

65. Conservancy tanks

- (1) The Municipality may, on such conditions as it may specify, approve the construction of a conservancy tank and ancillary appliances for the retention sewage or effluent.
- (2) No rain water, storm-water or effluent other than that approved by the Municipality may be discharged into a conservancy tank.
- (3) No conservancy tank may be used as such, unless –
- (a) the invert of the tank slopes towards the outlet at a gradient of not less than 1 in 10;
 - (b) the tank is gas and water tight;
 - (c) the tank has an outlet pipe, 100 mm in internal diameter, made of wrought iron, cast iron or other approved material and, except if otherwise approved by the Municipality, an approved valve and fittings for connection to removal vehicles;
 - (d) the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber having an approved hinged cover and situated in such position as required by the Municipality; and
 - (e) access to the conservancy tank is provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.

- (4) The Municipality may, having regard to the position of a conservancy tank or the point of connection for a removal vehicle, make it a condition of its emptying the tank that the owner or consumer indemnify the Municipality, in writing, against any liability for any damages that may result from rendering that service.
- (5) Where the removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner must –
 - (a) provide a roadway at least 3,5 m wide, so hardened as to be capable of withstanding a wheel load of four metric tons in all weather; and
 - (b) ensure that no gateway through which the vehicle is required to pass to reach the tank, is less than 3,5 m wide.
- (6) The owner or occupier of premises on which a conservancy tank is installed must at all times maintain the tank in good order and condition.

66. Operation and maintenance of on-site sanitation services

The operation and maintenance of on-site sanitation services and all costs pertaining thereto remain the responsibility of the owner of the premises, unless the on-site sanitation services are subsidised services determined in accordance with the Customer Care and Revenue Management By-laws.

67. Disused conservancy and septic tanks

- (1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner must –
 - (a) cause it to be completely removed; or
 - (b) cause it to be completely filled with earth or other suitable material.
- (2) The Municipality may –
 - (a) require the tank to be reasonably dealt with in another way; or
 - (b) approve the use of the tank for other purpose subject to such conditions as it may specify.

68. Services associated with on-site sanitation services

- (1) The Municipality may undertake in specified areas to –
 - (a) remove or collect conservancy tank contents; or
 - (b) remove or collect night soil.
- (2) Copies of the schedule are available at the municipal offices on request.

69. Charges in respect of services associated with on-site sanitation services

- (1) Charges in respect of the removal or collection of conservancy or septic tank contents or night soil are based on –
 - (a) the volume removed or collected; and
 - (b) the distance travelled to effect such removal.

(2) If the volume of the contents of a conservancy or septic tank removed or collected or of night soil removed or collected cannot be quantified, the Municipality may charge a prescribed fixed charge, as determined from time to time.

Part 3: Sewage disposal

70. Provision of connecting sewer

(1) If a services agreement for the use of the sewage disposal system exists and no connecting sewer exists in respect of the premises, the owner must immediately apply on the prescribed form for a connecting sewer to be installed and –

- (a) must pay the prescribed tariff for the installation of such a connecting sewer; or
- (b) with the approval by the Municipality, install the connecting sewer in accordance with any specifications of the Municipality.

(2) If the owner applies for use of the sewage disposal system on premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.

(3) Only the Municipality may install or approve an installed connecting sewer.

(4) The owner or consumer may connect the sanitation installation to the connecting sewer.

(5) A person may not commence with any development on any premises unless the Municipality has installed a connecting sewer.

71. Location of connecting sewer

(1) A connecting sewer provided and installed by the Municipality or owner in terms of Section 70 must –

- (a) be located in a position agreed to between the owner and the Municipality and be of a size determined by the Municipality; and
- (b) terminate at a connection point approximately one metre inside the premises from the boundary of the land owned by or vested in the Municipality or over which the Municipality has a servitude or other right or when subsection (3) applies, at the connecting point designated in terms of that subsection.

(2) In reaching agreement with an owner concerning the location of a connecting sewer, the Municipality must determine –

- (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
- (b) the cost implications of the various possible locations of the connecting sewer; and
- (c) whether or not the Municipality requires the owner to fix the location of the connecting sewer by providing a portion of his or her water

- installation at or outside the boundary of his or her premises for the Municipality to connect to such installation.
- (3) (a) The Municipality may at the request of a person and subject to such conditions as it may impose, agree to a connection to a sewer other than that which is most readily available for the drainage of the premises.
- (b) The person concerned is then responsible for –
- (i) any extension of the drainage installation to the connecting point designated by an authorized officer; and
- (ii) obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the relevant charge set out in the prescribed tariff before a connection to the connecting sewer can be effected.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, the Municipality must approve the rate and time of discharge into the sewer.

72. Provision of one connecting sewer for several consumers on same premises

- (1) Despite Section 70, but subject to subsection (2)(b), only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from several accommodation units, the Municipality may provide and install either –
- (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
- (b) a separate connecting sewer for each accommodation unit or any number thereof.
- (3) Where the Municipality has installed a single connecting sewer as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be –
- (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units –
- (i) a separate connecting sewer; and
- (ii) an isolating valve; and
- (b) is liable to the Municipality for the tariffs and charges for all sewage disposed from the premises through such a single connecting sewer, irrespective of the fact that by such connecting sewer, different quantities of sewage are disposed by the different consumers served.

(4) Despite subsection (1), the Municipality may authorise that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or, if undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.

(5) Where the provision of more than one connecting sewer is authorized by the Municipality, the tariffs and charges for the provision of a connecting sewer must be paid in respect of each sewage connection so provided.

73. Interconnection between premises

(1) An owner of one or more premises must, subject to subsection (2), ensure that no interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises.

(2) Interconnection may exist only if he or she –

- (a) has obtained the prior written consent of the Municipality; and
- (b) complies with any conditions that it may have imposed.

74. Disconnection of draining installation from connecting sewer

The Municipality may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –

- (a) the agreement for provision has been terminated and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

Part 4: Standards and Conditions of Supply

75. Standard for sanitation services

Sanitation services provided by the Water Services Provider must comply with the minimum standards set for the provision of sanitation services in terms of Section 9 of the Act.

Part 5: Methods for determining discharges

76. Measurement of quantity of standard domestic effluent discharged

(1) The quantity of standard domestic effluent discharged will be regarded to be a percentage of water supplied by the Municipality, but where such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the Municipality may reduce the percentage applicable to those premises to a figure which, in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.

(2) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including abstraction from a

river or borehole, the quantity will be regarded to be a percentage of the total water used on those premises as may be reasonably estimated by the Municipality.

77. Measurement of quantity and determination of quality of industrial effluent discharged

- (1) The quantity of industrial effluent discharged into the sanitation system must be determined –
 - (a) where a measuring device is installed, by the quantity of industrial effluent discharged from a premises as measured by that measuring device; or
 - (b) until such time as a measuring device is installed, by a percentage of the water supplied by the Municipality to those premises as may be reasonably estimated by the Municipality.
- (2) Subject to regulation 9 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality may require the owner of any premises to incorporate in any drainage installation which convey industrial effluent to a sewer, a control meter or gauge or other device of an approved type and in the control of the Municipality for the purpose of ascertaining the tempo, volume or composition of the effluent.
- (3) The Municipality may install and maintain any such meter, gauge or device at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including abstraction from a river or borehole, the quantity of industrial effluent will be regarded to be a percentage of the total water used on that premises as may be reasonably estimated by the Municipality.
- (5) The Municipality may on application reduce the assessed quantity of industrial effluent where a portion of the water supplied to the premises –
 - (a) forms part of the end product of any manufacturing process; or
 - (b) is lost by reaction or evaporation during the manufacturing process or for any other reason,
- (6) The Municipality may enter into a services agreement with any person who discharges industrial effluent into the sanitation system, to establish an alternative method of assessing the quantity and rate of effluent so discharged.
- (7) Charges relating to the quality of industrial effluent are based on the formula for industrial effluent discharged as set out in Schedule 4.
- (8) The following conditions apply in respect of the assessment of the quality of industrial effluent discharged:
 - (a) Each consumer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent under Section 100, and report the results to the Municipality;
 - (b) the Municipality may conduct random compliance tests to correlate those of the industry, and –

- (i) if discrepancies are found, the values of the Municipality are to be taken as correct; and
 - (ii) further tests may be requested by the Municipality to determine the values for the formula, at the cost of the consumer;
- (c) the average of the values of the different analyses results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, must be used to determine the quality charges payable;
- (d) in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, must be used to determine the charges payable;
- (e) in order to determine –
 - (i) the strength (chemical oxygen demand, suspended solids concentration, Ammonia concentration, ortho-phosphate concentration) in the effluent;
 - (ii) the concentration of Groups 1 and 2 metals;
 - (iii) the pH value; and
 - (iv) conductivity,the Municipality must use the tests normally used by municipalities for these respective purposes,¹ and test results from an accredited laboratory will have precedence over those of the Municipality;
- (f) the strength must be calculated on the basis of the different analyses results of individual snap or composite samples, and the period applicable to the calculation may not be less than one full 24-hour period, unless strong evidence is submitted to the Municipality that a lesser period is actually applicable;
- (g) the terms of the industrial effluent formula may not assume a negative value;
- (h) the total system values for quality charges must remain constant, initially for a period of one month, but in any case not longer than 12 months from the date of commencement of these charges, after expiry of which they may be amended or revised from time to time depending on such changes in the analyses results or further samples as may be determined from time to time, but the Municipality, in any particular case, may levy the minimum charges contemplated in subsection (7) without taking any samples;
- (i) whenever the Municipality takes a sample, one half thereof must be made available to the consumer;
- (j) for the purpose of calculating the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water

¹ Details of the appropriate test may be ascertained from the Municipality or the SABS

- consumed on the premises must be allocated among the several points of discharge as accurately as is reasonably practicable;
- (k) the costs of conveying and treating industrial effluent must be determined and apply with effect from such date as may be determined; and
 - (l) the Municipality may change the charges for industrial effluent to a fixed monthly charge, and the minimum charge is to be determined taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

78. Reduction in measured quantity of effluent discharged

- (1) A person is entitled to a reduction in the quantity of effluent discharged into the sanitation system as determined in terms of Sections 76 and 77 if he or she can demonstrate that the quantity of water on which the percentage is calculated was measured during a period when water was wasted or a leakage went undetected.
- (2) The reduction in the quantity is based on the quantity of water loss through leakage or wastage during the leak period.
- (3) The leak period is, whichever results in the greater reduction in the quantity, either –
 - (a) the measuring period immediately before the date of repair of the leak; or
 - (b) the measurement period during which the leak is repaired,
- (4) The quantity of water loss must be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time, and if no previous consumption history is available, the average water consumption must be determined by the Municipality after due consideration of all information.
- (5) There may be no reduction in the quantity if the loss of water, directly or indirectly, resulted from the consumer's failure to comply with, or is in contravention of these or other by-laws of the Municipality.

Part 6: Drainage installations

79. Installation of drainage installations

- (1) The owner must provide and maintain his or her drainage installation at his or her own cost and must ensure that the installation is situated within the boundary of his or her premises, except where otherwise approved.
- (2) The Municipality may –
 - (a) specify in an approval –
 - (i) to what point in the sewer a drainage installation is to be connected;
 - (ii) at what depth below the ground a drainage installation is to be connected; and

- (iii) the route to be followed by the drain to the connecting point; and
 - (b) require the owner not to commence with the construction or connection of the drainage installation until the Municipality's connecting sewer has been laid.
- (3) A drainage installation constructed or installed must comply with –
 - (a) any applicable specifications in terms of the Building Regulations; and
 - (b) any standards prescribed in terms of the Act.
- (4) A person may not permit the entry of any liquid or solid substance whatsoever, other than clean water for testing purposes, to any drainage installation before the drainage installation has been connected to the sewer.
- (5) The plumber responsible for executing the work must after the completion of any drainage installation or after any alteration to any drainage installation is completed, submit to the building inspection section of the Municipality a certificate certifying that the work was completed to the standards as set out in the Building Regulations, this by-law and any other relevant law or by-laws.

80. Construction or installation of drainage installations

- (1) Where the draining installation is a pit latrine, it must be of the ventilated improved pit latrine type or equivalent having –
 - (a) a pit latrine of at least 2m³ capacity;
 - (b) lining as required;
 - (c) a slab designed to support the superimposed loading; and
 - (d) protection preventing children from falling into the pit.
- (2) A pit latrine must conform with the following specifications:
 - (a) The pit must be ventilated by means of a pipe, sealed at the upper end with insect proof screening fixed in place;
 - (b) the ventilation pipe –
 - (i) may not project less than 0.5 m above the nearest roof;
 - (ii) must be of at least 150 mm in diameter; and
 - (iii) must be installed vertically with no bend;
 - (c) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition;
 - (d) the superstructure must be ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
 - (e) the opening through the slab must be of such size as to prevent fouling, and the rim must be raised so that liquids used for washing the floor do not flow into the pit; and
 - (f) the pedestal must be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
- (3) A pit latrine must be sited in a position that is independent of the residential structure and is accessible to a road vehicle having a width of 3.0 m in order to facilitate the emptying of the pit.
- (4) In situations where –

- (a) there is the danger of polluting an aquifer due to the permeability of the soil, the pit of a pit latrine must be lined with an impermeable material that will not crack under stress; and
 - (b) the ground in which the pit of the pit latrine is to be excavated is unstable, support is to be given to prevent the collapse of the soil into the pit.
- (5) A pit latrine should not be used by more than one household.
- (6) A pit latrine must have access to water for hand washing within 10 metres of the pit latrine.
- (7) The Municipality may levy a charge in the form of a monthly contribution, or levied as a single payment when the service is rendered, that covers all the operating and maintenance costs in the –
- (a) removal of the pit contents;
 - (b) transportation to a disposal site;
 - (c) treatment of the contents to achieve a sanitary condition; and
 - (d) final disposal of any solid residues.

81. Disconnection of drainage installations

- (1) Except for the purpose of carrying out maintenance or repair work, no drainage installation may be disconnected from the connection point.
- (2) Where any part of a drainage installation is disconnected from the remainder thereof because it will no longer be used, the disconnected part must, unless the Municipality approves otherwise –
- (a) be destroyed; or
 - (b) entirely removed from the premises on which it was used.
- (3) The Municipality must issue a certificate to certify that the disconnection has been completed in terms of the Building Regulations –
- (a) after all the requirements of the Building Regulations in regard to disconnection have been complied with; and
 - (b) on request of the owner.
- (4) Any charges raised in respect of the disconnected portion of the drainage installation must cease to be levied with effect from the first day of the month following the issue of such certificate.
- (5) When a drainage installation is disconnected from a sewer, the Municipality –
- (a) must seal the opening so caused; and
 - (b) may recover the cost of such work from the owner of the premises on which the installation is disconnected.
- (6) Where a drainage system is connected to or disconnected from the sewer system during a month, charges must be calculated as if such connection was made on the first day of the month following the month in which such connection or disconnection was effected.

82. Drains in streets or public places

A person may not, except with the prior written permission of the Municipality and subject to such conditions as it may impose, for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of, the Municipality.

83. Construction by Municipality

The Municipality may agree with the owner of any premises that any drainage work which the owner desires, or is required to construct in terms of Part P of SABS 0400-1990, will be constructed by the Municipality against payment, in advance or on demand, of all costs associated with the construction.

84. Maintenance of drainage installation

(1) An owner must provide and maintain his or her drainage installation at his or her own cost.

(2) Where any part of a drainage installation is used by two or more owners or occupiers, they are jointly and severally liable for the maintenance of the installation.

(3) The owner of any premises –

(a) must ensure that each sewage manhole on the premises is permanently visible and accessible; and

(b) is responsible for ensuring the visibility of each cleaning eye and manhole on the premises at all times.

(4) Any person who requests the Municipality to clear a drainage installation is liable to pay the appropriate charge set out in the prescribed tariff.

(5) The Municipality may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of the premises or a section thereof and may recover from the owner or occupier the cost of the inspection and test, calculated at the rate specified in the prescribed tariff.

85. Technical requirements for drainage installations

All drainage installations must comply with SABS 0252 and the Building Regulations.

86. Drains

(1) Drains passing through ground which are liable to movement, must be laid on a continuous bed of river sand or similar granular material not less than 100 mm thick under the barrel of the pipe with a surround of similar material and thickness, and the joints of such drains must be approved flexible joints.

(2) A drain or part thereof may only be laid within, pass under or through a building with the approval of the Municipality.

(3) A drain or part thereof which is laid in an inaccessible position under a building may not bend or be laid at a gradient less than 1:50.

- (4) If a drain passes through or under a wall, foundation or other structure, precautions must be taken to prevent the discharge of any substance into such a drain.

87. Sewer blockages

- (1) A person may not cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank, or fitting as will cause its blockage or ineffective operation.
- (2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation on the premises, he or she must immediately take steps to have it cleared.
- (3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he or she must immediately inform the Municipality in writing of it.
- (4) Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by or under the supervision of a plumber.
- (5) Should a drainage installation on premises overflow as a result of an obstruction in the sewer, and the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation is liable for the cost of clearing the blockage.
- (6) Where a blockage has been removed from a drain or portion of a drain which serves two or more premises the owners are jointly and severally liable for the cost of clearing the blockage.
- (7) Where a blockage in the sanitation system has been removed by the Municipality and such removal necessitated the disturbance of an owner's paving, lawn or other artificial surface, the Municipality is not responsible for reinstating it.

88. Grease traps

A grease trap of approved type, size and capacity must be provided –

- (a) in respect of each premises that discharges sewage into on-site sanitation systems; or
- (b) where the discharge of grease, oil and fat is likely to –
- (i) cause an obstruction to the flow in sewers or drains; or
 - (ii) interfere with the proper operation of any waste water treatment plant.

89. Industrial grease traps

- (1) Industrial effluent which contains, or is likely to contain grease, oil, fat of inorganic solid matter in suspension must, before it is allowed to enter any sewer, be passed through one or more tanks or chambers of approved type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter.
- (2) Oil, grease or any other substance which is contained in any industrial effluent or other liquid and which gives off an inflammable or noxious vapour at a

temperature of or exceeding 20° C, must be intercepted and retained in a tank or chamber so as to prevent entry thereof into the sewer.

(3) A tank or chamber which is referred to in subsection (2) must comply with the following requirements:

- (a) It must be of adequate capacity, constructed of hard durable materials, and water-tight when completed;
 - (b) the water-seal of its discharge pipe may be not less than 300 mm in depth; and
 - (c) it must be provided with such number of manhole covers as may be adequate for the effective removal of grease, oil fat and solid matter.
- (4) Any person who discharges effluent to a tank or chamber must –
- (a) regularly remove grease, oil, fat or solid matter from the tank or chamber; and
 - (b) maintain a register in which the following is contained:
 - (i) The dates on which the tank or chamber was cleaned;
 - (ii) the name of the company which was employed to clean the tank or chamber; and
 - (iii) a certificate from the cleaning company –
 - (aa) certifying that the tank or chamber was cleaned; and
 - (bb) stating the manner in which the contents of the tank or chamber were disposed of.

90. Mechanical appliances for lifting sewage

(1) The owner of any premise must in accordance with subsection (2) apply for the approval and obtain the approval of the Municipality before he or she installs any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.

(2) A Professional Engineer must apply for approval, and the application must –

- (a) be accompanied by drawings prepared in accordance with the relevant provisions of the Building Regulations; and
 - (b) show details of –
 - (i) the compartment containing the appliance;
 - (ii) the sewage storage tank;
 - (iii) the stilling chamber and its position; and
 - (iv) the position of the drains, ventilation pipes, rising main and the sewer connection.
- (3) Despite any approval given in terms of subsection (1), the Municipality is not liable without fault for any injury or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage.
- (4) Every mechanical appliance installed for the raising or transfer of sewage must be –
- (a) specifically designed for the purpose; and

CONTINUES ON PAGE 289—PART 2