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PROVINSIE OOS-KAAP

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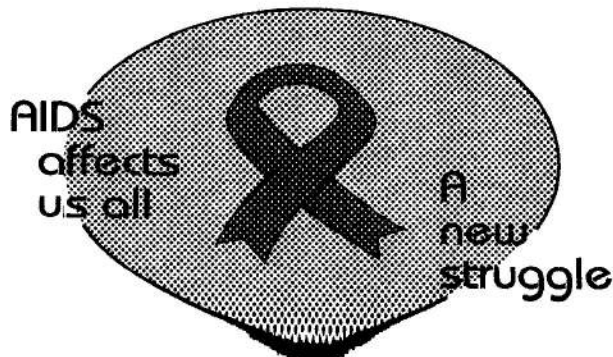
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No. 1629
(Extraordinary)

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LOCAL AUTHORITY NOTICES

No. 214**CACADU DISTRICT MUNICIPALITY****COMMUNITY FIRE SAFETY BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows:-

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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 Cacadu District Municipality, and includes any political structure, political office bearer or 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, 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;
- 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
- (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 there from 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 Cacadu District 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.

(3) 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 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 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), when in the opinion of the controlling authority, 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 Umlilo**", 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

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the local municipalities within the jurisdictional area of Cacadu District Municipality, or any of the disestablished municipalities now incorporated into the said municipalities, in so far as it has been made applicable to Cacadu District Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

58. Short title and Commencement

This By-law is called the 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

**CACADU DISTRICT 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:

CALCULATIONS

1. 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

**CACADU DISTRICT MUNICIPALITY
APPLICATION FOR PERMISSION TO STORE FLAMMABLE LIQUID**

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

CACADU DISTRICT 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		CACADU DISTRICT 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 CACADU DISTRICT 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		CACADU DISTRICT 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 CACADU DISTRICT 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

CACADU DISTRICT MUNICIPALITY		
<u>SPRAY BOOTH CONSTRUCTION</u>		
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.
<u>MINIMUM</u>	<u>NO.</u>	<u>OF</u>
<u>AIRBRICKS</u>		<u>SIZE OF ROOM</u>
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 12**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.

No. 215

**CACADU DISTRICT MUNICIPALITY
CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 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 Cacadu District Municipality, enacts as follows:-

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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 Cacadu District 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 Cacadu District, 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 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 following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the local municipalities within the jurisdictional area of Cacadu District Municipality, or any of the disestablished municipalities now incorporated into the said municipalities, in so far as it has been made applicable to Cacadu District Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures 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.

No. 216

**CACADU DISTRICT MUNICIPALITY
DISASTER MANAGEMENT BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, and under Chapter 5 of the Disaster Management Act, 2002 (Act 57 of 2002), the Cacadu District Municipality, enacts as follows:-

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1. Definitions
2. Principles and objectives
3. Implementation of disaster management framework and plan
4. Council to act in accordance with regulations
5. Issue of directions
6. Offences and penalties
7. Short title and commencement

1. Definitions

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

“**Act**” means the Disaster Management Act, 2003 (Act 57 of 2002);

“**Council**” means the Council of the Cacadu District Municipality;

“**municipality**” means the Cacadu District Municipality, and includes any political structure, political office bearer or 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; and

any other word or expression has the meaning assigned to it by the Act.

2. Principles and objectives

The municipality, aware of its duty to the residents to prevent or reduce the risk of disasters, to mitigate the severity of disasters, to cultivate emergency preparedness within the community, and to rapidly and effectively respond to disasters and to promote post-disaster recovery, adopts this by-law with the aim of fulfilling its duty in accordance with the principles underlying the Act.

3. Implementation of disaster management framework and plan

The municipality, having established a framework for disaster management in accordance with section 42(1) of the Act, in this by-law implement such framework and the disaster management plan as prepared in accordance with section 53 of the Act.

4. Council to act in accordance with regulations

Whenever a disastrous event, contemplated in section 49 of the Act, occurs or threatens to occur, the Disaster Management Centre, as established by section 43 of the Act, and the Council shall act in accordance with the disaster management plan and section 5 of this by-law.

5. Issue of directions

(1) Whenever a local state of disaster has been declared by notice in the Provincial Gazette, and subject to the provisions of section 55(3) of the Act, Council may issue directives or authorise the issue of directions in terms of section 55(2) of the Act –

- (a) instructing all the or part of the population to evacuate the disaster-stricken or threatened area by the means prescribed in the directions if such action is necessary for the preservation of life;
- (b) prescribing the time within which the evacuation referred to in paragraph (a) must be completed;
- (c) indicating the temporary shelters where evacuees or groups of evacuees are to be transported and housed and the time for which they must be so housed;
- (d) regulating traffic to, from or within the disaster-stricken or threatened area;
- (e) regulating of the movement of persons and goods to, from or within the disaster-stricken or threatened area;
- (f) controlling the occupancy of premises in the disaster-stricken or threatened area;
- (g) relating to the identification, provision, control and use of temporary emergency accommodation;
- (h) suspending or limiting the sale, dispensing or transportation of alcoholic beverages in, to or from the disaster-stricken or threatened area;
- (i) establishing emergency procurement procedures; or
- (j) any other steps that may be necessary to prevent an escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(2) The directions issued in terms of subsection (1) will be properly issued if it is issued according to the disaster management plan.

6. Offences and penalties

A person who fails to comply with an oral or written instruction by the municipality given in terms of the directions issued under section 5, commits an offence and is liable, on conviction, to a fine or imprisonment or to both a fine and imprisonment.

7. Short title and commencement

(1) This by-law may be cited as the Disaster Management By-law.

(2) Except for the directions issued in terms of section 5, this by-law commence on the date of publication thereof in the Provincial Gazette.

(3) The directions issued under section 5 shall commence on the date when it is issued in terms of section 5(2).

No. 217

**CACADU DISTRICT MUNICIPALITY
MUNICIPAL HEALTH BY-LAW**

Under the provisions of Section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows:–

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1. Definitions

In this by-law unless the context otherwise indicates: -

"accommodation establishment" means a place in which accommodation is provided for gain, with or without meals;

"animal" means any equine, bovine, sheep, goat, pig, 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;

"animal disease" means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by an organism or substance;

"animal waste" means the faeces, manure, droppings, shed hair or feathers of an animal;

"approved" means approved by the municipality, with regard to the reasonable environmental health requirements of the particular case;

"baby" means a child under the age of two years;

"barber, hairdresser, beautician, body piercer or tattooist" means a person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or another place, which business comprises any one or more of the following or similar services or activities, or a combination thereof, which are applied to the male or female human body:

- (a) cutting, shaving, singeing, shaping, shampooing, cleansing, conditioning, treating, chemical reformation (such as but not limited to permanent waving) relaxing, straightening and colouring (such as but not limited to tinting, dyeing, colouring, whether by permanent or temporary or semi-permanent means, and including the use of colour rinses, shampoos, gels or mousses, and lightening by means of tints, bleaches, highlights or high lighting tinting or toning of the hair on the human head;
- (b) other than by a process contemplated in paragraph (a), removing hair by means of, but not limited to, waxing, chemical compounds (such as but not limited to depilatories), electrical or mechanical means, whether or not heat or an appliance or apparatus is used in any of these activities;
- (c) treating hair by means of a trichological process or method;
- (d) adding to hair of natural or artificial hair by means of, but not limited to an extension, beard work, or a wig;
- (e) shaping, shaving, plucking, treating or tinting an eyebrow or eyelashes or applying an artificial eyebrow or eyelashes;
- (f) skin care of the face, including but not limited to the application of cosmetics;
- (g) applying nail technology, such as but not limited to manicuring, pedicuring, or applying false nails or extensions;
- (h) piercing of the skin ("body piercing") or tattooing;
- (i) massaging;
- (j) bronzing such as by means of, but not limited to, ultraviolet radiation; and
- (k) contouring, such as but not limited to, slimming.

"biodegradable industrial wastewater" means wastewater that contains predominantly organic waste arising from industrial activities and premises including, but not limited to-

- (a) milk processing;
- (b) manufacture of fruit and vegetable products;
- (c) sugar mills;
- (d) manufacture and bottling of soft drinks;

- (e) water bottling;
- (f) production of alcohol and alcoholic beverages in breweries, wineries or malt houses;
- (g) manufacture of animal feed from plant or animal products;
- (h) manufacture of gelatine and glue from hides, skin and bones;
- (i) abattoirs;
- (j) fish processing;
- (k) feedlots; and
- (l) tannery;

"bird" means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird kept in captivity;

"building, structure or enclosure" means a building, structure or enclosure such as, but not limited to, a stable, shed, dove-cote, kennel, pen, sty, camp, kraal, cow-shed, lean-to, room, tent, vehicle, stream, dam, pool, pan, drain, or ditch (open, covered, or enclosed) erected or constructed in or upon land or premises and which is used in connection with the keeping of an animal by an owner of an animal or owner or user of land;

"category B municipality" means a municipality as contemplated in section 155(1)(b) of the Constitution;

"cattery" means an accommodation establishment which, for gain, caters for the boarding of cats;

"cemetery" means a land or part of a land within the municipal area set aside as a cemetery;

"child care facility or institution" means any undertaking or institution, whether for profit or otherwise, involving the custody, care or tuition or any combination of these functions, during the whole or part of the day on all or any of the days of the week of children, or the building or the premises maintained or used for the purpose of conducting such undertaking or institution thereon as the case may be;

"crematorium" means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Ordinance No 18 of 1965) and includes the buildings in which a ceremony is conducted and the cremation carried out;

"Council" means the Cacadu District Municipal Council;

"communicable disease" means a disease resulting from an infection due to pathogenic or toxic agents generated by the infection, following the direct or indirect transmission of the agents from the source to the host;

"domestic wastewater" means wastewater arising from domestic and commercial activities and premises, and may contain sewage;

"dog kennel" means an accommodation establishment which, for gain, caters for the accommodation of dogs;

"environment" means the surroundings within which humans exist made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental health hazard" means an occurrence specified in section 3(1) and (2);

"environmental health practitioner" means the person appointed in terms of section

80(1) of the Health Act 61 of 2003;

"environmental health nuisance" means an occurrence specified in section 3(3);

"free space" means the space in a room which is not occupied by furniture or other appliances;

"hazardous waste" means waste that has the potential, even in low concentrations, to have an adverse effect on the environment and environmental health because of its inherent toxicological, chemical or physical characteristics;

"health care waste" means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, veterinarian, traditional healer, traditional surgeon or any other place where health care waste is generated and which is infectious or potentially infectious, and includes –

- (a) microbial wastes including wastes including cultures and stocks of infectious wastes and associated biologicals that can cause disease in humans;
- (b) human blood and blood products, including serum, plasma and other blood components;
- (c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals;
- (e) isolation wastes associated with animals or human beings known to be infected with highly communicable diseases; and
- (f) contaminated and uncontaminated sharps including hypodermic needles, scalpels and broken glassware;

"irrigation" means the application of wastewater to recreational grounds and for the purpose of crop production and the cultivation of pasture ;

"marine fauna" means any marine living resources from the sea and the seashore, including any aquatic plant, whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile, marine mammal and seabird and include their eggs, larvae and all juvenile stages;

"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;

"occupier" means any person who occupies any premises or part thereof without regard to the title under which he or she 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;

"owner", in relation to –

- (a) animals or things, conveyances and other movable property, means the person in whom ownership is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Animal Identification Act, 2002 (Act No 6 of 2002), or of which the ownership cannot readily be established, the user of the land on which such game or animals are present is deemed to be the owner; and
- (b) land –
 - (i) means the person in whose name that land is registered;
 - (ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;
 - (iii) that is subject to a usufruct, means the usufructuary;
 - (iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorised by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator concerned; and
- (v) a category B municipality which is in control of land by virtue of the powers and functions allocated to it in terms of Schedules 4B and 5B of the Constitution;

"person" means a natural and legal person, including but not limited to an association of persons, a partnership, and a company;

"pet parlour" means an establishment where pets are groomed;

"pet shop" means an establishment where pets are kept for trading purposes;

"poultry" means a fowl such as a chicken, turkey, goose, duck, muscovy-duck, bantam-fowl and guinea fowl, whether domesticated or not, including the young of such poultry;

"premises" means any building, structure, or tent together with the land on which it is situated and the adjoining land used in connection with it and includes any land without any building, structure or tent and any vehicle, conveyance or ship.

"proprietor" means the person who owns or operates an accommodation establishment;

"publish" in respect of the provisions of section 41 means–

- (a) to publish a notice in the Provincial Gazette and a local newspaper; and
- (b) to display the notice so published on the notice boards of the municipality;

"responsible authority" means the authority or municipality responsible for the execution of waste disposal functions within the area of jurisdiction of Cacadu District Municipality;

"salon" means a place where any one or more of the services or activities contemplated in the definition of "barber, hairdresser, beautician, body piercer or tattooist" are normally carried on;

"swimming pool" includes a school's swimming pool;

"spa bath" includes a jacuzzi;

"user", in relation to land, means –

- (a) any person who has a personal or real right in respect of land in his or her

- capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether or not he or she resides thereon; and
- (b) any other person who is generally recognised as having a right of tenure on the land concerned;

"waste" means any matter or waste material arising from the use of any land or premises, excluding hazardous waste and health care waste

"wastewater" means water containing waste, including sewerage, or water that has been in contact with waste material and may include biodegradable industrial wastewater and domestic wastewater.

"water resource" means a source as defined in section 1 of the National Water Act, Act No. 36 of 1998;

2. Principles and objectives

The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, and the principles that underlie the National Health Act, 2003 (Act 61 of 2003) and the National Environmental Management Act, 1998 (Act 107 of 1998), adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Cacadu area by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its municipal health obligations.

CHAPTER 1 ENVIRONMENTAL HEALTH HAZARDS AND ENVIRONMENTAL HEALTH NUISANCES

3. Environmental health hazard and environmental health nuisance

- (1) An environmental health hazard exists or occurs if any of the following occurs on land or premises:
- (a) A water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be injurious or dangerous to health;
 - (b) an accumulation of waste or other matter which is injurious or dangerous to health occurs;
 - (c) where wastewater used for the purposes of irrigation does not comply with the following standards:
 - (i) faecal coliforms exceed 1000 per 100ml;
 - (ii) Escherichia Coli is detected; and
 - (iii) limits for Enteric viruses and Protozoan parasites as set in SANS Code 241 / 2005 are exceeded;
 - (d) where wastewater which is discharged into a water source through a pipe, canal, sewer, conduit or any other means does not comply with the standards contemplated in sub-section (c)(i) to (iii).
 - (e) a building, structure or enclosure is –
 - (i) situated, used or kept as to be dangerous to health;
 - (ii) infested with pests or vermin or in a state that is conducive to the breeding of pests or vermin;
 - (f) conditions exist that are conducive and contributive to the spread of a contagious and communicable disease;

- (g) organic matter is being used or kept in a manner that attracts vector, vermin, or pests such as, but not limited to rats, mice, flies and mosquitoes;
 - (h) unsanitary conditions occur in any part of the land or premises;
 - (i) a building, structure or enclosure is erected without first removing or decontaminating in an approved manner, any faecal, animal or vegetable waste disposed of on the land or premises; or
 - (j) a building or structure is demolished without first eradicating all vermin;
 - (k) a dwelling or any other premises is occupied for which no proper and sufficient supply of potable water is available as prescribed in terms of the Water Services Act;
 - (l) a dwelling or building is occupied for which toilet facilities in terms of the National Building Regulations and Building Standards Act, Act 103 of 1977 are not available;
 - (m) a dwelling or building is occupied which is not ventilated in terms of the National Building Regulations and Building Standards Act, Act 103 of 1977; or
 - (n) a carcass or the remains of an animal, bird or marine fauna remains unburied or not suitably disposed of for more than 24 hours after death.
- (2) In addition to the instances stipulated in subsection (1), an environmental health hazard exists or occurs if any premises –
- (a) is not ventilated so as to destroy or render harmless any gases, vapours, dust or other impurities generated which are dangerous to health;
 - (b) is so overcrowded, lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; or cause or give rise to smells or effluvia which are dangerous to health.
- (3) An environmental health nuisance, whether or not occurring or arising from an environmental health hazard, exists if –
- (a) an obnoxious smell, pests, vermin, vector, from whatever source emanate from land or premises;
 - (b) any other activity, condition or thing declared to be a health nuisance under any law exists or occurs on or emanates from land or premises.
- 4. Prohibition on creation, existence or occurrence of environmental health hazard or environmental health nuisance**
- (1) No person may, in any area under the jurisdiction of the municipality –
- (a) create an environmental health hazard or an environmental health nuisance;
 - (b) perform any act which may cause an environmental health hazard or an environmental health nuisance;
 - (c) organise, allow or permit an activity, event or function in or on land or premises, or use, cause, allow or permit to be used land or premises for a purpose which by its nature or otherwise or by reason of its consequences creates or is likely to create an environmental health hazard or an environmental health nuisance;

- (d) unless he or she is authorised or permitted by law to do so or does so with the written permission of the municipality and in accordance with any conditions imposed by the municipality-
 - (i) in a public place activate, handle or use any material, object or thing which is likely to cause an environmental health hazard or an environmental health nuisance;
 - (ii) introduce into or handle in a public place any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates an environmental health hazard or an environmental health nuisance;
 - (e) carry, convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become dangerous to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any environmental health hazard or environmental health nuisance;
 - (f) by an action directly or indirectly or by negligence allow that an environmental health hazard or environmental health nuisance be created or continued;
- (2) A person who contravenes a provision of subsections (1) commits an offence.

5. Duty to eliminate or reduce environmental health hazard or environmental health nuisance

- (1) (a) The owner, occupier or user of land or premises must –
- (i) ensure that an environmental health hazard or an environmental health nuisance does not exist or occur on his or her land or premises; and
 - (ii) within 24 hours of becoming aware of the existence of an environmental health hazard or environmental health nuisance on the land or premises, eliminate the environmental health hazard or environmental health nuisance, or if he or she is unable to eliminate the environmental health hazard or environmental health nuisance –
 - (aa) take steps to reduce the risk to environmental health; and
 - (bb) report the existence of the environmental health hazard or environmental health nuisance to the municipality.
- (b) For the purposes of subsection (1)(a), the owner, occupier or user of land or premises must, for the purpose of eliminating or reducing the quantity of –
- (i) flies, use best practice methods;
 - (ii) mosquitoes –
 - (aa) drain accumulated water at least once every seven days;
 - (bb) by making use of best practice methods to control mosquitoes and their larvae
 - (cc) in the case of wells, provide a mosquito-proof cover and a pump;

- (dd) fit tanks, barrels and similar containers in which mosquitoes may breed with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them; and
 - (ee) regularly clear clogged or sagging gutters and down pipes so that stagnant water cannot accumulate in them; and
 - (iii) vermin, use mouse traps or vermin poison.
- (2) The owner, occupier or user of land or premises must ensure that every well, hole, pit, reservoir, pond or excavation thereon is not filled in a way, or with any material, that may cause an adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create an environmental health hazard or an environmental health nuisance.
 - (3) The occupier must cause all waste to be placed in refuse receptacles provided by the owner or by the responsible authority to be disposed of in a manner contemplated in section 25.
 - (4) The owner, occupier or user of land or premises must dispose of any hazardous material or substance in such a way that it will not cause a health nuisance or pollute a water body, water source, borehole or underground water source.
 - (5) The owner, occupier or user of land or premises who contravenes a provision of subsection (1), (2), and (4), or the occupier who contravenes a provision of subsection (3) commits an offence.

CHAPTER 2 KEEPING OF ANIMALS

6. Application of Chapter

- (1) This Chapter applies to any owner of an animal, bird or poultry who keeps an animal, bird or poultry for whatever purpose, on land or premises of which he or she is the owner, occupier or user within the jurisdiction of the municipality.
- (2) A person who keeps an animal, bird or poultry in terms of an approved land use, or on premises or land zoned for agricultural purposes, is not exempt from the provisions of this by-law or other legislation with regard to the inception or bringing about of an environmental health hazard or an environmental health nuisance.

7. Keeping of animals

- (1) The owner of an animal, bird or poultry, or the owner, occupier or user of land or premises may not keep such animal, bird or poultry in or on a building, structure or enclosure in a manner that constitutes an environmental health hazard or an environmental health nuisance.
- (2) A person who contravenes sub-section (1) commits an offence.

8. Carcasses

- (1) The owner of an animal, bird or poultry or the owner, occupier or user of land or premises must within 24 hours, in accordance with subsection (3), dispose of the carcass of an animal, bird or poultry that has died on such premises or land.
- (2) The owner, occupier or user of land or premises must within 24 hours, in accordance with subsection (3), dispose of the carcass or remains of marine fauna that has died or washed up on such premises or land.
- (3) Should an owner of an animal, bird or poultry, or owner, occupier or user of land or premises fail to dispose of a carcass, the environmental health practitioner may arrange for the disposal of the carcass and may recover the cost involved from the owner of the animal or the owner or user of the land or premises.
- (4) A person contemplated in subsection (1) must dispose of a carcass in one of the following manners:
 - (a) He or she must take steps to have the carcass removed or have it removed by a person authorized to do so in terms of the responsible authority's waste regulations;
 - (b) if the premises are suitable, he or she must bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause an environmental health hazard or an environmental health nuisance; or
 - (c) if the animal died of a disease, he or she must deal with the carcass in accordance with paragraph (a).
- (5) No person may carry or convey through or along a street the carcass of an animal, bird or poultry, animal waste or offal unless it is covered.
- (6) This section does not apply in the instance where an animal, bird or poultry is slaughtered for the purpose of human or animal consumption.
- (7) A person who contravenes a provision of subsections (1) to (5) commits an offence.

**CHAPTER 3
ANIMAL ESTABLISHMENTS**

*Part 1
Dog kennels and Catteries*

9. Requirements relating to premises

- (1) The person who owns or operates a dog kennel or cattery must ensure that the premises comply with the following requirements:
 - (a) a concrete apron must be provided and graded for the drainage of water away from the building or structure, and such water must be discharged into a sewer or other approved system;
 - (b) all loose foods must be stored in rodent free receptacles with close fitting lids in a store room;
 - (c) isolation facilities must be provided for sick dogs and cats and the facilities must be of durable material and constructed so as to be easily cleaned and disinfected; and

- (d) meat, fish, or perishable foodstuffs used for the feeding of animals, must be stored in a refrigerator which can maintain a temperature not exceeding 7°C.
- (2) No person may conduct the business of a dog kennel or cattery in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 2 metres of any door, window or other opening to any habitable room or any room in which clothing is stored or food for human consumption is stored processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

Part 2
Pet shops and parlours

10. Requirements relating to premises and employees

- (1) A person who owns or operates a pet shop or pet parlour must ensure that the premises comply with the following requirements :
 - (a) All cages must be **constructed of durable non corrosive easy cleanable material and be placed in such a manner so as to facilitate cleansing;**
 - (b) storage space which is rodent-proofed, must be provided for animal bedding on the premises;
 - (c) meat, fish or perishable foodstuff used in the feeding of an animal and stored in a pet shop, must be stored in a refrigerator which can maintain a temperature not exceeding 7°C;
 - (d) accommodation for all animals kept on the premises must be provided;
 - (e) additional accommodation which is properly separated from the pet shop must be provided for the keeping of a sick or apparently sick animal;
- (2) No person may conduct the business of a pet shop or pet parlour in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 2 metres of any door, window or other opening to any habitable room or any room in which food for human consumption is stored, processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

CHAPTER 4
ACCOMMODATION ESTABLISHMENTS

11. Application of Chapter

This Chapter applies to a person who owns or carries on the business of providing accommodation for gain in an accommodation establishment on premises within the municipal area.

12. Requirements relating to buildings, water, sanitation and refuse removal

- (1) No person shall use any building as an accommodation establishment unless-
 - (a) it is in good structural condition outside and inside and in a proper state of

- repair;
 - (b) not less than one bathroom is provided for the first eight lodgers, with one additional bathroom for every additional twelve lodgers or part thereof;
 - (c) every bathroom—
 - (i) is provided with a hand wash-basin
 - (ii) is provided with a bath or shower: provided that at least one bath shall be installed in every accommodation establishment; and
 - (iii) is provided with an adequate supply of hot or cold running water.
 - (d) sanitary conveniences are provided on the basis of one convenience for the first eight lodgers and thereafter one convenience for every additional twelve lodgers or part thereof: provided that a sanitary convenience shall not be installed in the same room as a bath or shower, en-suite bathrooms excluded.
 - (e) the faecal matter arising in respect of the accommodation is properly stored and, except where pit latrines or a method for the adequate treatment of such matter by means of an enzymatic or chemical process is provided, is properly removed and disposed of;
 - (f) a receptacle with a close-fitting lid is provided in a latrine.
 - (g) the household refuse arising in respect of the accommodation is properly removed and disposed of at least once a week;
 - (h) all water supply fittings and fittings that relate to sanitation and ablution are in a working order.
- (2) Should a proprietor not comply with a provision of subsection (1), the municipality may act in terms of section 36 or 37.

13. Preparation and serving of food, certificate of acceptability, application and exemptions

A proprietor who prepares or serves food on the premises for consumption by a guest, irrespective if the guest pays separately for the food or if a charge for the food is included in the accommodation costs, must comply with the provisions of the Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice No. R918 of 30 July 1999.

**CHAPTER 5
CHILD CARE FACILITIES**

Part 1

Accommodation, sanitary, kitchen and other facilities in respect of children.

14. Children

- (1) Sanitary and ablution facilities must be provided to children in respect of a child care facility or institution for children, which facilities must have:
 - (a) a room to change nappies for babies as well as buckets with lids for sterilizing and soaking of such nappies; nappies must be washed daily and the buckets cleaned simultaneously;
 - (b) separate facilities for the washing of baby potties;

- (c) separate toilet facilities for boys and girls over the age of five years at the ratio of one toilet for every 20 children or part thereof;
 - (d) one toilet for every 20 children between two and five years of age which can be shared by boys and girls;
 - (e) a supply of toilet paper, paper or cloth towels, tissues and soap which must be accessible to children;
 - (f) one hand wash basin for every 20 children, placed at a height at which it could be conveniently used by children;
 - (g) running water at the hand wash basin where running water is available;
 - (h) an adequate number of waste bins with self closing lids for the disposal of paper towels, tissues and other waste items;
- (2) A room for playing, eating and sleeping, with a minimum area of 2m² per baby, and a separate room for playing, eating and sleeping, with a minimum free space of 1,5m² for children aged two years and over, must be provided;
 - (3) Where food is prepared, a kitchen which complies with the requirements set in R918 (regulations governing the general hygienic requirements for food premises and the transport of food), must be provided;
 - (4) Potable water for drinking and domestic use must be available and accessible.
 - (5) The facility must have a waste-water disposal system which is approved by the responsible authority;
 - (6) Each room must be ventilated by means of natural ventilation or artificial ventilation that complies with the requirements of the National Building Regulations and Building Standards Act, Act 103 of 1977.

Part 2

Miscellaneous provisions

15. Safety measures

- (1) No poisonous plants may be kept on the premises;
- (2) Pets kept on the premises must be kept in a hygienic condition and out of reach of children;
- (3) Sandpits must be treated regularly with salt and must be covered after hours;
- (4) Pest control must be undertaken by a registered pest control company registered as such;
- (5) All medicines, pesticides, detergents and other harmful substances must be stored and locked out of reach of children.
- (6) A person who contravenes a provision of subsections (1) to (5) commits an offence.

16. General duties and liability for compliance with this Chapter

A person in charge of a child care facility or institution must maintain every part of the pre-school institution, including outdoor areas and all structures and equipment, in good repair and in a clean and tidy condition;

17. Compliance and Presumptions

- (1) Should a person fail to comply with a provision of this Chapter, the municipality may act in terms of section 36 or 37.
- (2) If at any prosecution in terms of this Chapter, it is alleged that the owner,

lessee or occupier of the premises conducts a pre-school institution at such premises, he or she shall be deemed to have conducted a pre-school institution at the premises, unless the contrary is proved;

CHAPTER 6 PUBLIC SWIMMING POOLS AND SPA-BATHS

18. Cleanliness of swimming pools and spa baths operated as public facilities

- (1) Swimming pools and spa baths operated as public facilities must-
 - (a) at all times be kept in a safe, clean and sanitary condition; and
 - (b) the water must at all times be purified, treated and maintained to the standards mentioned in section 20.
- (2) A person who operates a swimming pool or spa bath who contravenes a provision of subsection (1) commits an offence.

19. Water supply

- (1) A person who operates a swimming pool or spa bath may, for the purpose of cleaning, filling or maintaining the water level in a swimming pool or spa bath, use water from an approved source.
- (2) The environmental health practitioner may take samples of the water for the purpose of chemical analysis or bacteriological examination at times that he or she considers appropriate.
- (3) A person who contravenes subsection (1) commits an offence.

20. Safety of water

- (1) A person who operates a swimming pool or spa bath must ensure that the water in the swimming pool or spa bath complies with the following requirements:
 - (a) The water must be free from floating, suspended or settled debris or swimming organisms;
 - (b) the walls, floor, access ladders or steps and gutters must be free from slime or algae;
 - (c) the total viable bacteriological count a sample submitted in terms of section 23(2), may not exceed 100 organisms per ml of water; and
 - (d) *Escherichia coli* bacteria may not be present in any 100 ml of water.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 7 BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS AND TATTOOISTS

21. Health requirements

- (1) No person may use the premises of a salon for a purpose other than for the carrying on of the business of barber, hairdresser, beautician, body piercer or tattooist.
- (2) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or another place, must –
 - (a) at all times keep a first aid kit on the premises, and treat an injury or

- wound which may occur on the premises;
- (b) install or have available in the salon an appliance or other means whereby an instrument that have come into contact with human skin, hair or bodily fluid, such as, but not limited to, blood, may be sterilized or disinfected;
 - (c) ensure that only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilized needle sets may be used for applying permanent tattoos or body piercing, and all tubes and needles must be stored in single service, sterile, sealed autoclave bags which must be opened in the presence of the client;
 - (d) ensure that all clip cords and spray bottles have triggers and grasp areas, which grasp areas must be protected by plastic covering which must be disposed of after use on each client;
 - (e) after each use of a blade, razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin, dispose of disposable instruments or disinfect reusable instruments by applying a suitable disinfectant.
 - (f) wear new disposable latex or nitrile examination gloves for the duration of a procedure where he or she implants hair, pierces or tattoos skin, or uses a chemical or chemical compound in an activity;
 - (g) disinfect his or her hands before and after rendering any service to a client;
 - (h) directly after treatment of the client, clean and disinfect a surface that has been contaminated by body fluid; and
 - (i) dispose of any disposable glove or other disposable material after each use;
 - (j) at least once a day wash, with a disinfectant, all clothing such as aprons and caps, all surfaces such as, but not limited to, walls, floors, counters and chairs;
 - (k) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
 - (l) store sharp instruments such as, but not limited to, a razor, blade or needle in a separate container;
 - (m) after each use, wash and clean all plastic and cloth towels;
 - (n) generally keep the premises, tools, equipment and clothing in a hygienic condition at all times;
 - (o) after every service, collect waste such as, but not limited to, hair clippings and towelling paper, and store or dispose of such waste in accordance with the section 24;
 - (p) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and
 - (q) provide his or her employees with protective clothing, train any person working on the premises, and ensure that the employee complies with the provisions of this by-law.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

22. Requirements for premises

- (1) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or another place, must ensure that the premises comply with the following:
- (a) basins, with a supply of running hot and cold potable water, must be available for the washing of hair and hands;
 - (b) lighting, ventilation, water and toilet facilities as prescribed in the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977) must be provided;
 - (c) shelves, counters, table tops or other fixtures on which instruments are placed must be constructed of impervious material that is easy to clean;
 - (d) adequate facilities for the storage of clothes, instruments and appliances must be provided;
 - (e) facilities for the disposal of waste water must be provided;
 - (f) the walls and floors must be constructed of materials that are easy to clean; and
 - (g) unless separated by a wall, the premises may not be used for the storage and preparation of food, or for sleeping.
- (2) Should the owner, occupier or person in charge of the premises upon which the business is carried on fail to comply with a provision in subsection (1), the municipality may act in terms of section 36 or 37.

**CHAPTER 8
WASTE****Part 1***General provisions regarding recovery and disposal of waste***23. Recovery and disposal of waste**

- (1) Waste must be recovered and disposed of without causing a health nuisance.
- (2) A person who contravenes subsection (1) commits an offence.

Part 2*Hazardous Waste***24. Applicable legislation**

The municipality, taking cognizance of the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989) the Hazardous Substances Act, 1973 (Act 15 of 1973), the National Health Act, 61 of 2003, and the regulations made under these Acts, adopts the provisions in this Part.

25. Storage of hazardous waste

- (1) An empty container in which hazardous waste such as, but not limited to, pesticides was stored is to be treated as waste, and –
- (a) must be stored in such a manner that –
 - (i) no pollution of the environment occurs at any time;
 - (ii) no environmental health hazard or environmental health nuisance is created at any time;

- (b) the date on which the container is stored must be clearly marked and visible for inspection on the container;
 - (c) while being stored on site, must be clearly marked or labelled with the words "Hazardous Waste";
 - (d) the owner or occupier of the land must fence off the storage area to prevent unauthorised access; and
 - (e) shall be dealt with as Class 6 waste as described in the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (Second Edition, 1998) as published by the Department of Water Affairs and Forestry and as amended from time to time.
- (2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.

Part 3
Health Care Waste

26. Scope of application

Compliance with the provisions of this Part is mandatory for all generators of health care waste and, where applicable, for all transporters and disposers of health care waste, and is mandatory at especially –

- (a) all health care facilities such as places or sites where professional health services are dispensed to human patients, including hospitals, mobile and stationary clinics, sick bays such as, but not limited to old-age homes, day units, hospices, rehabilitation centres, consulting rooms of medical doctors, oral health practitioners and professional nurses, facilities for rendering midwifery services, free-standing operating theatres, pharmacies and all similar sites;
- (b) all pathological and microbiological laboratories or places where biological research is carried out, and the premises of blood transfusion services;
- (c) the facilities of all manufacturers and distributors of pharmaceutical products or vaccines;
- (d) all mortuaries and undertaker premises;
- (e) all veterinary consulting rooms, animal hospitals, treatment-stations, dog kennels and catteries; and
- (f) any private dwelling or household or any other premises where the environmental health risk constituted by the quantity and nature of health care waste generated is such that such health care waste should be handled in accordance with these regulations.

27. Duties of generators, transporters and disposers of health care waste

- (1) Subject to the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989), and any other applicable legislation, every generator of health care waste and, where applicable, every transporter and disposer of health care waste must cause all such health care waste to be sorted, packed, contained, handled, stored, transported and disposed of in accordance with this Part.
- (2) The activities referred to in subsection (1) must be carried out in such way that the health care waste generated does not cause an environmental health

- hazard or an environmental health nuisance or safety hazard for any handler thereof or any other person or the environment in general.
- (3) The responsible authority may, subject to the provisions of any provincial or national law, allow any person to dispose of health care waste in any other acceptable manner that ensures that such health care waste and method of disposal does not constitute an environmental health hazard or environmental health nuisance or a safety hazard for any handler thereof or any other person or the environment in general.
- (4) A person who intends to engage, on any plot or premises, in an activity which may cause health care waste to be generated must, prior to the generation of the health care waste inform the responsible authority by written notice of his or her intention, and the notice must contain:
- (a) The composition, chemical or otherwise and nature of the health care waste;
 - (b) a description of the industrial process or trade giving rise to the health care waste;
 - (c) the estimated quantity of health care waste to be generated;
 - (d) the method of storage of the health care waste;
 - (e) the proposed duration of storage of the health care waste;
 - (f) the manner in which the health care waste will be collected;
 - (g) the manner in which and the disposal site at which the health care waste will be disposed of;
 - (h) the identity of the licensee removing the health care waste; and
 - (i) the number of persons employed on the premises.
- (5) If so required by the municipality, the notice must be substantiated by an analysis certified by an appropriately qualified industrial chemist of the composition of the health care waste, and must contain any other information required by the municipality.
- (6) Upon receipt and evaluation of the notice the municipality shall by written notice to person require him or her to execute at his or her expense any of the following:
- (a) To dispose of the health care waste in the same manner as other solid waste;
 - (b) to store and dispose of the health care waste in refuse receptacles, using special containers or labelling as directed by the municipality;
 - (c) to transport the health care waste to an approved facility or processing facility as directed by the municipality, employing special containers and handling, and placing the health care waste in a specific area of the facility as directed by the facility operating plan;
 - (d) to cause the health care waste to be processed on the plot or premises of generation, thus rendering it non-hazardous;
 - (e) to take any other measures relative to transportation and disposal of the health care waste as determined by the municipality to be required to protect human health and the environment; or
 - (f) to pay an additional tariff for collection and disposal of the health care waste.
- (7) The person must notify the municipality in writing of any changes occurring with respect to any of the matters stipulated in subsection (4).

- (8) Where the health care waste is being generated as a result of activities which commenced prior to the commencement of this by-law, the person must notify the municipality within 6 months of the commencement of this by-law.
- (9) An owner or occupier of a plot or premises where health care waste is generated must provide periodic training, on proper health care waste handling procedures, to all employees who may come into contact with health care waste.
- (10) A person who contravenes subsection (1), (2), (4), (6), (7), (8) or (9) commits an offence.

28. Storage of health care waste

- (1) Any person engaging in an activity which may cause health care waste must ensure that the health care waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2)
 - (a) Perishable health care waste must be stored at a temperature not exceeding 4°C, and should preferably be frozen.
 - (b) A health care waste storage area must –
 - (i) be vermin-proof, insect-proof, and rodent-proof;
 - (ii) have an easily cleanable floor and wall finishing and general construction;
 - (iii) be totally enclosed;
 - (iv) adequately ventilated and lighted; and
 - (v) be lockable.
 - (c) All health care waste must be stored in a health care waste storage area until it is loaded or removed for final disposal.
 - (d) On-site spills must be cleaned up immediately.
 - (e) All interior surfaces of storage areas must be meticulously disinfected and cleaned on a daily basis.
- (3) Provision must be made for unrefrigerated, perishable health care waste to be removed on weekends and public holidays.
- (4) Subject to the provisions of sub-section (6) health care waste must, prior to final disposal at an approved facility or processing facility, be sterilized using one of the following methods:
 - (a) autoclave;
 - (b) microwave;
 - (c) chemical treatment; or
 - (d) incineration.
- (5) Sterilization of health care waste may be performed on the premises where the health care waste was generated or at an off-site location.
- (6) Health care waste must, prior to disposal, be placed in a colour coded heavy duty plastic bag or other suitable colour coded container as follows:
 - (a) health care waste which has not been sterilized and rendered non-infectious must be placed in a red heavy duty plastic bag at the point of generation or disposed of at an approved facility or processing facility in an unsterilized condition;
 - (b) health care waste which has been sterilized by autoclave, microwave, chemical or other non-burning method, must be placed in a yellow heavy duty plastic bag;
 - (c) cytotoxic or genotoxic pharmaceutical health care waste and associated

contaminated materials such as, but not limited to syringes, tubing, containers, preparation materials, vials and ampoules, must be discarded into a container which is labelled cytotoxic waste or genotoxic waste; and

- (d) sharp objects such as, but not limited to needles and broken glass, contaminated with cytotoxins must be placed into a rigid, sealed, plastic container which is labelled cytotoxic sharps, and provision must be made in this regard for the safe discarding of the longest Trocar needle.
- (7) The above requirements for colour coded containers must be strictly adhered to for all movement and transportation of health care waste either on the premises of generation or in transit to an off-site sterilization or disposal facility.
- (8) A person who contravenes a provision of this section commits an offence.

29. Transport of health care waste

- (1) Only approved transporters may transport health care waste and must do so in accordance with the requirements and provisions of the responsible local municipality.
- (2) (a) The loading compartments of transport vehicles for health care waste must be lockable and must comply with the following requirements:
 - (i) The compartment must be thermally insulated and capable of maintaining a refrigerated transport temperature not exceeding 4°C;
 - (ii) the interior panel construction must be so tightly joined as to ensure a removable liquid seal and airtight seal;
 - (iii) the interior surfaces must be painted white with a durable duco or enamel paint or have a finish approved by the municipality;
 - (iv) there must be a threshold of at least 100 mm at the doors to prevent leakages spilling outside; and
 - (v) the compartment must be equipped with approved Spilikits that are regularly checked and replenished.
- (b) The transport vehicle must be manned by a team adequately trained in the effective use of the Spilikits and clean-up procedures.
- (c) Every loading compartment must be meticulously disinfected and chemically cleaned on a daily basis.
- (3) A licensee licensed to collect and dispose of health care waste, must inform the municipality at those intervals the municipality may stipulate in the licence or elsewhere, about
 - (a) the removal of health care waste;
 - (b) the date of such removal, the quantity;
 - (c) the composition of the health care waste removed; and
 - (d) the facility at which the health care waste has been disposed.
- (4) A person who contravenes a provision of this section commits an offence.

30. Disposal facility and incineration

- (1) An approved transporter must dispose of the health care waste at an approved waste disposal facility for that purpose.
- (2) A person who contravenes subsection (1) commits an offence.

CHAPTER 9 WATER AND SANITATION

31. **Applicable legislation and enforcement**

- (1) The municipality, taking cognisance of the provisions of the National Water Act, 1998 (Act 36 of 1998), adopts the provisions in this Chapter.
- (2) The municipality, taking cognisance of the provisions of the Water Services Act, 108 of 1997 and of the Regulations relating to Compulsory National Standards and Measures to Conserve Water published under GN R509 dated 8 June 2001, adopts the provisions in this Chapter.
- (3) Within the powers conferred upon the municipality by the National Health Act, 2003, the municipality may act in terms of section 36 or 37 of this by-law where the non-compliance with any of the provisions of the Act and Regulations contemplated in sub-sections (1) and (2) constitutes an environmental health hazard or nuisance.

32. **Duties and prohibitions**

- (1) An owner, occupier or user of land or premises must –
 - (a) maintain every water passage so as to prevent the creation of an environmental health hazard or nuisance.
 - (b) construct a bund wall around a tank, or group of tanks, that contain a substance that can create a environmental health nuisance, of a size that contains the volume of the largest tank in the event of any unlawful or accidental discharge from the tank or group of tanks;
 - (c) clean any industrial surface area so as to prevent the pollution of storm water which may result in adverse impacts on the quality of any surface and ground water; and
- (2) An owner or occupier of land or premises may not –
 - (a) locate any dump within the one hundred year flood line of any water resource; or
 - (b) use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchment dam, or any embankment, road or railway in a way likely to create an environmental health nuisance.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

CHAPTER 10 DISPOSAL OF CORPSES AND DISTURBANCE OF MORTAL REMAINS

33. **Disposal of corpse**

- (1) No person may inter a corpse in such a manner that it constitutes an environmental health hazard or health nuisance, and for these purposes the lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1500 millimetres in depth.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

34. 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 (Act 58 of 1959), and any other provision of any Act relating to the exhumation of corpses, no person may, without the environmental health practitioner being present:
- (a) disturb a corpse or mortal remains or the ground surrounding it in a cemetery;
 - (b) remove a corpse from a grave; or
 - (c) exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
- (2) 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, and if not made deeper, then only 30 days after a period of 5 years since the interment of the first corpse;
 - (b) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm; and
 - (c) the consent of the local municipality has been obtained.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

**CHAPTER 11
ENFORCEMENT**

35. Environmental health practitioner

Sections 80 to 89 of the National Health Act, 2003 (Act 61 of 2003) apply, with the necessary changes, to the appointment, responsibilities and powers of the environmental health practitioner, and offences relating to such practitioner.

36. Notice of compliance and submissions

- (1) Where an environmental health practitioner has reasonable grounds to believe that a person fails to comply with any requirement of this by-law, or that such a person is in contravention of any provision of this by-law, he or she may serve a notice of compliance on the person, which notice must state –
- (a) the name and residential or postal address of the person;
 - (b) the requirement which has not been complied with or the provision which has been contravened;
 - (c) that the person must within a specified period take measures to comply with the notice and to complete the measures before a specified date; and
 - (d) that the person may within 14 days make a written submission to the municipality at a specified place.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of this by-law, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make a submission in terms of subsection (1)(d) and the person fails to take the measures before the date contemplated in subsection (1)(c), he or she commits an offence, and the municipality may, irrespective of any fines which may be imposed under section 45, act in terms

- of subsection (5).
- (4) (a) Submissions not lodged within the time contemplated in subsection (1)(d) will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
- (b) The municipality must consider the timely submission and any response thereto by the environmental health practitioner.
- (c) 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 making a submission 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.
- (d) The municipality must, after consideration of the submission and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the municipality must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.
- (e) Where a person fails to discharge the obligations contemplated in paragraph (d), he or she commits an offence and the municipality may, irrespective of any fines which may be imposed under section 45, act in terms of subsection (5).
- (5) The municipality may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the municipality in accordance with section 40.

37. Prohibition notice

- (1) An environmental health practitioner may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and require measures to be taken to ensure that this occurs, on one or more of the following persons:
- (a) the owner or occupier of the premises if the municipality reasonably believes that the premises are being used for a purpose or in a manner that is causing an environmental health hazard or an environmental health nuisance;
- (b) any person who is carrying on an activity or using premises for a purpose or in a manner that the municipality reasonably believes is causing an environmental health hazard or an environmental health nuisance; or
- (b) a person on whom a compliance notice was served if the municipality reasonably believes that that person has not complied with the compliance notice.
- (2) The municipality must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the municipality reasonably believes that the delay in doing so would compromise environmental health, in which case the person on

whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

- (3) A prohibition notice must state –
- (a) the reasons for serving the notice;
 - (b) whether or not the municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - (c) the possible consequences of failing to comply with the notice; and
 - (e) how to appeal against the notice.
- (4) Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection (1) and remains in force until it is withdrawn.
- (5) The environmental health practitioner must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- (6) It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
- (a) he or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - (b) he or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection (5).

38. Withdrawal of prohibition notice

- (1) The municipality must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the land or premises.
- (2) After completing the investigation, the municipality must inform, in writing, the person on whom the prohibition notice was served or that person's agent whether or not the prohibition has been removed or the prohibition order has been withdrawn.
- (3) The municipality may charge the owner or occupier of the land or premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

39. Municipal remedial work

The municipality may enter any premises and do anything on the premises that it reasonably considers necessary –

- (a) to ensure compliance with this by-law or with a compliance notice or prohibition notice;
- (b) to eliminate or reduce an environmental health nuisance; or
- (c) to eliminate or reduce an environmental health hazard.

40. Costs

Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 36, the municipality may, subject to subsection (3) recover, as a debt, and in accordance with municipality's debt collection policy, all costs incurred as a result of it acting in terms of section 39.

41. Norms, standards and guidelines

- (1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures that can be taken to eliminate the risk of

any health nuisance occurring, continuing or recurring, or to reduce that risk to an acceptable level.

- (2) The norms, standards and guidelines contemplated in sub-section (1) may differentiate between communities, geographical areas and different kinds of premises.

CHAPTER 12 MISCELLANEOUS PROVISIONS

42. Presumptions

- (1) When an employee of a person in the course of his or her employment performs any act or is guilty of an omission which constitutes an offence under this by-law, the employer is deemed also to have performed the act or to be guilty of the omission and the employer is liable on conviction to the penalties referred to in section 45, unless the employer proves to the satisfaction of the Court that –
- (a) in performing the act or being guilty of the omission, the employee was acting without the employer's knowledge or permission;
 - (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
 - (c) it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.
- (2) The fact that an employer issued instructions forbidding any act or omission of the kind referred to in subsection (1) is not itself sufficient proof that he or she took all steps referred to in paragraph (1)(b).
- (3) When an employer is by virtue of the provisions of subsection (1) liable for any act or omission of his or her employee, that employee shall also be liable to prosecution for the offence.
- (4) In any prosecution for an offence under this by-law an allegation in the charge concerned that any place was situated in a street or public place or within a particular area or was a place of a specified kind, shall be presumed to be correct unless the contrary is proved.

43. 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 the environmental health practitioner.
- (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.

44. 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.

45. 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.

46. Co-operation between municipalities and application

- (1) In an effort to achieve optimal service delivery, the municipality may enter into agreements with the local municipalities within its area of jurisdiction in respect of the following:
 - (a) practical arrangements with regard to the execution of the provisions of this by-law;
 - (b) recovery of costs and expenses;
 - (c) subject to the provisions of section 86 of the Municipal Structures Act, 1998, mechanisms for the settlement of disputes with regard to the execution of powers or the matters on which there have been agreements;
 - (d) any other matter regarded necessary by the district and local municipalities to achieve optimal service delivery.

47. Liaison forums in community

- (1) The municipality may establish liaison forums in a community for the purposes of -
 - (a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and
 - (b) promoting the achievement of a safe and healthy environment.
- (2) The forums contemplated in sub-section (1) may consist of-
 - (a) a member or members of an interest group or an affected person in the spirit of section 2(4)(f) to (h) of the National Environmental Management

- Act, 1998 (Act 107 of 1998).
- (b) a member or members of a community in whose immediate area an environmental health hazard or environmental health nuisance occurs or may occur;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for environmental health.
- (3) The municipality may, in the implementation and enforcement of this by-law, -
- (a) request the input of a forum;
 - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section 2, may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998 (Act 107 of 1998), submit an input to the municipality for consideration.

48. 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) In order to consider an application in terms of sub-section (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) 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.
- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

49. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the local municipalities within the jurisdictional area of Cacadu District Municipality, or any of the disestablished municipalities now incorporated into the said municipalities, in so far as it has been made applicable to Cacadu District Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

50. Short title and commencement

This by-law may be cited as the Municipal Health By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

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