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IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

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PART 1 OF 2

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HELPLINE**

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DEPARTMENT OF HEALTH

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS**GENERAL NOTICE 63 OF 2022****INXUBA YETHEMBA**

- UMASIPALA WASEKHAYA -
- LOCAL MUNICIPALITY -
- PLAASLIKE MUNISIPALITEIT -
NO. 1 JA, CALATA STREET, CRADOCK, 58820

**NOTICE 118/2021****APPLICATION FOR A PROPOSED REZONING FROM INDUSTRIAL ZONE 1 TO RESIDENTIAL ZONE IV (FLATS) AND REMOVAL OF RESTRICTIONS OF ERF 1521 MIDDELBURG**

Notice is hereby given in terms of Spatial Planning & Land Use Management Act 16 of 2013 / Inxuba Yethemba Spatial Planning and Land Use Management Bylaw, and all applicable legislation that an application has been lodged by Mr. Tymore of Urban and Rural Dynamics (Pty) Ltd for the Rezoning of Erf 1521 Middelburg from Industrial Zone 1 to Residential Zone IV and Removal of Title Deed Restrictions. Further details are obtainable from the undersigned during normal office hours for a period of 30 days from date hereof.

Written objections, if any, must reach the Municipal Manager, Inxuba Yethemba Municipality, Municipal Complex, JA Calata Street (P O Box 24), Cradock, 5880 by no later than 23rd August 2021.

MUNICIPAL MANAGER – M . W. MBEBE

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 311 OF 2022

ENGCOBO LOCAL MUNICIPALITY

DRAFT

**REFUSE REMOVAL AND LITTERING BY-
LAWS**

BY-LAWS

Purpose of By-Laws

- To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality;
- To provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

Definitions

1. In these By-Laws, any word or expression to which a meaning has been assigned will bear that meaning and unless the context otherwise indicates: -

"bin-liner" means a plastic bag of adequate strength, as prescribed by the Municipality, which must be placed inside the container;

"Builder's refuse" means any waste or refuse resulting from or generated by the construction, excavation, renovation or demolition of a building or other structure or works;

- 1) **"bulky refuse"** means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner and includes tree stumps, tree branches, hedge stumps and branches but excludes noxious waste;

"charge" means the charge prescribed by the Municipality by special resolution;

"Council" means —

- (a) the Municipal Council of Engcobo Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

"Refuse container" means a container as approved by Engcobo Local Municipality and which can be supplied at a fixed tariff or a rent tariff or in any other way as determined

"domestic refuse" means refuse which includes light soft garden refuse normally originating from a building used for residential purposes, including hostels, compounds, welfare organizations, churches and halls situated on private property or other premises and which can be removed with ease by use of an approved container;

"garden refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter and which can be removed in a plastic liner, with ease, and without damage to the said plastic liner;

"Industrial refuse" means any refuse generated as a result of manufacturing,

maintenance, production and dismantling activities; activities and the activities of railway marshalling yards, but shall not include noxious waste, builder's refuse, business refuse, special refuse or domestic refuse;

“Municipality” means Engcobo Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Engcobo Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Engcobo Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“Occupier (also occupant)” in relation to any premises means:

- a) Any person in occupation of a premises at any relevant time;
- b) Any person legally entitled to occupy the premises;
- c) Any person in control or management of a premises;

“Owner” means and includes:

- (a) the person or persons with whom the legal proprietary of any fixed property is vested;
- (b) the person administering an estate as curator, executor, proxy, trustee or administrator of a person with whom the legal title is vested and who is insolvent or dead or of his mind;
- (c) the agent or persons receiving the rental of a property in cases where the owner as described above is away
- (d) the usufruct of fixed property, or
- (e) the fiduciaries of fixed property;

“Owner” in relation to any premises means:

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

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

"trade refuse" means any trade material or trade waste as determined by the Municipality and agreed to by the owner or occupier.

"business refuse" means refuse generated on a premise which is not a private residency that is to be used exclusively for residential purposes, and excludes domestic refuse, builder's refuse, bulky refuse, trade refuse, special domestic refuse, garden refuse and special trade refuse;

"consumer" means a person to whom the Council has agreed to supply with refuse removal services or is actually supplying with refuse removal services, or if there is no such person, the owner of the premises;

"contaminated sharps" means discharged sharps (e.g. hypodermic needles, syringes, pasteur pipettes broken glass, scalpel blades) which have come into contact with infectious agents during use in patient care or in medical research or industrial laboratories;

"contractor" means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Engcobo Local Municipality and includes the Contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Council, any assignee of the contractor;

"general public" means small users who make use of the landfill site such as residents, households and small industries but excludes contractors, medium to large businesses/industries and Council;

“hazardous waste” means waste which can, even in low concentrations, have a significant adverse effect on public health and/or the environment because of its inherent chemical and physical characteristics such as toxic, ignitable, corrosive, carcinogenic or other properties;

“illegal dumping” means refuse that has been left at a place with the intention of abandoning it, such refuse as sand, paper, plastic bottles, builder’s rubble and any other material that may create a nuisance or that is unsightly and detrimental to the environment;

“infectious refuse” means any waste which is generated during the diagnosis treatment or immunization of humans or animals, in the research pertaining to this; in the manufacturing or testing of biological agents-including blood, blood products and contaminated blood products, cultures, pathological wastes, sharps, human and animal anatomical wastes and isolation wastes that contain or may contain infectious substances;

“informal settlement” means the illegal dwelling occupation of proclaimed or unproclaimed vacant land of which the occupants have access to conventional basic services such as running water, water borne sewerage or electricity;

“isolation waste” means waste generated by hospitalized patients isolated to protect others from communicable disease;

“landfill site” means premises or an area specifically set aside for the disposal of refuse, and which has been approved and accepted by Council, and which has been registered in accordance with the Environmental Conservation Act (Act 73 of 1989) as amended;

“mass waste container” means a bulk container which may be used for the removal of bulky, builders, trade, and garden refuse;

“medical waste” means waste emanating primarily from human and veterinary hospitals, clinics, doctor’s consulting rooms, chemists, hospices, laboratories, mortuaries, research facilities and sanitary services which may comprise inter alia, sharps (used hypodermic needles and scalped blades), malignant tissue, contaminated gloves, soiled bandages and liner, and spent or outdated medicines or drugs;

“noxious waste” means waste which is toxic, hazardous, injurious or originating from abattoir which is detrimental to the environment;

“premises” means an erf or any other portion of land including any building thereof or any other structure utilized for business or residential purposes;

“public place” has the same meaning as defined in the Local Government Ordinance, 1939;

“refuse” means materials in a solid or liquid form which are or appear to have been abandoned or otherwise accumulated;

“refuse removal tariff” means the tariff, charges, fees or any other moneys payable as determined by the Council in terms of the Local Government: Municipal Systems Act 32 of 2000;

“refuse transfer site/mini disposal site” means a site approved by the Council for the disposal and temporary storage of garden refuse, builders refuse, bulky refuse, and domestic refuse excluding trade, business, special trade or hazardous waste;

“service” means a refuse removal service (in respect of refuse whether solid or liquid) which in the opinion of Council is rendered or can be rendered on a regular basis;

“special industrial refuse” means refuse, consisting of a liquid or sludge, resulting from a manufacturing process or the pretreatment for disposal

purposes of any industrial waste, which may not be discharged into a drain or a sewer in terms of the National Building Regulations and Building Standards, (Act No 103 of 1977);

“waste products” means a product as defined in Government Notice 1986 of 24 August 1990, promulgated in terms of the Environment Conservation Act 1989 (No 73 of 1989);

“working days” mean the days that the Council is open for business and shall exclude weekends, public holidays as well as the period starting from the Christmas public holidays to the end of the New Year public holidays.

Domestic refuse removal

2. The Municipality must provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

Use of service compulsory

3. Every occupier of a property must make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

Accumulation and removal of domestic refuse

4. (1) Subject to the provisions of subsection (6) hereunder the Municipality may

provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for accumulation of domestic refuse.

(2) If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property, require the occupier or occupiers thereof to provide as many containers as it may determine on such property.

(3) If a container used by an occupier does not comply with the requirements the Municipality, it may instruct such occupier to obtain and use some other suitable container.

(4) The Municipality may, where it considers it necessary or desirable, of its own accord supply containers to particular classes of occupiers, or on particular classes of properties, or in particular areas, in which event the cost of such container must be recovered from the owners of the properties.

(5) All containers must be equipped with bin liners, unless the Municipality determines otherwise.

(6) The Municipality may, generally or in particular, issue instructions to occupiers on the manner in which or the arrangements according to which refuse or refuse bags must be placed in containers, be removed therefrom, be tied and thereafter be placed for removal, and any disregard of such instructions must be considered to be a contravention in terms of these By-Laws.

(7) No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers too difficult for the Municipality's employees to handle or carry, must be placed in such bin liners or containers.

(8) The containers or bin liners, or both, must be removed by the Municipality at such intervals as the Municipality may deem necessary, only if such containers or bin liners, or both, have been put at the prescribed places as provided by the Municipality.

(9) The Municipality is not be liable for the loss of or for any damage to a container or bin liner.

(10) In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself or herself, instead of the occupier, liable for compliance with the provisions of these By-Laws.

(11) The Municipality may, in specific cases, impose different directions, other than the use of an 85 litre container.

(13) The Municipality may lay down policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse must be separated and disposed of.

Accumulation of domestic refuse

5. The owner or occupier of any property must ensure that all domestic refuse generated on such property must be accumulated only in a container, as determined by section 5, and in no other manner.

Littering

6. No person must -

- (a) throw, drop, deposit or spill any refuse into or onto a public place, street, vacant stand, vacant erf, stream or water-course, or throw, let fall, deposit, spill or in any other way discard, any refuse into or onto any public place, vacant erf, farm portion, stream or watercourse,

other than into a refuse container provided for the purpose or onto a landfill site or satellite station controlled by the Council;

- (b) sweep any refuse into a gutter on a public place or into any public street and
- (c) allow any person under his control to do any of the acts contemplated in (a) and (b).

Dumping

- (1) Subject to any provision to the contrary in the Bylaw contained, no person shall leave anything under his control at a place where such thing has been brought with the intention of abandoning it.
- (2) Once it has been alleged that a person has left a thing or allowed a thing to be left at a place of which he is not the owner(s) and/or occupier(s), he shall be deemed to have contravened the provisions of subsection (1) until the contrary is proved.
- (3) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable, on conviction to a fine not exceeding R 2 000.00 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment, as well be liable to the Council the tariff charge in respect of such removal and disposal.

Pavements

7. It must be the duty of every owner or occupier of a shop or trade premises to ensure that the pavement in front of or abutting such shop or premises is kept clean and free of refuse or waste material emanating from such shop or premises or resulting from the delivery of goods to such shop or premises or the supply or sale of goods to the public by the occupier of such shop or premises.

Garden refuse

8. (1)

The owner(s) and/or occupier(s) of premises on which garden, or bulk refuse is generated shall ensure that such refuse is disposed of in terms of this Chapter within a reasonable time considered by Council after the generation thereof: Provided that garden refuse may be retained on the premises in an approved manner for the making of compost if it will not cause a nuisance.

(2) If it has sufficient facilities available, the Municipality may in its discretion and on application from the owner or occupier of property remove garden refuse therefrom at the cost of the owner or occupier in which case the Municipality may impose certain rules.

(3) No garden refuse may be dumped, kept or stored on any sidewalk or vacant ground.

Builder's refuse

9. Builder's refuse which may have accumulated in the course of the construction, alteration, renovation or demolition of any structure or works must be removed from the property concerned according to suitable arrangements to be made by the owner of such property. If there is any undue delay in the removal of such refuse after the completion of the works involved, the Municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

Trade refuse

10. The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

The owner(s) and/or occupier(s) of premises on which industrial and trade refuse is generated shall ensure that, until such time as such refuse is removed from the premises on which it was generated, such refuse be stored in the refuse containers or other approved containers delivered by the Council.

The owner(s) and/or occupier(s) of such premises shall ensure that no dust or other nuisance is caused by industrial and trade refuse generated on the premises.

Informal traders who generate trade refuse shall ensure that the refuse is removed from the premises on which it was generated and such refuse be stored in the refuse containers or other approved containers delivered by the Council.

Disposal sites for domestic, garden and builder's refuse

11. (1) The Municipality periodically sets aside and maintains a place or places where domestic, garden and builder's refuse must be dumped.

(2) Any person dumping domestic, garden and builder's refuse in any other place is guilty of an offence.

(3) The Municipality may, from time to time, determine tariffs for the dumping of certain types of refuse.

Ownership of refuse

9. All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality must be the property of the Municipality, and no person who is not duly authorised by the Municipality to do so must remove or interfere with such refuse.

Abandoned objects

10. Anything other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

Liability

16 (1) Where anything has been removed and disposed of by the Municipality in terms of section 15, the person responsible must be liable to pay the Municipality the charge fixed by it for such removal, disposal or custody.

- (2) For the purposes of subsection (1), the person responsible must be-
- (a) the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or put in the place from which it was so removed, unless he can prove that he was not concerned in and did not know of its being put in such place, or
 - (b) any person by whom the object was put in the place aforesaid, or
 - (c) any person who knowingly permitted the object to be put in the said place.
- (3) Where refuse bins/containers have been stolen, the owner(s) and/or occupier(s) of premises shall be responsible for the replacement of the bins.

Access to premises

- (1) Where the Council provides a refuse collection service, the owner(s) and/or occupier(s) of premises shall grant the Council access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Council in the carrying out of its service and the Council shall not be liable for any damage of property caused by the heavy refuse removal vehicle.
- (2) Where in the opinion of the Council the collection or removal of refuse from any premises is likely to result in damage to the premises or the Council's property, or injury to the refuse collectors or any person, it may, as a condition of rendering a refuse collection service in respect of the premises, require the owner(s) and or occupier(s) to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.

Charges and deposit

17. The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service must deposit with the Municipality must be determined by the Municipality.

Charges

- (1) Save where otherwise provided in these Bylaws, the person to whom any service mentioned in these Bylaws has been rendered by the Council shall be liable to the Council for the tariff charge determined by the Council.
- (2) Services rendered by the Council in respect of which a tariff charge is prescribed, may be altered by the Council if it has ascertained that an increase or decrease in such services is justified, or after receipt of a written notification from the owner(s) and/or occupier(s) of the premises to which the services are rendered, that the generation of domestic or business refuse on the premises has ceased, or reduces in volume, and the Council is satisfied that a change in service is justified.
- (3) If written consent in subsection (2) is received, the tariff charge will not be reduced and shall be payable until the Council is satisfied that an alteration in service is justified.
- (4) Tariff charges prescribed shall become due and payable on the same date as the general assessment rate levied: Provided that if such tariff charges are increased, any unpaid balance owing to the Council on the total amended charges will be due and payable to the Council on demand.
- (5) Any person who fails to pay the tariff charge in respect of services rendered by the Council be guilty of an offence.
- (6) Should any organization be able to produce a certificate of registration as a nonprofit organization issued by the Department of Social Development, such an organization may apply for exemption from refuse removal levies; it either be:
 - (a) Levied the applicable domestic refuse removal charge as reflected in the tariff schedule;

- (b) the organization be exempted from paying all refuse removal charges.
- (7) That where bulk container services are not rendered on a scheduled basis or at least once per month, a minimum basic charge for the rendering of one bulk container service be levied.

Registered organizations in subsection (6) refer to, may include hospice, old age homes, retirement villages, service centres utilized by the aged and community service providers.

Penalty

18. Any person who contravenes or fails to comply with any provision of these By-Laws is guilty of an offence and liable upon conviction to—
- (a) a fine not exceeding R2000 or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment;
 - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.

Repeal of By-Laws

19. All previous Council regulations, policies and arrangements are dealing with refuse removal and littering that are in conflict with these By-Laws are repealed.

Short title and commencement

20. These By-Laws are called Refuse Removal and Littering By-Laws, 2015 and will come into operation on the date of publication in the *Provincial Gazette*.

SOME OF THE PROPOSED FINES

Disposing of refuse by placing it at a place other than the container provided or approved by the municipality.	Proposed fine R2000
Failure to retrieve or collect waste which is blown off the property by the wind.	Proposed fine R200
Using a container provided by the municipality for purposes other than storing waste.	Proposed fine R500
Failing to place the receptacle in the position outside the premises as indicated by the municipality, at the times and for such period as the municipality may require.	Proposed fine R300
Failure to remove or convey the waste in such a manner as will prevent any nuisance resulting there from or the escape of the contents or materials therein	Proposed fine R1500
Failure to remove building waste within 14 days after the completion of the construction in respect of which the waste was generated.	Proposed fine R2000
Discarding, placing or leaving waste on the municipal land, public road or a public place other than in a container/site provided or approved by the municipality for the discarding of waste by the public	Proposed fine R2000
Sweeping waste into a gutter, onto a road reserve or onto any other public place.	Proposed fine R500

PROVINCIAL NOTICE 312 OF 2022

ENGCOBO LOCAL MUNICIPALITY

The Municipal Manager of Engcobo Local Municipality hereby in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996], publishes the By-laws Relating to Street Trading set out hereunder, as approved by its Council and will come into operation on the date of publication thereof.

BY-LAWS RELATING TO ROAD TRAFFIC MATTERS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

WHEREAS section 156(2) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS municipal public transport is listed as a local government matter in Part B of Schedule 4 to the extent set out in section 155(6)(a) and (7);

WHEREAS municipal roads and traffic and parking is listed as local government matters in Part B of Schedule 5, to the extent set out in section 155(6)(a) and (7);

AND WHEREAS the Municipality, intends to control nuisances emanating from the operation of public transportation within the jurisdiction of the Engcobo Municipality;

NOW THEREFORE be it enacted by the Council as follows:

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[1] Interpretation

1. Definitions

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

"**Act**" means the National Road Traffic Act, 1996 ([Act No. 93 of 1996](#));

"**authorised officer**" includes—

- (a) a person in the service of the Municipality whose duty is to inspect licences, examine vehicles, examine driving licences, or who is a traffic officer or a road traffic law enforcement officer, and also any other person declared by the Minister of Transport by regulation made in terms of the National Road Traffic Act to be an authorised officer; and
- (b) a person appointed as an inspector by the Municipality as contemplated in section 86 of the National Land Transport Act, 2009 (Act No. 5 of 2009);

"**authorised official**" means an employee of the Municipality responsible for carrying out any duty or function, or delegated to carry out any duty or function, in terms of this By-law;

"**bus**" means a motor vehicle designed or adapted for the conveyance of more than 16 persons, including the driver;

"**Council**" means the Council of the City;

"driver" means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle or who leads any draught, pack or saddle animal or herd or flock of animals, and "drive" or any like word has a corresponding meaning;

"holding area" in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

"holder" in relation to a rank token, means the owner to whom a rank token has been issued in terms of section 3(2);

"kerb line" means the boundary between the shoulder and the verge or in the absence of a shoulder, the part between the edge of the roadway and the verge;

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

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

"non-motorised vehicle" means a vehicle or device utilised for land road based transport for the conveyance of goods or passengers, which is propelled either solely by animal power or by human power or a combination of human power, assisted by an alternative source of power or provided by any form of fossil fuel;

"operating licence" means an "operating licence" as defined in section 1 of the National Land Transport Act, 2009 (Act No. 5 of 2009);

"owner" in relation to a vehicle, means—

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with the regulations under section 4 of the Act, and "owned" or any like word has a corresponding meaning;

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

"ply for hire" means use of a vehicle for conveying passengers for hire or reward;

"permit' means a "permit" as defined in section 1 of the National Land Transportation Act, 2009 (Act No. 5 of 2009);

"public transport conductor" means a person who, in a public place or on a public road, renders a conductor service to public transport drivers and passengers, including—

- (a) soliciting and touting for business;
- (b) controlling and managing access to vehicles; and (c) collecting fares.

"public transport vehicle" means a public motor vehicle used for the conveyance of passengers or of passengers and goods for hire or reward, including buses and taxis;

"public transport service" means a scheduled or unscheduled service for the carriage of passengers by road whether subject to a contract or

not, and where the service is provided for a fare or any other consideration or reward, including cabotage in respect of passenger transport as defined in the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998) and except where clearly inappropriate, the term "public transport" must be interpreted accordingly;

"rank" includes—

- (a) a public transport interchange or a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers for reward; and
- (b) any place designated or demarcated as a rank or for the exclusive parking of specific public transport vehicles by a road traffic sign, and "ranking" and "public transport facility" have corresponding meanings;

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

"shoulder" means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

"stopping place" in relation to—

- (a) a taxi, means a place designated by the Municipality where a taxi may stop to pick up or drop off passengers; and
- (b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

"taxi" means a public transport motor vehicle other than a public bus used for the conveyance of passengers or of passengers and goods for hire or reward such as a minibus or a midibus, and includes metered taxis;

"taxi facility" means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the Municipality for the exclusive use of taxis;

"taxi rank" means any place designated or demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign;

"touting" means soliciting passengers for a public transport vehicle by shouting, hooting, whistling or any other conduct, and "tout" has a corresponding meaning;

"trolley" means a device used to transport anything or person and which is propelled or pulled by human or animal power, and includes a pram or cart; and

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

[2] Plying for hire and ranking requirements

1. Parking and plying for hire

Subject to subsection (2), a driver of a public transport vehicle who plies for hire, or picks up or drops off passengers may park such public transport vehicle at a rank or any parking place demarcated for such public transport vehicles.

Despite subsection (1), the Municipality may, in emergencies or at recreational and other similar functions, set aside temporary public transport facilities identified by the authorised officer as suitable for the parking and stopping of public transport vehicles.

No driver of a public transport vehicle may park such vehicle at a stopping place or any other place not demarcated for such public transport vehicles.

No driver of a public transport vehicle may, except with the written authorisation of the relevant

operating licensing authority, may deviate from the allocated route and take short cuts through community roads for the purpose of plying for hire or driving to pick up or drop off passengers.

2. Right of entry

An authorised officer may, in enforcing the provisions of this By-law, at any reasonable time and without prior notice—

- (a) enter a public transport service facility to inspect the facility; and (b) make enquiries from a person connected with such facility.

[3] Licence and operating licence

1. Driver of motor vehicle to be licensed

No person shall drive a motor vehicle on a public road—

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the Act or of any document deemed to be a licence for the purposes of the Act; and
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the motor vehicle.

2. Motor vehicle to be licensed

Subject to the provisions of the Act, every motor vehicle in the Municipality shall, whether or not it is operated on a public road, be licenced by the owner of such motor vehicle, in accordance with the provisions of the Act, with the relevant licensing authority.

3. Driver to have operating licence or permit

Subject to the provisions of section 32 of the Act, no person shall drive a motor vehicle of a class prescribed in terms of the Act on a public road except—

- (a) in accordance with the conditions of a permit issued to him or her in accordance with the provisions of the Act; and
- (b) if he or she keeps such permit with him or her in the motor vehicle, provided that this subsection shall not apply to the holder of a learner's licence who drives such motor vehicle whilst he or she is accompanied by a person registered as a driver in respect of that class of vehicle.

4. Operating licence to be produced on demand

- (1) The holder of an operating licence must—

- (a) maintain the operating licence in a good and legible condition; and
 - (b) keep the operating licence in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi or bus.
- (2) A traffic officer may call on the driver of a taxi or bus to stop and may demand that he or she—
- (a) produce the operating licence; and
 - (b) give his or her full name and address and also the name and address of the owner of the taxi or bus.
- (3) A driver referred to in subsection (2) may not—
- (a) operate a public transport service without a valid operating licence; or
 - (b) allow the operating licence to be used for a vehicle other than that specified in such operating licence.

5. Unauthorised handing over or abandonment of taxi or bus

No driver of a taxi or bus may—

- (a) abandon his or her vehicle; or
- (b) allow any other person to drive the taxi or bus under his or her control without the consent of the holder of the operating licence or public permit concerned.

Chapter 4 Conduct of drivers, conductors and passengers

1. Preventing engagement of a public transport vehicle

No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent— (a) any person from obtaining or engaging a public transport vehicle; or (b) the driver of a public transport vehicle from taking on passengers.

2. Conveying dangerous or offensive articles in public transport vehicles

A person who is in charge of a public transport vehicle may not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing—

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act.

3. Boarding and disembarking of public transport vehicles

- (1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.
- (2) No person may insist on boarding a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.
- (3) No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

4. Queues at public transport facilities

- (1) At any established ranking facility, the Municipality may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a public transport vehicle will stop and form a queue, and such a sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave.
- (3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single file when required to so by an

approved public transport conductor or authorised official of the Municipality.

- (4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue.
- (5) Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or authorised official when on duty.

5. Garments and identification of public transport service conductor

- (1) Every public transport service conductor must, while on duty and presenting himself or herself as available for service, be dressed in a retro-reflective bib or jacket, and must ensure that an identification card issued to him or her in terms of any other law is visibly displayed.
- (2) No public transport service conductor or any other person may engage in touting.

6. Duty of care

The owner, driver and conductor of a public transport vehicle must, at all times, exercise a duty of care by maintaining the inside of such public transport vehicle in a sanitary state of affairs.

7. Payment of fares

A passenger must pay the determined fare for the journey on request.

8. Rights and duties of passengers when a public transport vehicle becomes defective

- (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must, at the request of the driver, disembark such defective vehicle and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.
- (2) Upon agreement with the driver of the defective public transport vehicle, passengers are allowed to travel with the next available public transport vehicle for the remainder of the distance in respect

of the paid fares, at the cost of the owner of the defective public transport vehicle.

- (3) A driver who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence.

9. Animals

No passenger may enter a public transport vehicle with any animals other than a guide dog assisting a blind person.

10. Actions prohibited on a public transport vehicle

The following actions are prohibited on a public transport vehicle:

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (h) forcibly causing the driver to deviate from his route;
- (i) endangering the life of another person; and (j) interfering with the actions of the driver.

11. Behaviour prohibited at a public transport facility

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from a queue or the vicinity of a public transport facility by any authorised officer of the Municipality.

12. Property left in public transport vehicles

The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must— (a) deliver that property to the person who left it behind; or

- (b) if he or she is unable to deliver that property to the person who left it behind, take the
- (c) property, as soon as possible, to the lost property office of his or her employer or to the nearest police station and de-posit it with the officer on duty and obtain a receipt for it.

Chapter 5 Road safety

1. Overloading

No driver of a public transport vehicle may allow more than the specified number of passengers as indicated in the public permit.

2. Obstruction and disruption of traffic

- (1) No person may park or allow a public transport vehicle to park in a stopping place designated for specific public transport vehicles.
- (2) No driver of public transport vehicle or his or her conductor may depress the button of a traffic control signal so as to speedily activate the green pedestrian light in order to force vehicular traffic to stop.
- (3) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.
- (4) No public transport vehicle may park for the purpose of plying for hire in a demarcated parking bay any longer than is required to enable waiting passengers to be picked up or dropped off.

3. Duties of pedestrians

- (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.

- (2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.
- (3) Where a traffic-control light signal ("robot"), which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.
- (5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (6) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

4. Use of hooter

No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this By-law or any other law or on the grounds of safety.

5. Duty to indicate when changing lanes

- (1) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs shall not turn from one lane into or across another lane unless he or she can do so without obstructing or endangering other traffic.
- (2) A driver may not turn from one lane into or across another lane without giving a conspicuous signal visible to any person

approaching him or her from the front or from the rear or from the side, and of a duration sufficient to warn any such person of his or her intention.

6. Driving on shoulders

- (1) Subject to subsection (2), no person shall drive a motor vehicle on the shoulder of a public road.
- (2) Notwithstanding subsection (1), the driver of a motor vehicle may, during the period between sunrise and sunset, drive such motor vehicle on the shoulder of a public road which is designated for one lane of traffic in each direction—
 - (a) while such motor vehicle is being overtaken by another vehicle;
 - (b) if he or she can do so without endangering himself or herself, other traffic, pedestrians or property on such public road; and
 - (c) if persons and vehicles upon a public road are clearly discernible at a distance of at least 150 metres.

Chapter 6 Communications devices

1. Prohibition on use of communication device while driving

- (1) Subject to any other law, no person shall drive a motor vehicle on a public road—
 - (a) while holding a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body;
 - (b) while using or operating a cellular or mobile telephone or other communication device unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used, to enable such driver to use or operate such telephone or communication device without holding it in the manner contemplated in paragraph (a), and remains so affixed while being used or operated.
- (2) For the purposes of this section—

- (a) the word "headgear" includes a device which is specially designed or adapted to allow the driver to use a cellular or mobile telephone or other communication device in such a manner that he or she does not hold it in one or both hands or with any other part of the body, and which is connected to the cellular or mobile telephone or other communication device concerned, directly or indirectly, while being fitted to or attached to one or both ears of the driver; and
 - (b) the phrases "cellular or mobile telephone or any other communication device" and "cellular or mobile telephone or other communication device", excludes land mobile radio transmission and reception equipment operating in the frequency band 2 megahertz to 500 megahertz that is affixed to the vehicle or is part of the fixture in the vehicle.
- (3) Subject to subsections (1) and (4), an authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device.
- (4) The authorised officer must, when confiscating any hand held communication device—
- (a) inform the owner of such communication device of the reasons of confiscating and impounding;
 - (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- follow all procedures contained in any policy of the Municipality dealing with the confiscation and impoundment of property.

Chapter 7 Offences and penalties

1. Offences and penalties

A person who contravenes a provision of this By-law commits an offence.

A person who commits an offence referred to in subsection (1) is, on conviction, liable for a fine or a term of imprisonment not exceeding three years, or both such fine or such imprisonment.

Chapter 8 General provisions

1. Repeals

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.

- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

Short title

By-law relating to Road Traffic Matters and will come into operation on the date of publication in the *Provincial Gazette*.

PROVINCIAL NOTICE 313 OF 2022
LOCAL GOVERNMENT NOTICE

The Municipal Manager of Engcobo Local Municipality hereby in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996], publishes the By-laws Relating to Street Trading set out hereunder, as approved by its Council and will come into operation on the date of publication thereof.

BY-LAWS RELATED TO STREET TRADING

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate street trading in the municipal area for the benefit of the public residing in or visiting the Municipality;

AND WHEREAS the Council has a responsibility to promote social and economic development in a safe and healthy environment.

The purpose of this By-Law is therefore to regulate Street Trading within the jurisdictional area of the municipality in a manner that recognises and enhances the municipality's constitutional and other statutory obligations.

NOW THEREFORE be it enacted by the Council as follows:

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- [8] Provision of and lease of verges and stands or areas for the purpose of street trading
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[1] **DEFINITIONS**

In these by-laws, any word or expression to which a meaning has been assigned in the Businesses Act, 1991 [Act No. 71 of 1991], has the meaning so assigned and words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"approval" means approval by the municipality and "approved" has a corresponding meaning;

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"Council" means:

- (a) the Municipal Council, which exercises its legislative and executive authority; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated

or sub- delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) ("the Municipal Systems Act"); or

a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Municipal Systems Act or any other law, as the case may be

"Designated Area" means an area Prescribed by the Council in terms of this By- Law, subject to the Act, as the area in which Street Trading can be conducted;

"foodstuff" means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992, ordinarily eaten or drunk by persons or purporting to be suitable or manufactured or sold for human consumption and includes –

[a] any part or ingredient of any such article or substance; or

[b] any substance used or intended or destined to be used as a part or ingredient of any such article or substance.

"garden or park" means a garden or park where the public has a right of access;

"goods" means any movable property and includes a living thing;

"Impoundment Costs" means all those costs incurred by the municipality in respect of impounding and storing of impounded Goods or Property and, where applicable, costs incurred in respect of disposal of impounded Goods;

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996;

"kerb line" means a kerb line as defined in section 1 of the National Road Traffic Act, 1996; the boundary between the Shoulder and the Verge or, in the absence of a Shoulder, the part between the edge of the Roadway and the Verge;

"Linear Market" means a Designated Area located in a pedestrianised environment.

"litter" includes any receptacle, container or other matter which has been discarded, abandoned or left behind by street traders or by their customers;

"motor vehicle" means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996;

"municipal services" means any system conducted by or on behalf of a Municipality for the collection, conveyance, treatment or disposal of refuse, sewage, storm-water, or for the generation, impounding, storage, purification or supply of water, gas or electricity, or municipal services;

"municipal service works" means all property or works of whatever nature necessary for or incidental to any municipal services;

"Municipality" means the Engcobo Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 and includes any political structure or political office bearer as defined in the said Act, Councillor, duly authorized agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, Councillor, agent or employee;

"Periodic Markets" means sale of legal goods and/or services by individuals and/or groups, in locations designated for Street Trading for a period no longer than 5 days

"prescribed" means determined, from time to time, by resolution of the Municipality;

"property", in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods for trade;

"public building" means a building belonging to or occupied solely by an organ of state including the municipality and also includes municipal service works;

"public monument" means any one of the "public monuments and memorials" as defined in the National Heritage Resources Act, 1999 or any similar legislation;

"public place" means any square, park, recreation ground or open space that is vested in the Municipality or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's Office and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996;

"Rental" means an amount payable by the Informal Trader for the allocated trading space in the Designated Area as agreed between the Council and an Street Trader;

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996;

"sell" and **"sale"** have a corresponding meaning and includes –

- [a] barter, exchange or hire out;
- [b] display, expose, offer or prepare for sale;
- [c] storing on a public road or public place with intention to sell; or
- [d] providing a service for reward;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;

"Shoulder" means, as defined in the Traffic Act, that portion of the road, street or thoroughfare between the edge of the Roadway and the Kerb Line;

"Special Events" means special events that occur from time to time, including, without limitation, sports events, religious events, social, cultural or political gatherings and music festivals;

"street furniture" means any furniture installed by the Council on a street for public use;

"street trader" means a person who carries on the business of street trading and includes any employee of such person;

"street trading" means the selling of any goods or the supplying or offering to supply any service for reward, in a public road or public place, by a street trader;

"the Act" means the Businesses Act, 1991 [Act No. 71 of 1991] and includes the regulations promulgated in terms thereof; and

"verge" means a verge as defined in section 1 of the National Road Traffic Act, that portion of a road, street or thoroughfare, including the Sidewalk, which is not the Roadway on the Shoulder.

[2] INTERPRETATION

2.1 Meaning of words and expressions in the Act incorporated in this By-Law - Unless the context otherwise indicates, any words or expressions which a meaning has been assigned in the Act shall have a corresponding meaning in this By-Law.

2.2 Single act constitutes Street Trading

For the purpose of these by-laws, a single act of selling or offering or rendering of services in a public road or public place constitutes street trading.

2.3 Reference to legislation includes regulations made thereunder -

For the purpose of this By-Law a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.

2.4 ASSIGNING POWERS OF A COUNCIL EMPLOYEE TO EMPLOYEE OF A SERVICE PROVIDER, WHERE A SERVICE PROVIDER HAS BEEN APPOINTED

If any provision in these by-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference in that provision to that employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

[3] PROHIBITED CONDUCT

[1] No person may carry on the business of a street trader –

[a] at a place or in an area declared by the Municipality in terms of section 6A[2] [a] of the Act as a place or area in which street trading is prohibited;

[b] in a garden or a park to which the public has a right of access;

[c] on a verge near –

[i] a building belonging to or occupied solely by an organ of state including the Municipality;

[ii] a church, mosque, synagogue or other place of worship;

- [2]** Any person who has hired a stand from, or been allocated a stand by the Municipality in terms of subsection [1] [h] may not trade in contravention of the terms and conditions of such lease or allocation.

[4] RESTRICTED CONDUCT

- [1]** No person carrying on the business of a street trader may –
- [a]** sleep overnight at the place of such business;
 - [b]** erect any structure for the purpose of providing shelter, other than a device approved by the Municipality;
 - [c]** place property on a public road or public place, with the exception of a motor vehicle or trailer from which trade is conducted and provided that such vehicle or trailer does not obstruct pedestrian and vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996;
 - [d]** trade on a sidewalk where the width of such sidewalk is less than 3 (three) metres;
 - [e]** place or stack property in such a manner that it constitutes a danger to any person or property or is likely to injure Any person or cause damage to any property;
 - [f]** display goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
 - [g]** attach any property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
 - [h]** carry on business in such a manner as to –
 - [i]** create a nuisance;
 - [ii]** damage or deface the surface of any public road or public place or any public or private property; or
 - [iii]** create a traffic and/or health hazard, or health risk, or both.

- [i]** make an open fire on a public road or public place;
 - [j]** interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view.
 - [k]** obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
 - [l]** obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
 - [m]** obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of these by-laws;
 - [n]** carry on business, or take up a position, or place his property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Municipality for the purposes of these by-laws;
 - [o]** other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
 - [p]** place on a public road or public place property that is not capable of being easily removed to a storage place away from such public road or public place at the end of the day's business;
 - [q]** store property in a manhole, storm-water drain, public toilet, bus shelter or in a tree;
 - [r]** handle any foodstuffs including meat in a manner contrary to applicable law;
 - [s]** carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A[2] [a] of the Act.
- [2]** Any person carrying on the business of a street trader must ensure that their property or area of activity –

- [a]** does not cover an area of a public road or a public place which is greater than 6m² with a maximum length of 3m in extent, unless otherwise approved by the Municipality; and
- [b]** in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5m wide when measured from any contiguous building to the property or area of activity, and not less than 0.5m wide when measured from the kerb line to the property or area of activity;

[3] Any person carrying on the business of a street trader must –

- [a]** upon request by an authorized official or supplier of telecommunication or electricity or other municipal services, move his property so as to permit the carrying out of any work in relation to a public road, public place or any such service; and
- [b]** on concluding business for the day, remove his property, except any structure permitted by the Municipality, to a place which is not part of a public road or public place;

[5] CLEANLINESS

Any person carrying on the business of a street trader must –

- [a]** keep the area or site occupied by him for the purposes of such business in a clean and sanitary condition;
- [b]** keep his property in a clean, sanitary and well-maintained condition;
- [c]** dispose of litter generated by his business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the Municipality;
- [d]** not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e]** ensure that, on completion of business for the day, the area or site occupied by him for the purposes of trade is free of litter;
- [f]** take such precautions in the course of conducting his business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road or public place or into a storm-water drain;

- [g] ensure that no smoke, fumes or other substance, odours, or noise emanating from his activities cause pollution of any kind; and
- [h] on request by an authorized official of the Municipality, move his property so as to permit the cleansing of the space of the area or site where he is trading or the effecting of municipal services.

[7] SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS

- [1] The Municipality may, by resolution and in terms of section 6A[2] of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating –
 - [a] specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - [b] the location of boundaries of restricted or prohibited areas;
 - [c] the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - [d] any other restriction or prohibition against street trading in terms of these by-laws;
- [2] The Municipality must display any such sign, including a pictograph marking or device in such a position and manner as will indicate any restriction or prohibition and/or the location or boundaries of the area or stand concerned;
- [3] Any sign erected in terms of these by-laws or any other law serves as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and
- [4] Any sign may be amended from time to time and displayed by the Municipality for the purpose of these by-laws and any such sign has the same effect as a road sign in terms of the National Road Traffic Act, 1996.

[8] PROVISION OF AND LEASE OF VERGES AND STANDS OR AREAS FOR THE PURPOSE OF STREET TRADING

- [1]** The Municipality may, by resolution, in terms of section 6A[3] [a] to [c] of the Act –
- [a]** lease any municipal land, including any verge or any portion of a verge, to the owner or occupier of contiguous land on condition that such owner or occupier must admit a specified number of street traders to trade on stands or places on such land designated by such owner or occupier for informal trading;
 - [b]** set apart municipal land in the Municipality and demarcate stands or areas on such land for the purpose of informal trading;
 - [c]** let or otherwise allocate any stand or area; and
 - [d]** extend, reduce or disestablish any stand or area referred to in the previous subsections.
- [2]** Any land leased by or allocated by the Municipality aforesaid for informal trading must be so let on an economic rental basis.
- [3]** The Municipality may, in addition to setting aside land in its municipal area for informal trading, also make available to informal traders, subject to such conditions as it may determine, suitable structures, shelters and devices for the conduct of the business of informal trading.

[9] REMOVAL AND IMPOUNDMENT

- [1]** An authorized official may remove and impound any property of a street trader –
- [a]** reasonably suspected of being used or intended to be used or that has been used in or in connection with street trading; and
 - [b]** that is found at a place where street trading is restricted or prohibited and that constitutes an infringement of any such restriction or prohibition, regardless of whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.

- [2]** The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3]** Any authorized official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must –
- [a]** itemise the property to be removed and impounded;
 - [b]** provide the address where the impounded property will be kept and the period of such impoundment;
 - [c]** state the conditions for the release of the impounded property;
 - [d]** state the terms and conditions relating to the sale of unclaimed property by public auction;
 - [e]** state the terms and conditions relating to the sale of unclaimed property by public auction; and
 - [f]** provide the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which this must be done.
- [4]** If any property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present thereat, any authorized official of the Municipality may order such person to remove the property, and any such person who refuses or fails to comply is guilty of an offence.
- [5]** When any person fails to comply with an order to remove the property referred to in subsection [4], any authorized official of the Municipality may take any necessary steps to remove such property.
- [6]** The Municipality must provide sufficient and adequate storage facilities for the storage of any property impounded in terms of this section.
- [7]** In the event that an authorized official removes and impounds any property in terms of the preceding subsections, all reasonable steps must be taken to ensure that such property is not damaged or lost.

- [8] The Municipality is not liable for any damage or loss caused to any such property that is removed and impounded unless such damage or loss is caused as a result of the negligence of the Municipality.

[10] VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

- [1] When an employee or agent of a street trader contravenes a provision of these by-laws, the street trader is deemed to have personally committed such contravention unless he satisfies the court that reasonable steps were taken to prevent such contravention.
- [2] The fact that a street trader issued instructions to the employee or agent mentioned in subsection [1] to prevent a contravention is not in itself sufficient proof of reasonable steps to prevent a contravention.

[11] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[12] COMPLIANCE NOTICE

- [1] If an authorized official reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on an offender, or any one or more of the following persons:
- [a] the owner of any premises;
 - [b] the occupier of any premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises.

- [2]** A compliance notice must state –
- [a]** why the authorized official believes that these by-laws are being contravened;
 - [b]** the measures that must be taken to ensure compliance with these by-laws;
 - [c]** the time period within which the measures must be taken;
 - [d]** the possible consequences of failing to comply with the notice; and
 - [e]** how to appeal against the notice.
- [3]** If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –
- [a]** take the required action specified in the compliance notice; and
 - [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c]** direct that a prohibition notice be served on such person in terms of section 13 of these by-laws.

[13] PROHIBITION NOTICE

- [1]** An authorized official may, after inspecting any premises, thing or any place contemplated in section 12 of these by-laws, serve a prohibition notice on the owner, occupier or user of such place, premises or thing.
- [2]** The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [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
 - [d]** 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 authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6]** It is a defence for any person charged with failing to comply with a prohibition notice to prove that –
 - [a]** he 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 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].

[14] WITHDRAWAL OF PROHIBITION NOTICE

- [1]** The authorized official 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 premises.
- [2]** After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3]** The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[15] DELIVERY OF NOTICES

- [1]** A notice, order or other document is to be regarded as having been properly served if –

- [a]** it has been delivered to that person personally;
 - [b]** sent by registered post to the person to whom it is addressed at his last known address;
 - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [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 for in subsections [1] [a], [b] or [c]; or
 - [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 premises to which it relates.
- [2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
- [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b]** if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[16] APPEAL

- [1]** A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3]** When the appeal is against a decision taken by –

- [a]** a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b]** the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c]** a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[17] OFFENCES AND PENALTIES

- [1]** Any person is guilty of an offence who, in respect of these by-laws –
- [a]** contravenes or fails to comply with any provision;
 - [b]** fails to comply with any notice; or
 - [c]** fails to comply with any lawful instruction; or
 - [d]** fails to comply with any condition imposed by the Municipality in any authorization or permit; or
 - [e]** obstructs or hinders any authorized official of the Municipality in the execution of his duties.
- [2]** Any person guilty of an offence in terms of subsection [1] is liable on conviction –
- [a]** to a fine not exceeding or
 - [b]** in default of payment of a fine mentioned in subsection [2] [a], to imprisonment for a period not exceeding six months; and
 - [c]** in the case of a continuing offence, to a further fine not exceeding R50; or
 - [d]** in default of payment of the amount mentioned in subsection [2] [c], to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requesting the discontinuance of such offence.

- [3]** A court sentencing a street trader who is found guilty of a contravention of these by-laws may also order the convicted street trader to pay the Municipality the reasonable costs it may have incurred in impounding and storing any goods impounded under these by-laws.
- [4]** An admission of guilt fine as contemplated in terms of sections 56 and 57 of the Criminal Procedure Act, 1977 may be paid in respect of a summons or written notice issued for any contravention of these by-laws.

[18] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

PROVINCIAL NOTICE 314 OF 2022

ENGCOBO LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-laws Relating to Liquor Trading Hours that come into operation on the date of publication thereof.

BY-LAW RELATING TO LIQUOR TRADING HOURS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Application of By-Laws
- [3] Report by Ward Committee
- [4] Hours of Trading
- [5] Exemptions
- [6] Enforcement
- [7] Appeal
- [8] Offences
- [9] Penalties
- [10] Repeal of by-laws

SCHEDULES**[1] DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"Act" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

- [b]** a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c]** a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d]** a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.;

"Board" means the Eastern Cape Liquor Board established by section [4] of the Act;

"Council" means the Council of the Tsolwana` Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application and enforcement of these by-laws;

"community" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"Municipal Manager" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"liquor trading establishment" means any fixed property from which liquor is sold or supplied to the public for consumption;

"official" means an official of the Municipality;

"premises" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

"Regulations" means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

"trading hours" means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with **SCHEDULE 1** of these by-laws;

"trader" means a person trading in liquor from a liquor trading establishment;

"ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

[2] APPLICATION OF BY-LAWS

These by-laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

[3] REPORT BY WARD COMMITTEE

[1] A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2] [d] [i] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;

[2] The councillor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:

- [a]** the details of the consultative process with the community, including the –
 - [i]** dates when the consultation took place; and
 - [ii]** names and addresses of persons who were consulted.
- [b]** comments on the application;
- [c]** details of objections received in respect of such application, if any;
- [d]** comments on such application; and
- [e]** a recommendation with regard to such application.

[3] The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application; provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.

- [4]** The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council; provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.
- [5]** An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his findings to the Council at its next meeting.
- [6]** The Council must consider the findings contemplated in subsection [5] and thereafter take the steps contemplated in subsection [3].

[4] HOURS OF TRADING

- [1]** The trading hours, as listed in Column 2 of **SCHEDULE 1** to this by-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the **SCHEDULE 1**, have been determined by the Municipality and may be reviewed by the Municipality from time to time.
- [2]** Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]; provided that nothing contained in these by-laws –
 - [a]** prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and
 - [b]** permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.
- [3]** A trader who contravenes subsection [2] commits an offence.

[5] EXEMPTIONS

- [1]** The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5[1] and a trader who wishes to sell liquor at such hours must, before he sells such liquor, obtain such written consent of the Municipality.
- [2]** A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in

SCHEDULE 2 and submit the form and other particulars as the Municipality may request, to the Office of the Municipal Manager.

- [3]** The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, must be entered in item C of the form contained in **SCHEDULE 2**.
- [4]** A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.
- [5]** A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

[6] ENFORCEMENT

- [1]** The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these by-laws.
- [2]** Each official appointed in terms of subsection [1] must be issued with an identity card containing –
- [a]** a photograph of that official;
 - [b]** the date of the Council resolution authorizing his appointment;
 - [c]** his designation; and
 - [d]** a brief reference to his duties and obligations in terms of these by-laws;
- [3]** An official, acting within the powers vested by these by-laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his duties;
- [4]** An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –
- [a]** at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and

[b] request any person to provide such reasonable information as the official deems necessary.

[5] For purposes of these by-laws, an official appointed in terms of this section will be regarded as the authorized official.

[7] APPEAL

[1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[3] When the appeal is against a decision taken by –

[a] the authorized official, the Municipal Manager is the appeal authority;

[b] the Municipal Manager, the Mayor is the appeal authority; or

[c] a political structure or political officer bearer, or a Council of the Municipality is the appeal authority.

[4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[8] OFFENCES

[1] Any person commits an offence if he –

[a] hinders or interferes with an authorized official in the execution of his official duties in terms of the Act;

[b] falsely professes to be an authorized official;

[c] intentionally furnishes false or misleading information when complying with a request of an authorized official;

[d] fails to comply with a reasonable request of an authorized official;

[e] fails, refuses or neglects to comply with the trading hours referred to in **SCHEDULE 1**.

[9] PENALTIES

[1] Any person who commits an offence contemplated in section 6[1] to [5] and 10[a] to [d] of these by-laws is, upon conviction, liable to –

[a] a fine or imprisonment for a period not exceeding six months; or

[b] such imprisonment without the option of a fine; or

- [c]** both such fine and such imprisonment.
- [2]** Any person who is found to be continuously contravening or failing to comply with section 10[a] to [d] of these by-laws is guilty of an offence and liable to –
- [a]** an additional fine; or
 - [b]** an additional period of imprisonment of 10 days; or
 - [c]** such additional imprisonment without the option of a fine; or
 - [d]** both such additional fine and imprisonment for each day on which such offence is continued.
- [3]** Any person who commits an offence in terms of section 10[a] to [d] of these by-laws is liable for a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.
- [4]** Any person who commits an offence in terms section 10[e] of these by-laws is liable upon conviction, to –
- [a]** a fine or imprisonment for a period not exceeding three years; or
 - [b]** imprisonment without the option of a fine; or
 - [c]** a fine and imprisonment.
- [5]** Any person who is found to be continuously contravening or failing to comply with section 10[e] of this by-law is, in respect of each day on which that person contravenes or fails to comply, guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day and liable on conviction to –
- [a]** a fine; or
 - [b]** imprisonment for a period not exceeding three months; or
 - [c]** both such fine and imprisonment.
- [6]** Any person who is convicted of a contravention of section 10[e] of this by-law within a period of five years after he was convicted of contravening this by-law is liable to –
- [a]** imprisonment for a period of six years; or
 - [b]** double the fine for contravening this by-law; or
 - [c]** to both such fine and imprisonment.
- [10] REPEAL OF BY-LAWS**
- [1]** Any by-laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and relating to

crèches or nursery schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.

- [2]** Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

SCHEDULE 1

[1] TYPE OF REGISTRATION	[2] TRADING HOURS
Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. <i>[bottle store, retail shop, wholesaler, house shop]</i>	Monday to Saturday 08:30 to 20:00 Sunday 09:00 to 13:00
Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. <i>[restaurant, night club, sports club, pool bar, hotel, pub]</i>	Sunday to Thursday 10:00 to 24:00 Friday-Saturday 10:00 to 02:00
Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. <i>[taverns, shebeens]</i>	<u>Off-consumption</u> Monday to Saturday 08:30 to 20:00 Sunday 09:00 to 13:00 <u>On-consumption</u> Sunday to Saturday 10h00 to 24:00
Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. <i>[beer festival, fete, fundraising event]</i>	Trading hours to be determined by resolution of the Council in respect of each application
Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse.	Monday to Saturday 08:00 to 17:00 Sunday 09:00 to 13:00
Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing	Trading hours to be determined by resolution of the Council in respect of each application

SCHEDULE 2**APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS****A. APPLICANT**

Name:

Identity Number:

Address:

Telephone number:

B. PERSONAL PARTICULARS

Address [street name and number] of the premises on which the liquor will be sold or supplied:

Dates and hours on which liquor will be sold or supplied [Be specific, e.g. 14:00 to 23:00 on 3 June, 2005]:

Reason why this application is made:

Anticipated volume of liquor that will be consumed:.....

Nature of liquor that will be sold or supplied:

Other particulars [as requested by the Council]:

Signed Date
[Applicant]

C. CONSENT

Issuing Local Authority:

OFFICIAL
DATE
STAMP

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

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

PROVINCIAL NOTICE 315 OF 2022

ENGCOBO LOCAL MUNICIPALITY

DRAFT

INDIGENT SUPPORT BY-LAWS

BY-LAWS

To provide for support of indigent households within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Engcobo Local Municipality, as follows:

TABLE OF CONTENTS

1. Definitions
2. Registration and monitoring
3. Applications
4. Registration criteria
5. Power of entry and inspection
6. Re- evaluation
7. Subsidy determination
8. Property rates
9. Water
10. Power to disconnect supply of water
11. Electricity
12. Sewerage
13. Refuse removal
14. Rental housing
15. Debt and credit control
16. Debt management
17. Repeal of By-Laws
18. Short title

DEFINITIONS

1. For the purpose of these by-laws, unless the context indicates otherwise-

“**account holder**” means any person in whose name an account is registered;

“**applicant**” means a member of a private household responsible for the payment of services or rates account

“**basic services**” means the prescribed minimum standard of services provided by Municipality;

“**credit control**” means all functions relating to the collection of monies owed by tax payers of the Municipality and users of municipal services;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“Council” means —

- (a) the Municipal Council of Engcobo Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

“Councillor” means a member of a Municipal Council;

“debtor” means a person owing the Municipality in respect of taxes or service charges who failed to pay such taxes or service charges upon demand by the municipality;

“documentary proof of income” means any document produced to prove financial income and includes but not limited to, letter from an employer, salary advice, pension card, or unemployment Insurance card;

“Financial officer” means a person appointed by the Municipality to manage its finances and credit control;

“household” means a group of people who live together at least four nights a week, or a single person who lives alone;

“improved value” means an amount that is traditionally determined on the annual budget for assessment rates concession to the elderly;

“indigent household” includes –

- (a) a private residential household with a total gross monthly income not exceeding R2 000,00 per month or such amount which may, from time to time, be determined by the Municipality;
- (b) a household whose member or members do not own any other fixed property other than the one that he or she resides;
- (c) a household whose improved value of its municipal property does not exceed an amount of R150 000,00

“investigators” mean the councillors, ward representatives, members of municipal staff or its accredited agents;

“Municipality” means Engcobo Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Engcobo Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Engcobo Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“municipal services” means services, rates and taxes reflected on the municipal account for which payments is required by Municipality;

“private residential household” means a private dwelling which belongs or is occupied by one or more adult persons with or without minor children;

“SALGA” means the South African Local Government Association recognised in terms of the Organised Local Government Act, 1997 (Act No. 52 of 1997) at the national organisation representing Municipalities;

“subsidy” means a portion of expense paid by the Municipality towards a total amount due by the indigent to the Municipality.

REGISTRATION AND MONITORING

2.The Municipality must keep and monitor a complete register of registered indigent households.

APPLICATIONS

3(1) A member may apply to the nearest municipal office for registration as an indigent.

(2) The Municipality must evaluate the applications referred to in subsection (1), and approve such applications if it satisfies the evaluation criteria for indigents.

(3) Applications that have been approved must be entered into a register of indigent households.

(4) The Municipality must, in complicated applications consult with the relevant ward Councillors.

REGISTRATION CRITERIA

4. (1)A private residential household to be registered as indigent household-

- (a) must have a total gross monthly income of all its household members not exceeding an amount of R2000-00; or
 - (b) such other amount as may be determined by the Municipality from time to time.
- (2) The applicant and any other member of the household must not own other immovable property other than the one they reside in, and the improved value of the municipal property they reside must not exceed an amount of R150 000,00.
- (3) An application referred to in section 3 must contain –
- (a) written proof of income of each member of the household;
 - (b) an affidavit of unemployment; or
 - (c) medical certificate that confirms inability to work.
- (4) The abovementioned documents must be supported by a sworn statement and such document must have been made less than a month before submission.

POWER OF ENTRY AND INSPECTION

5(1) A duly authorised representative of the Municipality may, for any purpose of verifying information supplied in the application, enter premises, request any information as he or she may deem necessary.

- (2) The Municipality may either approve or reject an application made if-
 - (a) the living standard of indigent debtor is inconsistent with the information given on the application;
 - (b) investigators are refused entry into the premises to verify the information supplied; or
 - (c) wrong information is furnished.

RE-EVALUATION

6. (1) Every indigent household registered in terms of these By-Laws is required to reapply to the Municipality for re-evaluation and determination of financial status, after every six months.

- (3) Failure to comply with the requirement under subsection (1) will result with the indigent status reversed and standardised tariffs or charges implemented.

SUBSIDY DETERMINATION

7 (1). Then Municipality must, from time to time and in terms of the policy principles referred to in the SALGA for indigent, determine all subsidies granted to indigent households.

(2) The amount so determined must include rates, water, sewerage and sewerage availability, refuse removal and VAT.

PROPERTY RATES

8(1) The Municipality will, from time to time determine monthly rates for indigent subsidies.

(2) Different subsidies will be determined if sewerage and refuse removal charges are included in the rates account or in the case where such services are charged for, separately.

(3) Any amount charged in excess of the normal subsidy rates must be paid in terms of the standard procedure laid by the municipality.

(4) If the monthly rates account is less than the amount of subsidy determined in terms of subsection (1), such subsidy will be limited to the value of the monthly rates instalment or payment.

WATER

9 (1) There must be monthly 6kl free basic water for households within the jurisdiction of the Municipality per month.

(2) The indigent households must further receive 4kl free basic water provided by the Municipality monthly.

(3) Any indigent household may, on written notice to that effect, lose its indigent status if, within two months period, it uses more than 20kl basic water.

(4) A standard tariff will apply in respect of such household.

POWER TO DISCONNECT SUPPLY OF WATER

10 (1) The Municipality may disconnect or limit any water supply to the indigent if the indigent debtor uses more than the total free allocated water and fails to pay for the additional water account that is due until the such account is paid or arrangements made for payment in terms of the Municipality procedures.

(2) If the water supply is disconnected before an application for indigent support is made, the indigent debtor is required to pay the amount levied by the Municipality before the water is reconnected.

ELECTRICITY (NB)

11(1) An amount of 50 Klw free basic electricity plus an amount determined by the Municipality must be given to the indigents within the jurisdiction of the Municipality per month.

- (2) The Municipality may, on approval of application for indigent support, transfer such applicant to a prepaid energy dispenser.
- (3) The transfer will be on such terms and conditions as the Municipality may determine.
- (4) Any municipal arrears in respect of electricity must, if incurred before the transfer referred to in subsection (2), be paid through auxiliary payment system.
- (5) For purposes of subsection (3), the auxiliary payment system must be activated for gradual payment of arrears.
- (6) Such system serves as a percentage of the purchases over and above the free basic electricity supply.
- (7) Consumers must be informed by the Municipality to enable them to understand the effective use of the new system.

SEWERAGE

12(1) The Municipality may, from time to time and subject to availability of funds, determine and grant a monthly amount of sewerage usage by indigent person.

- (2) Any difference in the amount contemplated in subsection (1) and any standard tariff determined by the Municipality must be paid by the indigent debtor.
- (3) If the monthly sewerage charge is less than the value of the indigent subsidy, the subsidy will be limited to the value of the determined monthly sewerage charge.

REFUSE REMOVAL

13(1) The indigent person may, on a monthly basis, be granted so much money for refuse removal as may be determined by the Municipality from time to time.

- (2) Any difference in the amount referred to in subsection (1) and any standard tariff determined by the Municipality from time to time must be paid by the indigent person.
- (3) If the monthly refuse removal charge is less than the amount of the indigent subsidy, such subsidy must be limited to the amount determined for the refuse removal.

RENTAL HOUSING

14(1) An indigent debtor is liable to pay a minimum amount of R100,00 per month in respect of a house that he or she rents.

(2) Subject to subsection (1), the indigent debtor may receive an indigent subsidy necessary to reduce his or her monthly rental payment in terms of a table determined by the Municipality from time to time.

DEBT AND CREDIT CONTROL

15(1) The Municipality may, on any arrear debt with regard to prepaid electricity, charge interest at a rate to be determined by the Municipality unless arrangements to pay the electricity have been made in terms of the municipality procedures.

(2) Any person registered as indigent must, on monthly basis, pay discounted levies determined in terms of this By-Law.

(3) Failure to comply with the provisions of subsection (2) will result in credit control measures implemented against such person, subject to the Credit Control By-Laws.

DEBT MANAGEMENT

16(1) The Chief Financial Officer must collect every debt due to the municipality.

(2) Every household that is in arrears may be evaluated in order to determine the status of that household for registration, re-registration or deregistration as indigent.

Repeal of By-Laws

17. All previous Council regulations, policies and arrangements dealing with indigent support that are in conflict with these By-laws, are repealed.

Short title and commencement

18. These By-Laws are called Engcobo Indigent Support By-Laws and will come into operation on the date of publication in the *Provincial Gazette*.

PROVINCIAL NOTICE 316 OF 2022

ENGCOBO LOCAL MUNICIPALITY

DRAFT

PROPERTY RATES BY-LAWS

BY-LAWS

To provide for By-Laws to give effect to the rates policy of the Municipality in terms of section 6(1) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and to provide for any matters incidental thereto.

BE IT THEREFORE ENACTED by the Engcobo Local Municipality, as follows:

TABLE OF CONTENTS

1. Definitions
2. Contents of rate policy
3. Categories of properties
4. Exemption of owners of property
5. Categories of owners of property
6. Liability for rates
7. General valuation
8. Repeal of By-Laws
9. Short title

CHAPTER 1

1. Definitions

In these By-Laws, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004, bears that meaning, and unless the context indicates otherwise –

“business” in relation to property, means the use of property for the activity of buying, selling or trading in commodities or services on a property and includes any office or other accommodation on the same property, the use of which is incidental to such activity, but does not include the business of agriculture, farming, or any other business consisting of the cultivation of soils, the gathering of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

“category” means the category in relation to properties for the purpose of levying different rates, and category in relation to owners of properties for the purpose of granting exemptions, rebates and reductions;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), as amended;

“Council” means —

- (a) the Municipal Council of Engcobo Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or

- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

“Credit Control and Debt Collection By-Laws” means the Municipality’s promulgated Credit Control and Debt Collection By-Laws, as amended from time to time;

“government property” means property owned and exclusively used by an organ of state, excluding farm properties used for residential or agricultural purposes or not in use;

“illegal use” in relation to property, means any use of a property that is inconsistent with or in contravention with the permitted use of that property in which event and without condoning the illegal use thereof, the property must be valued as if it were used for such illegal purposes only;

“improvement” means any building or structure on or under a property, but excludes –

- (a) a structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
- (b) any building, structure or equipment or machinery referred to in section 46(3) of the Local Government: Municipal Property Rates Act;

“indigent” means any household that is legally resident in the country and reside in Engcobo Municipality’s jurisdictional area, who due to a number of economic and social factors are unable to pay municipal basic services, and is registered by the Municipality as such;

“industrial” in relation to property, means the use of a property for a branch of trade or manufacturing, production, assembling or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, including any office or other accommodation on the property, the use of which is incidental to the use of the factory;

“municipal property” means any property rateable or non-rateable, owned by the Municipality;

“Municipality” means Engcobo Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Engcobo Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Engcobo Local Municipality as determined from time to time in terms of the Local

Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as amended;

“Municipal Property Rates Act” means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended;

“municipal valuer” means a person designated as municipal valuer by the Municipality in terms of section 33 of the Municipal Property Rates Act;

“multiple purposes” in relation to property, means property that cannot be assigned to a single category due to the multiple use of such property in which event the property will be valued based on the apportionment of uses in accordance with the applicable category of the property in terms of this policy;

“owner” in relation to property means the owner as defined in section 1 of the Municipal Property Rates Act;

“permitted use” means the limited purposes for which the property may be used in terms of –

- (a) a condition of title;
- (b) a provision of applicable Town Planning or Land Use Scheme as amended from time to time;
- (c) any legislation applicable to any specific property or properties; or
- (d) any alleviation of any such restriction;

“property” means –

- (a) immovable property registered in the name of a person, including, in the case of 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 a person, 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; or
- (e) public service infrastructure;

“residential” in relation to property, means property having a suite of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units, but does not refer to a hotel, commune, boarding or lodging undertaking, hostel, place of instruction;

“supplementary valuation roll” means a valuation roll referred to in section 78 of the Municipal Property Rates Act;

“vacant land” in relation to property, means –

- (a) land on which no immovable improvements have been erected; or
- (b) land, where the value added by immovable improvements is less than 10% of the value of the land with no immovable improvements on it, applicable to urban and non-urban land;

“valuation roll” means the valuation roll as referred to in section 30 of the Municipal Property Rates Act.

CHAPTER 2

Categories

Contents of Rates Policy

2. (1) The Municipality must in terms of section 3(3) of the Act, determine or provide criteria for the determination of categories of properties for the purpose of levying different rates and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions.

(2) Categories of rateable property may be determined according to the actual use of the property, and if the property is not in use, the permitted use or zoning of the property, or the geographical area in which the property is situated.

(3) The Municipal council must annually review, and if necessary, amend its rates policy, and any amendments to a rates policy must accompany the Municipality’s annual budget when it is tabled in the council in terms of section 16(2) of the Municipal Finance Management Act.

Categories of properties

3. Categories of rateable property for purposes of levying differential rates are in terms of section 8(2) of the Municipal Property Rates Act, determined as follows:

- (a) Residential properties;
- (b) Business and Commercial properties;
- (c) Industrial properties;
- (d) Municipal property (rateable);

- (e) Municipal property (not rateable);
- (f) State-owned properties;
- (g) Public Service Infrastructure;
- (h) Agricultural;
- (i) Agricultural vacant land;
- (j) Illegal use;
- (k) Multiple use properties;
- (l) Vacant land;
- (m) State Trust land;

Exemption of owners of properties

4. (1) A Municipality may in terms of the criteria as set out in its rates policy-

- (a) exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property; or
- (b) grant to a specific category of owners of properties, or the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

Categories of owners of properties

5. Engcobo Municipality has determined in its rates policy, the following categories of owners of property:

- (a) Indigents;
- (b) Pensioners, physically and mentally disabled;
- (c) Owners temporarily without income;
- (d) Owners of residential properties;
- (e) Land Reform beneficiaries;
- (f) Sporting Bodies;
- (g) Public Benefit Organisations.

CHAPTER 3

Liability for Rates

6. (1) The levying of rates on property will be effected in terms of the Municipality's Rates Policy as amended from time to time.
- (2) The Municipality will, as part of each annual operating budget process, determine a rate be levied on the market value of the property in every category of properties.
- (3) Rates will be recovered monthly.
- (4) If an amount due for rates on a property is unpaid by the owner of the property, the Municipality may recover the amount from the tenant, occupier of the property or, the agent of the owner.
- (5) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipal Property Rates Act, 2004, such rate will be payable from the date contemplated in section 78(4) of the Municipal Property Rates Act, 2004.
- (6) Recovery of rates due will be in accordance with the Municipality's Credit Control and Debt Collection policy read together with the Credit Control and Debt Collection By-Laws.

CHAPTER 4

General Valuation

7. (1) The Municipality will undertake a general valuation of all rateable properties in its area of jurisdiction and a valuation roll must be compiled triennially.
- (2) The Municipality will undertake supplementary valuations on an ongoing basis and prepare a supplementary valuation roll once during each financial year.
- (3) The Municipality will in accordance with section 79 of the Municipal Property Rates Act, make amendments regularly to the particulars on the valuation roll, only the electronic copy of the valuation roll is updated to incorporate such amendments, except those changes to the roll in circumstances where section 78 applies, which may only be effected through a supplementary valuation in accordance with the section.

CHAPTER 5

Repeal of By-Laws

8. All previous Council regulations, policies and arrangements are dealing with property rates that are in conflict with these By-laws are repealed.

Short title and commencement

9. These By-Laws are called Engcobo Municipality Property Rates By-Laws and will come into operation on the date of publication in the *Provincial Gazette*.

PROVINCIAL NOTICE 317 OF 2022

ENGCOBO MUNICIPALITY

DRAFT

CEMETERIES AND CREMATORIA BY-LAWS

BY-LAWS

To provide for the establishment and management of cemeteries in Engcobo Municipality; and for matters connected therewith.

BE IT ENACTED by Engcobo Municipality, as follows:.

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9. Application for a burial
10. Burial of a corpse
11. Burial of ashes
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13. Persons dying outside the Municipality
14. Measurements of graves

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15. Cremation

CHAPTER 5**Exhumation**

16 Exhumation from a municipal cemetery

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17. Memorial work

18. Graves supplies with a berm

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19. Maintenance of graves

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20. General conduct in municipal cemeteries

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21. Establishment of private cemeteries

22. Application to establish private cemeteries

23. Record of private cemeteries to be kept by the Municipality

24. Land on which a private cemetery has been established may be used for burials only

25. Exhumation of corpses from private cemeteries

CHAPTER 10

Miscellaneous

- 26. Injuries and damages
- 27. Firearms and traditional weapons
- 28. Penalty clause and expenses
- 29. Short title

CHAPTER 1

Definitions

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

"adult" where the word is used to describe a corpse, means a corpse buried in a coffin that will fit into a grave for adults as contemplated in section 14;

"ashes" means the remains of a corpse after it has been cremated;

"building control officer" means any person appointed or deemed to be appointed as building control officer by the Municipality in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"burial" means burial in earth or any other method of disposal of a corpse, ashes or a cadaver in the manner provided for in this By-law;

"burial order" means an order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992) authorising a burial;

"caretaker" means the officer appointed by the Municipality to supervise and control a municipal cemetery or municipal cemeteries, and his or her delegates;

"cemetery" means land or part thereof, including the buildings and works thereon, duly set aside and reserved for the purpose of burials and must include a columbarium;

"child" (where the word is used to describe a corpse) means a corpse that is being buried in a coffin that fits into a grave for a child as contemplated in section 14;

"columbarium" means a memorial wall or a wall of remembrance provided by the owner of a cemetery for the burial of ashes;

"corpse" means any dead human body, including the body of a stillborn child;

"developed area" means that portion of the area of jurisdiction of the Municipality which –

- (a) has by actual survey been subdivided into erven;
- (b) is surrounded by surveyed erven; or
- (c) is an informal settlement;

"grave" means a piece of land in a cemetery laid out, prepared and used for a burial;

"holder" means a person to whom a reservation certificate for a specific grave in a municipal cemetery has been issued in terms of section 6 or a law repealed by section 29;

"Medical Officer of Health" means the officer appointed by the Municipality from time to time in such position and his or her delegates;

"memorial work" means any headstone, monument, inscription or other similar work or portion thereof erected or intended to be erected upon a grave or a columbarium;

"municipal cemetery" means a cemetery that is owned and controlled by the Municipality and made available for public use from time to time;

"Municipality" means the Engcobo Municipality;

"Municipal Manager" means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"niche" means the cavity in a columbarium provided for the burial of ashes;

"plaque" means a tablet erected on the columbarium for identification purposes;

"prescribed fees" means the fees as determined from time to time by the Municipality;

"private cemetery" means a cemetery situated –

- (a) inside the area of jurisdiction of the Municipality; and
- (b) outside a developed area,

not owned and controlled by the Municipality, made available from time to time by the owner thereof for private use and must include a single grave;

"resident" means a person who at the time of his or her death, was ordinarily resident within the Municipality or under law liable for the payment of assessment rates, rent, service charges or levies to the Municipality;

"responsible person" means the nearest surviving relative of the deceased person or a person authorised by such relative, or if the caretaker is satisfied that such person does not exist or that the signature of such relative or authorised person cannot be obtained timeously for the purpose of completing the necessary application forms, another person who satisfies the caretaker as to his or her identity, interest in the burial, capacity to pay the prescribed fees and to comply with the applicable provisions of this By-law; and

"stillborn" in relation to a child, means that it had at least 26 weeks of intra-uterine existence, but showed no sign of life after complete birth.

CHAPTER 2

Establishment and management of cemeteries

Establishment of cemeteries

2. (1) The Municipality may from time to time set aside and reserve suitable municipal land within the Municipality for the establishment and management of a municipal cemetery.

(2) The Municipality may, in accordance with the provisions of Chapter 9, consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land.

(3) A cemetery established under a law repealed by these By-Laws, or that otherwise existed when these By-Laws come into operation, is deemed to be established under this section.

(4) The Municipality may set aside, reserve and demarcate within a municipal cemetery, in accordance with an approved layout plan, such areas as the Municipality may deem expedient for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, members of security forces or war heroes, or for the creation and management of -

- (a) a berm section where memorial work of a restricted size may be erected only on a concrete base provided by the Municipality at the top or bottom end of a grave, while the top surface of the grave is leveled;
- (b) a monumental section where memorial work erected must cover the entire grave area;
- (c) a semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Municipality;
- (d) a natural-grass section where the surface of graves are leveled and identified by numbers affixed on top of the graves in such a way

that a lawnmower can be used to cut the natural grass without damaging the numbers;

- (e) a traditional section where the surface of graves are leveled and memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the berm section;
- (d) a columbarium section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Municipality.

Official hours

3. (1) The municipal cemetery and the office of the caretaker must be open during the hours as determined by the Municipality and the cemetery office of the caretaker must be open from Monday to Friday.

(2) Burials in a municipal cemetery must take place on the days and during the hours determined by the Municipality.

(3) The Municipality has the right to close a municipal cemetery or any portion thereof to the public for such periods and for such reasons as the Municipality may deem fit.

(4) No person must be or remain in a municipal cemetery or part thereof before or after the official hours as determined by the Municipality or during any period when it is closed for the public, without the permission of the caretaker.

Register

4. A register of graves and burials must be kept by the caretaker of a municipal cemetery and such register must be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

Numbering of graves

5. (1) All graves in a municipal cemetery that are occupied or for which a burial has been authorised in terms of the provisions of section 9, must be numbered by the Municipality.

(2) The number must be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

Reservation of graves and niches in municipal cemeteries

6. (1) Any person who wishes to reserve a specific grave for future use in a municipal cemetery, must apply to the caretaker of that cemetery and such application must -

- (a) be done in writing on the form provided by the Municipality; and
- (b) be accompanied by the prescribed fees.

(2) The Municipality may grant or refuse the application.

(3) If the application is granted, the Municipality must issue a reservation certificate to the applicant setting out the conditions subject to which the certificate is issued.

(4) If the Municipality refuses the application, it must set out its reasons for such refusal in writing, and return the fees referred to in subsection (i)(b) to the applicant.

(5) The reservation of a grave made and recorded in the official records of the Municipality in terms of a law repealed by section 29, is deemed to be done under this section.

(6) The provisions of subsections (1) to (5) must apply necessary changes in respect of the reservation of a specific niche in a municipal columbarium.

Transfer of reserved rights

7. (1) A reserved right as contemplated in section 6 may not be transferred without the prior written approval of the Municipality.

(2) Application to transfer such right must be made to the caretaker in writing by completing and submitting a prescribed application form.

(3) If the application is granted, a certificate must be issued in favour of the transferee who will become the holder.

(4) The reserved right may be cancelled on request of the holder and if the request is approved by the Municipality, the amount paid by the holder (if any), minus 10 % administration fees, will be refunded to the holder.

Number of corpses in a single grave in a municipal cemetery

8. (1) Only one corpse may be buried in a grave with measurements as contemplated in section 14(1) or (2).

(2) Only two corpses may be buried in a grave with measurements as set out in section 14(4), if application for the burial of two corpses has been made to the caretaker in writing by submitting an application mentioned in section 9(1) before the first corpse is buried.

(3) After the reopening of a grave for the purpose of the burial of a second corpse as mentioned in subsection (2) in that grave, a concrete layer of not less than 25 mm thick must be cast above the coffin previously buried.

(4) If on reopening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation must be handled in consultation with the Medical Officer of Health.

CHAPTER 3

Burials

Application for a burial

9. (1) Application for permission for a burial in a municipal cemetery must be made to the caretaker on the prescribed application form and such application must

- (a) the prescribe burial order;
- (b) the prescribed fees; and
- (c) a reservation certificate, where applicable.

(2) No person must, without the prior written permission of the Municipality, execute, cause or allow a burial, including the burial of ashes or a cadaver, in any other place in the Municipality than in a municipal cemetery.

(3) An application for permission for a burial must be submitted to the caretaker of a municipal cemetery at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(4) No person must execute a burial or cause or allow a burial to be executed in a municipal cemetery, unless written approval for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the caretaker.

(5) In allocating a date and time for a burial, the caretaker must have regard to the customs of the deceased's relatives and their religion or church affiliation.

(6) The allocation of a specific grave is the responsibility and in the sole discretion of the caretaker and a burial must be executed only in a grave allocated by him or her, but in allocating a grave the caretaker must as far as practicable allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice, but not the individual grave of his or her choice.

(7) The Municipality may allow in its discretion a burial without payment of the prescribed fees in a part of a municipal cemetery set aside for such purposes and in such manner as it may deem fit.

(8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.

(9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

Burial of a corpse

10. (1) All graves in a municipal cemetery must be provided by the caretaker, with the exception of brick-hed or concrete-lined graves, in which cases the brickwork or concrete work must be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.

(2) There must be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.

(3) All corpses must be placed in a coffin for the burial thereof, except as provided for the Muslim community.

(4) No person must, without the prior permission of the caretaker, conduct any religious ceremony or service according to the rites of one denomination in any portion of a municipal cemetery reserved by the Municipality in terms of the provisions of section 2(4) for the use of some other denomination.

(5) No person must permit any hearse in a municipal cemetery to leave the roads provided, and every hearse must leave the cemetery as soon as possible after the funeral for which it was engaged.

(6) Every person taking part in any funeral procession or ceremony must comply with the directions of the caretaker as to the route to be taken within the municipal cemetery.

(7) No person must convey, or expose a corpse or any part thereof, in an unseemly manner in any street, cemetery or public space.

(8) Every application and every document relating to a burial in a municipal cemetery must be marked with a number corresponding to the number in the register referred to in section 4 and must be filed and preserved by the Municipality for a period of not less than ten years.

Burial of ashes in municipal cemeteries

11. (1) Ashes may be buried in a municipal cemetery in a coffin and only two such coffins containing ashes may be buried in an extra deep grave as contemplated in section 14(4), if a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.

(2) No person must execute a burial or cause a burial of ashes to be executed in a municipal cemetery, unless written approval for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker of the municipal cemetery.

(3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility, must be made to the caretaker of the municipal cemetery on the prescribed application form.

(4) Subject to section 6, niches must be allocated by the caretaker of the municipal cemetery strictly in the order in which the applications therefore are received.

(5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker of the municipal cemetery may refuse the application.

(6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility of the Municipality, must not be removed without the caretaker's prior written consent.

(7) Every niche containing ashes must be sealed by a tablet approved by the

Municipality and must only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it must once again be sealed.

(8) Application for the opening of a niche must be made to the caretaker of the municipal cemetery on the prescribed application form.

(9) No person must introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein, unless and until -

- (a) approval for the burial has been obtained in terms of the provisions of section 9;
- (b) approval for the erection of the memorial work has been obtained in terms of the provisions of section 17(1); and
- (c) the prescribed fees have been paid.

(10) Any person engaged upon any work on the columbarium, must execute such work to the satisfaction of the caretaker, and such work must be undertaken during the official hours of the caretaker as set out in section 3.

(11) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.

(12) The columbarium may be visited daily during the official hours set out in section 3.

(13) Plaques must be made of material approved by the Municipality and must be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

Burial of a cadaver

12. The remains of a Corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in section 14(4), if a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.

Persons dying outside the area of the Municipality

13. The provisions of these By-Laws must apply with the necessary changes to any burial in a cemetery of a person who has died outside the Municipality.

Measurements of graves

14. (1) The excavation of a grave for an adult must be at least 1820 mm deep, 2300 mm long and 760 mm wide.

(2) The excavation of a grave for a child must be at least 1370 mm deep, 1520 mm long and 610 mm wide.

(3) In the event that a grave of a greater depth, length and width than those specified above is required, an application in respect thereof, together with extra prescribed fees that are due, must be made to the caretaker of the municipal cemetery, together with the application to obtain permission for a burial.

(4) The excavation of an extra deep grave for the burial of two corpses must be at least 2400 mm deep, 2300 mm long and 760 mm wide.

(5) Permitted deviation from measurements of graves must be as follows:

- (a) extra wide 2300 mm long 840 mm wide;
- (b) extra long 2530 mm long 760 mm wide';
- (c) rectangular small 2300 mm long 810 mm wide;
- (d) rectangular big 2400 mm long 900 mm wide; or
- (e) brick-noggin 2600 mm long 1050 mm wide.

(6) The area of a rectangular grave for an adult must be 1500 mm wide and 2600 mm long.

(7) The area of a grave for an adult must be 1210 mm wide and 2430 mm long.

(8) The area of a grave for a child must be 1210 mm wide and 1520 mm long, and if a coffin is too large, an adult grave must be used.

CHAPTER 4

Cremation

15. Cremation within the Municipality must only take place in an approved crematorium established for that purpose, and in accordance with the provisions of the Cremation Ordinance, 1926 (Ordinance No. 6 of 1926).

CHAPTER 5

Exhumation from a municipal cemetery

16. (1) No person must, without the written approval contemplated in section 3 of the Exhumation Ordinance, 1980 (Ordinance No. 12 of 1980), and then only after notifying the Municipality, exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed from a municipal cemetery.

(2) Any person duly authorised to exhume a corpse as set out above, must furnish such authority to the caretaker at least 8 working hours before the time proposed for the exhumation of such corpse, and must at the same time pay the prescribed fees.

(3) An exhumation and removal of any corpse from a municipal cemetery must be made only in the presence of the caretaker or any authorized member of the cemetery personnel, accompanied by the funeral undertaker and in accordance with the stipulated legislation applicable to exhumations and reburials.

(4) A grave from which any corpse is to be removed must, if required by the caretaker, be effectively screened from public view during the exhumation.

(5) The person who applied for the exhumation of a corpse must provide an acceptable receptacle for the remains and must remove the remains after the exhumation.

(6) No person must be permitted to reopen a grave in a municipal cemetery, unless he or she has satisfied the caretaker that he or she is authorized thereto.

(7) After the exhumation of a corpse and the removal of the remains from a municipal cemetery, all rights in the grave must revert to the Municipality, and the reuse of the grave must be done in consultation with the Medical Officer of Health.

(8) If at any time and for whatever reason the exhumation and transfer of a corpse to another grave in a municipal cemetery must become necessary, the Municipality may, after the relatives of the deceased person have been notified accordingly, exhume such body and transfer it to another grave.

CHAPTER 6

Memorial work

(1) Application for the erection of memorial works must be made to the caretaker of the municipal cemetery on the prescribed application form.

(2) The erection of a trellis around a grave is prohibited.

(3) No person must bring or cause any material to be brought into any municipal cemetery for the purpose of the erection or construction of any memorial work, unless and until -

- (a) approval for the burial has been obtained in terms of the provisions of section 9;
- (b) approval for the erection of the memorial work has been obtained in terms of the provisions of subsection (1); and
- (c) the prescribed fees have been paid.

(4) Graves of war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognised body or by the government of any foreign country, must upon application to the Municipality, be exempted from the requirement of payment of the prescribed fees.

(5) The Municipality may refuse its consent for the erection of any proposed memorial work if the plan and specification thereof reveals that it will be of inferior quality or in any manner likely to disfigure a cemetery or which bears any

inscription likely to cause offence to users of the municipal cemetery or to visitors thereto.

(6) No person engaged upon any memorial work in a municipal cemetery must at any time disturb any adjacent graves and on completion of such work he or she must leave the grave and the cemetery in a clean and tidy condition and remove any building material or surplus ground therefrom.

(7) A person engaged in the erection of a memorial work in a municipal cemetery, must –

- (a) make arrangements beforehand with the caretaker with regard to the date and time of the intended erection;
- (b) ensure that all separate parts of any memorial work other than masonry-construction are affixed by copper or galvanised iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work;
- (c) ensure that any part of such work which rests upon any stone or other foundation is fairly squared and pointed;
- (d) ensure that the underside of every flat stone memorial and the base or landing of every headstone is set at least 50 mm below the natural level of the ground;
- (e) ensure that all headstones are securely attached to their bases;
- (d) ensure that flat stones consist of one solid piece in the case of all graves;
- (g) ensure that all headstones consist of granite, marble, bronze or any other durable metal or stone approved by the Municipality;
- (h) ensure that all curbing or memorial work on graves are erected on concrete foundations at least 1210 mm wide and 200 mm deep over the full width in the case of adults' graves and 910 mm wide and 200 mm deep in the case of children's graves;

- (i) ensure that the sizes of monumental tombstones (all inclusive) are:
 - (i) Single grave 2440 mm long 1070 mm wide;
 - (ii) Child grave 1370 mm long 760 mm wide; and
 - (iii) Double grave 2440 mm long 2290 mm wide;
- (j) ensure that all curbs on larger graves than single graves must be fixed on substantial concrete mats at the four corners and where joints occur;
- (k) ensure that any concrete foundation on any grave, upon instruction of the Municipality, is reinforced where it is considered necessary owing to the weight of the memorial work.

(8) No person must erect any memorial work within a municipal cemetery, unless the number and section-letter of the grave upon which such work is to be erected, are engraved thereon in such a position that it will be legible at all times from a pathway, and, only with the consent of the family of the deceased, the name of the maker of such memorial work may be placed upon any footstone.

(9) Memorial work must be constructed and erected in a municipal cemetery only during the official office hours as contemplated in section 3.

(10) No person must fix or place any memorial work in a municipal cemetery during inclement weather or where the soil is in an unsuitable condition.

(11) Every person carrying out work within a municipal cemetery must under all circumstances comply with the directions of the caretaker.

(12) The Municipality may, after due notice, at any time change or alter the position of any memorial work in any municipal cemetery, but in any case, where any memorial work has originally been placed in a certain position with the express consent of the caretaker, any alterations of such position in terms of the provisions of this By-law, must be executed at the expense of the Municipality.

Graves supplied with a berm

18. (1) Despite anything to the contrary contained in this By-law, a grave which is supplied with a berm must be subject to the conditions set out in subsection (2).

(2) (a) No kerbing must be erected at such grave.

(b) The berm provided by the Municipality must be 1200 mm long, 500 mm wide and 300 mm deep.

(c) The base of the memorial work to be erected on the berm of a single grave must not be larger than 1000 mm long and 230 mm wide, and the memorial work, together with the base, may not be higher than 1200 mm from the ground surface.

(d) A memorial work must not protrude beyond the base.

(e) No object must be placed and kept on any grave, but a memorial work or a vase for flowers or foliage placed in the orifice provided in the berm, may be placed and kept on a grave until such time as the ground surface over the grave is leveled.

CHAPTER 7

Maintenance of graves

19. (1) A memorial work erected upon a grave must at all times be maintained in good order and condition by the responsible person.

(2) Should any such work fall into a state of disrepair or constitute a danger or be a disfigurement of the municipal cemetery, the Municipality may by written notice addressed to the responsible person by registered post at his or her last known postal address, require of him or her to effect such repairs as may be considered necessary.

(3) On failure to effect the required repairs within 1 month of the date of such notice, the Municipality may have the repairs effected or may have the memorial work removed as it deem fit and may recover the costs for such repairs or removal from the responsible person.

- (4) Unless otherwise provided for in this By-law, the Municipality must be responsible for keeping municipal cemeteries in a neat and tidy condition.
- (5) Grass may be planted on a grave by family members of the deceased, subject to the directions of the caretaker, but the Municipality must maintain the grave, as part of the cemetery, at its own cost and in accordance with its own standards and programs.
- (6) All memorial work which has been dismantled for purposes of a further burial, must be re-erected or removed from the municipal cemetery within 2 months of the date of such dismantling.
- (7) On failure to do so, the Municipality must be entitled to remove any such dismantled memorial work from the cemetery without further notice, and to recover the costs of such removal from the responsible person.
- (8) No person must plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (9) The Municipality must have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.
- (10) No person must deposit any flowers, grass, weeds or other materials removed from a grave, on any other grave, roadway or any other place in the cemetery, except in the refuse bins intended for that purpose.

CHAPTER 8

General conduct in municipal cemeteries

20. (1) No person under the age of 12 years must enter a municipal cemetery unless he or she is in the care of an adult or with the approval of the caretaker.
- (2) No person must enter or leave any municipal cemetery, except through the gates provided for that purpose, nor must any person enter any office or enclosed place in any cemetery, except on business or with the consent of the caretaker.
- (3) No person must make a false statement or provide false information in an application or other form or document to be completed and submitted in terms of these By-Laws.

- (4) No person must carry on any trade, or touting activity or solicit any business, or distribute or leave any business card or advertisement with any cemetery or on any public place within 30 m of the boundary of any municipal cemetery, except with the written approval of the Municipality and on such conditions as the Municipality may determine.
- (5) No person must sit, stand on or over any tombstone, memorial work, gate, wall, fence or building in any municipal cemetery.
- (6) No person must hold a demonstration of any kind in any municipal cemetery or allow or participate in such demonstration.
- (7) No person must bring into or allow any animal to enter any municipal cemetery, and any animal found in a cemetery may be impounded.
- (8) Directives from the caretaker to ensure the orderly procession of the ceremony concerning the placement of structures, chairs, voice amplification equipment, volume and the type of music to be played, must be adhered to.
- (9) No person must with any municipal cemetery obstruct, resist or oppose the caretaker or any official of the Municipality, whilst acting in the course of his or her official duty, nor refuse to comply with any reasonable order or request of the caretaker or any official of the Municipality.
- (10) No person must remove from the municipal cemetery any soil, sand or other substance or thing of a similar nature without the express permission of the caretaker.
- (11) No person must wantonly or wilfully damage or cause to be damaged, nor must any person mark, draw or erect any advertisement, bill or placard upon or in any manner deface any grave, tombstone, monument, wall, building, fence, path or other construction within any municipal cemetery.
- (12) No person must bribe any employee in the service of the Municipality in regard to any matter in connection with a cemetery or burial, neither with money, gifts or any other benefit.
- (13) No person must, except where expressly permitted by this By-law, or with

the consent of the caretaker, disturb the soil, or plant or uproot any plant, shrub or flower, or in any way interfere with any grave or construction in any municipal cemetery.

(14) No person must play any game or take part in any sport, or discharge any firearm, except as a salute at a military funeral, or discharge any air gun or catapult with any municipal cemetery, or disturb or annoy any person present therein.

(15) No musical instrument must be played in a municipal cemetery without the consent of the caretaker.

CHAPTER 9

Establishment of private cemeteries

21. (1) The owner of land situated outside a developed area may, with the prior written permission of the Municipality, and subject to the conditions determined by the Municipality, establish a private cemetery on such land, but a private cemetery consisting of a columbarium only, may also be established inside a developed area.

(2) Any existing private cemetery must be deemed to have been established in terms of subsection (1).

(3) The owner of land on which a private cemetery is situated, must be responsible for keeping such cemetery in a neat and tidy condition.

Application to establish private cemeteries

22. (1) The owner of land situated outside a developed area, desirous of establishing a private cemetery on such land, must –

- (a) on the form provided by the Municipality, direct his or her application to the Municipal Manager;
- (b) provide the Municipal Manager with a plan -
 - (i) indicating the location of the proposed private cemetery on the land concerned; and

- (ii) containing the detail layout of the proposed private cemetery, showing the exact location and number of each grave; and
- (c) provide such further information as may be required by the Municipal Manager.

(2) The Municipal Manager must refer the application to the building control officer, who must do, or cause to be done, an inspection of the land concerned and make a recommendation regarding the application to the Municipality.

(3) After the Municipality has considered the recommendations of the building control officer, it must –

- (a) grant the permission contemplated in section 21 (1); or
- (b) refuse the application, stating its reasons for such refusal, and forthwith, in writing, notify the applicant accordingly.

(4) The owner of land on which a private cemetery is deemed to have been established in terms of section 21(1) must, in respect of that cemetery, within a year after the commencement of these By-Laws, provide the Municipality with -

- (a) the plan contemplated in subsection (1)(b); and
- (b) a declaration stating the name of the deceased person buried in each grave if it is known to the owner.

Record of private cemeteries to be kept by the Municipality

23. (1) The Municipality must keep proper record of all private cemeteries, established or deemed to have been established, within its area of jurisdiction.

(2) The Municipality must update the records of private cemeteries within its area of jurisdiction regarding -

- (a) each new grave added to a private cemetery by the owner of the land not already shown on the plan contemplated in section 22(1)(b)(ii); and

(b) each burial that takes place in a private cemetery.

(3) The owner of land on which a private cemetery is situated, must provide the Municipality with the particulars referred to in subsection (2), within 7 days after a burial has taken place, accompanied by a copy of the burial order and a statement indicating the number of the grave in which the deceased person has been buried.

Land on which a private cemetery has been established may be used for burials only

24. A private cemetery may be used for burials only, except where the Municipality gives written permission to the owner of the land to discontinue the use of the private cemetery for burials and determines how the mortal remains of persons buried in such cemetery must further be disposed of.

Exhumation of corpses from private cemeteries

25. No person may, without the prior written permission of the Municipality and subject to any law governing the exhumation of corpses, exhume a corpse from a private cemetery.

CHAPTER 10

Miscellaneous

Injuries and damages

26. A person using a municipal cemetery must do so on his or her own risk, and the Municipality accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the afore-mentioned usage of the cemetery.

Firearms and traditional weapons

27. No firearm or traditional weapon must be allowed in a municipal cemetery.

Penalty clause and expenses

28. (1) Any person contravening or failing to comply with any of the provisions

of these By-Laws, must be guilty of an offence and upon conviction by be liable to a fine or imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment.

(2) Any expense incurred by the Municipality as a result of a contravention of these By-Laws, or in the doing of anything which a person was directed to do under these By-Laws, and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

Short title

29. These By-Laws are called the Cemeteries By-Laws.

PROVINCIAL NOTICE 318 OF 2022

ENGCOBO LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to Public Open Spaces which come into operation on the date of publication thereof.

BY-LAWS RELATING TO PUBLIC OPEN SPACES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;
AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to control, manage and develop public open spaces and municipal property within its area of jurisdiction to ensure that it is environmentally sustainable and beneficial to future generations;
AND WHEREAS the Council of the Municipality has the right to alienate municipal property within its area of jurisdiction and to provide guidelines for doing so;
AND WHEREAS the Council of the Municipality has the right to clearly define the rights and obligations of the public in relation to public open spaces;
NOW THEREFORE be it enacted by the Council as follows:

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[1] DEFINITIONS

In these by-laws, any words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"active game" means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space, and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

"authorized official" means –

- [a] an official who has been authorized by the Municipality to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"conservation public open space" means public open space that is managed by or on behalf of the Municipality for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

"Council" means –

- (a) the Municipal Council of Engcobo Local Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or

(d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-Law, as the case may be;

"designated area" means an area designated by the Municipality as an area in which an active game or any other activity, which would otherwise be prohibited under these by-laws, may be undertaken;

"environment" means the surroundings within which humans exist and that are 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;

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

"Municipal Manager" means a person appointed as such by the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998];

"municipal property" means any structure or thing owned or managed by or on behalf of the Municipality and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

"notice" means a clear and legible official notice drawn up by the Municipality in the official languages recognised by the Municipality and prominently erected in a public open space;

"nuisance" means an unreasonable interference or likely interference with –

[a] the health or well-being of any person;

[b] the use and enjoyment by an owner or occupier of his property; or

[c] the use and enjoyment by a member of the public of a public open space;

"organ of 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 of the Republic of South Africa Act, 1996 [Act No. 108 of 1996] 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 a judicial officer;

"owner" means –

- [a]** the person in whom from time to time is vested the legal title to premises;
- [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 a case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with 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 No. 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 a 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], a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 [Act 69 of 1984] and a Voluntary Association;
 - [ii]** a state department;
 - [iii]** a Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - [iv]** an Embassy or other foreign entity.

"park" means parks, open spaces, pleasure resorts, recreation areas, gardens, squares, reserves and bird sanctuaries within the Municipality and being held by the Council, and includes all buildings, grounds and spaces situated in such areas;

"premises" means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

"prescribed fee" means a fee determined by the Municipality by resolution, or any applicable legislation;

"printed matter" includes any advertisement, billboard, poster, book, pamphlet or handbill;

"prohibited activity" means any activity or behaviour that is prohibited from being undertaken in a public open space, either completely or without permission in terms of these by-laws;

"public open space" means any land which –

[a] is controlled and managed by the Municipality; and

[b] is either –

[i] set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or

[ii] predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

"public utility public open space" means public open space that is managed by or on behalf of the Municipality for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes Municipality housing, clinics and other social services;

"recreational public open space" means public open space that is managed by or on behalf of the Municipality for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

"road reserve" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

"service provider" means a person or institution or any combination of persons and institutions which provide a municipal service in terms of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

"special event" means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

"urban agricultural public open space" means public open space that is managed by or on behalf of the Municipality for urban agricultural purposes;

"vehicle" means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children's pushchairs;

"waste" means any substance or article that the owner wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has either been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

"watercraft" includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

"water body" means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river or wetland;

[2] GENERAL POWERS

The Municipality may in relation to any public open space –

- [a] designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these by-laws may be undertaken and erect a prominent notice to this effect at entrances to the designated area;
- [b] develop any public open space;
- [c] erect, construct, establish or demolish municipal property; and
- [d] exercise any other power reasonably necessary for the discharge of the Municipality's obligations in terms of these by-laws relating to the management of public open spaces.

[3] SALE OF PROPERTY

No person may alienate of municipal property except in accordance with the provisions of a supply chain management policy as contemplated in section 111 of the Municipal Finance Management Act, 2003 [Act No. 56 of 2003] and duly adopted by the Council of the Municipality.

[4] FEES

The Municipality may require members of the public to pay –

- [a]** a reasonable prescribed fee to use recreational or other facilities that the Municipality provides within public open spaces;
- [b]** a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- [c]** a prescribed fee for the right to undertake a special event;
- [d]** a prescribed fee for the right to exclusively use municipal property for a specific period;
- [e]** a deposit prior to undertaking a prohibited activity;
- [f]** an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- [g]** a prescribed fee for processing applications for permits or letters of permission under these by-laws.

[5] RESTRICTING ACCESS

The Municipality may restrict access to any public open space or to any part of a public open space for a specified period of time –

- [a]** to protect any aspect of the environment within a public open space;
- [b]** to reduce vandalism and the destruction of property;
- [c]** to improve the administration of a public open space;
- [d]** to develop a public open space;
- [e]** to enable a special event that has been permitted in terms of these by-laws; or
- [f]** to undertake any activity that the Municipality reasonably considers necessary or appropriate to achieve the purposes of these by-laws.

[6] PROCEDURE WHEN EXERCISING POWERS

If the rights or legitimate expectations of any person will be materially and adversely affected by the Municipality exercising any powers in

terms of these by-laws, the Municipality must give notice of the proposed administrative action, which notice must –

- [a]** be published in the Provincial Gazette and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;
- [b]** contain a clear statement of the proposed administrative action;
- [c]** invite comments and objections within a specified period; and
- [d]** consider the comments and objections received in response to the notice.

[7] POWERS OF AUTHORISED OFFICIALS

In relation to any public open space, an authorised official may –

- [a]** issue a notice in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
- [b]** issue a notice under section 18;
- [c]** order any person to leave a public open space if the authorised official reasonably believes that that person has not complied with any provision of these by-laws; and
- [d]** exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

[8] OBLIGATIONS IN RELATION TO PUBLIC OPEN SPACES

[1] The Municipality must within a public open space, erect any notice required under these by-laws.

[2] In relation to recreational public open spaces, the Municipality must –

- [a]** ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
- [b]** erect prominently displayed notices at every entrance indicating –
 - [i]** the opening and closing times of that recreational public open space; and
 - [ii]** any rules made in relation to that recreational public open space.

[9] PERMISSION MUST BE OBTAINED

- [1]** Any person who undertakes an activity or behaves in a manner that is prohibited under these by-laws commits an offence unless the activity or conduct in question –
- [a]** takes place in a designated area within which that activity was allowed;
 - [b]** is authorised in terms of a permission granted or permit issued under these by-laws; or
 - [c]** is deemed to have been authorised by the Municipality as contemplated in subsection [2].
- [2]** Subject to subsection [3], a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –
- [a]** to perform his obligations as an employee, agent or subcontractor of the Municipality under his contract with, or mandate from, the Municipality or to achieve the purposes of this by-law;
 - [b]** to carry out public duties as an employee, agent or subcontractor of an organ of state within a public open space which is subject to a public utility servitude in favour of an organ of state;
 - [c]** to fulfil his duties as an authorised officer to implement these by-laws; or
 - [d]** to fulfil his duties as an authorised official.
- [3]** No person is deemed to have permission to undertake an activity that the Municipality has expressly refused to permit.

[10] GENERAL PROHIBITIONS

No person may within a public open space –

- [a]** act in a manner that is dangerous to life or property;
- [b]** contravene the provisions of any notice within any public open space;
- [c]** unlawfully enter a public open space to which access has been restricted in terms of section 5;
- [d]** cause a nuisance;
- [e]** behave in an indecent or offensive manner; or

- [f] obstruct any authorised official who is exercising a power under these by-laws.

[11] RESTRICTED ACTIVITIES

No person may within a public open space –

- [a] bathe, wade, or swim in or wash him self, an animal or any object, including clothing, in any water body;
- [b] sail, row, paddle, propel or control any watercraft on any water body;
- [c] make, light or otherwise start a fire;
- [d] camp or reside in any public open space;
- [e] consume, brew, store or sell any alcoholic beverage;
- [f] use any sound equipment, including a radio, portable hi-fi or car stereo;
- [g] play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
- [h] shoot a projectile of any nature; or
- [i] ride a horse or bicycle.

[12] LITTERING

Notwithstanding any provision of the by-laws of the Municipality relating to dumping, littering and waste collection, no person may within a public open space –

- [a] deposit, dump or discard any waste, unless in a receptacle provided by the Municipality for that purpose; or
- [b] pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

[13] VEHICLES

No person may within a public open space –

- [a] except at times and on roads or pathways prescribed by the Municipality, drive, draw or propel any vehicle;
- [b] drive, draw or propel a vehicle in excess of 5 kilometres per hour; or
- [c] park a vehicle in a public open space.

[14] ANIMALS AND VEGETATION

- [1]** Subject to subsection [2], no person may within a public open space –
- [a]** disturb, damage, destroy or remove any vegetation;
 - [b]** plant any vegetation;
 - [c]** alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
 - [d]** capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
 - [e]** disturb, damage or destroy any bird nest or eggs;
 - [f]** walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
 - [g]** affix or place on any tree any printed matter.
- [2]** The provisions of subsections [1] [a] and [b] do not apply to any person who has obtained a permit in terms of section 21 to undertake agricultural activities in an urban agricultural public open space.

[15] MUNICIPAL PROPERTY AND ERECTION OF STRUCTURES

- [1]** Subject to subsection [2], no person may within a public open space –
- [a]** deface, damage, destroy or remove any municipal property;
 - [b]** disturb the surface of any land, whether by digging or undertaking any earthworks;
 - [c]** erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - [d]** affix or place on any municipal property, or distribute, any printed matter; or
 - [e]** plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space.
- [2]** The provisions of subsection [1] [b] do not apply to any person who has obtained a permit in terms of section 21 to undertake agricultural activities in an urban agricultural public open space.

[16] SELLING AND SPECIAL EVENTS

- [1]** No person may within a public open space –
- [a]** use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
 - [b]** sell, hawk, offer or display any goods or articles for sale or hire;
- [2]** No person may undertake a special event, except in terms of a permit issued in terms of section 20.

[17] COMMUNITY SERVICE

No person may within a public open space undertake any community or voluntary work of any description.

[18] RESTORATION OR REMOVAL NOTICES

- [1]** Unless permission or a permit to do so has been obtained under section 20, an authorised official may issue a restoration or removal notice to any person who has directly or indirectly in a public open space –
- [a]** damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - [b]** erected, built or assembled a structure; or
 - [c]** dumped, discarded or deposited any waste, unless in a receptacle provided by the Municipality for that purpose.
- [2]** The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action –
- [a]** to restore or rehabilitate the affected area to the reasonable satisfaction of the Municipality; or
 - [b]** to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

[19] APPLICATION FOR PERMISSION

- [1]** Any person who wants to undertake a prohibited activity must apply in writing to the Municipality for permission to do so.
- [2]** The Municipality may, after receiving an application, request the applicant to provide additional information which the Municipality reasonably requires in order to consider the application.

- [3] The Municipality may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.
- [4] Subject to subsections [2] and [3], the Municipality must consider the application within a reasonable time and must either –
- [a] refuse the application; or
 - [b] grant permission in writing subject to whatever conditions the Municipality considers appropriate to best achieve the purposes of these by-laws, which may include payment of a deposit and/or a fee.
- [5] The Municipality must not grant permission for any person to behave in a manner that is prohibited under section 10[1] [a], [e] or [f].

[20] APPLICATION FOR A SPECIAL EVENT PERMIT

- [1] An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- [2] The time period referred to in subsection [1] may be reduced on good cause at the Municipality's discretion.
- [3] The application must contain the following information –
- [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b] the nature and purpose of the special event;
 - [c] the intended route or area proposed to be used by the special event; and
 - [d] any permission required and obtained under these by-laws.
- [4] Subject to any permit conditions imposed by the Municipality, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

[21] APPLICATION FOR PERMISSION TO FARM IN AN URBAN AGRICULTURAL PUBLIC OPEN SPACE

- [1] An application for permission to farm in an urban agricultural public open space must contain the following information:

- [a]** The name and full contact details of the applicant, including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b]** the nature of the agricultural activity that the applicant proposes to undertake; and
 - [c]** the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- [2]** A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- [3]** The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

[22] CO-OPERATIVE MANAGEMENT AGREEMENTS

- [1]** The Municipality may enter into a written agreement with any organ of state, local community or organization to provide for –
 - [a]** the co-operative development of any public space; or
 - [b]** the co-operative management of any public open space; and
 - [c]** the regulation of human activities within a public open space.
- [2]** The Municipality may not enter into a co-management agreement in relation to a public open space unless it is reasonably believed that entering into the co-management agreement will promote the purpose of these by-laws.
- [3]** The Municipality must monitor the effectiveness of the co-management agreement in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Municipality has reason to believe that the co-management agreement is not effective, or is inhibiting the attainment of the purpose of these by-laws.

[23] TREE PRESERVATION ORDERS

- [1]** If the Municipality believes that any tree or group of trees in a public open space requires legal protection, the Municipality may issue a tree preservation order in respect of that tree or group of trees.
- [2]** A tree preservation order –
 - [a]** must indicate the tree or trees to which it relates; and

- [b] may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- [3] The Municipality must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.
- [4] Unless, in the Municipality's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Municipality must, before issuing a tree preservation order under this section –

 - [a] give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;
 - [b] notify any affected organs of State; and
 - [c] consider the comments and objections received in response to the notice.

[24] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[25] APPEALS

- [1] A person whose rights are affected by a decision taken by an authorised official under these by-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- [2] The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].

- [3]** The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4]** An appeal submitted in terms of this section must be dealt with in the manner prescribed by section 62 of the Municipal Systems Act, 2000 [Act No 32 of 2000].

[26] OFFENCES

Any person is guilty of an offence if he –

- [a]** contravenes or fails to comply with any provisions of these by-laws irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws;
- [b]** fails to comply with any notice issued in terms of these by-laws or a condition imposed under these by-laws;
- [c]** fails to comply with any lawful instruction given in terms of these by-laws; or
- [d]** obstructs or hinders any authorised official in the execution of his duties under these by-laws.

[27] PENALTIES

Any person who contravenes a provision of subsection [26] is guilty of an offence and liable upon conviction to –

- [a]** a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment;
- [b]** in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
- [c]** a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[28] REPEAL OF BY-LAWS

- [1]** Any by-law promulgated by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter referred to in these by-laws is, from the date of promulgation of these by-laws, hereby repealed.

- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

CONTINUES ON PAGE 130 OF BOOK 2

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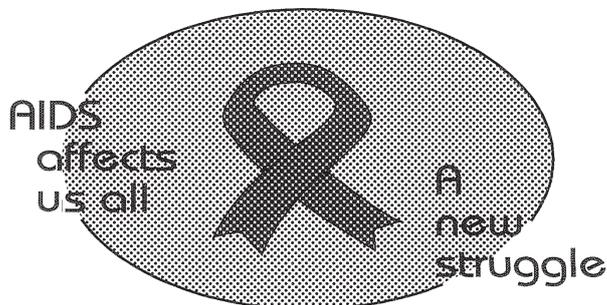
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PROVINCIAL NOTICE 319 OF 2022
Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 384, SUNRIDGE PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s 5.(b),(c) and (d) in Deed of Transfer No. T9904/2012 applicable to ERF 384, Sunridge Park, Port Elizabeth are hereby removed.

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 475 OF 2022

ELUNDINI LOCAL MUNICIPALITY**NOTICE ON ADOPTION OF ELUNDINI LAND USE SCHEME 2022**

Elundini Local Municipality, in terms of the provisions of Section 25 of the Elundini By-Law on Spatial Planning and Land Use Management read with Section 24 (1) of the Spatial Planning and Land Use Management Act, (Act No. 16 of 2013), hereby gives notice on the adoption and approval of Elundini Land Use Scheme by the Council at its meeting held on the 31st March as per **resolution CON/171/22**

The Land Use Scheme is applicable to the entire municipal area of jurisdiction and substitutes the Section 8 Scheme in terms of LUPO 15 of 1985, Area Zoning Scheme Regulations in terms of Act 4 of 1984 and Standard Transkei Town Planning Scheme, insofar as they were applicable within Elundini Local Municipality, and is hereby rescinded.

Elundini Land Use Scheme 2022 will come into operation on the date of publication thereof in the provincial Gazette.

N.C EDDIE

ACTING MUNICIPAL MANAGER

01 Seller Street, Nqanqarhu, 5480

P.O Box 1, Nqanqarhu, 5480

LOCAL AUTHORITY NOTICE 476 OF 2022

PROVINCIAL NOTICE NO 82/2022

EASTERN CAPE PROVINCE

KOUGA MUNICIPALITY (EC 108)

**REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS
&
DEPARTURE FROM THE ZONING SCHEME PROVISIONS**

ERF 937, JEFFREYS BAY

SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016: KOUGA MUNICIPALITY

Notice is given that the Municipal Planning Tribunal on 22 April 2022, approved the removal of title conditions No. B.(vi)(a); B.(vi)(b); B.(vi)(b)(i) & B.(vi)(b)(ii) applicable to Erf 937 Jeffreys Bay, as contained in Certificate of Consolidation Title T8485/1999 in terms of Section 69 of the Spatial Planning and Land Use Management By-Law, 2016: Kouga Municipality.

**D de JAGER
DEPUTY MUNICIPAL MANAGER**

**JEFFREYS BAY
PO BOX 21
6330**

LOCAL AUTHORITY NOTICE 477 OF 2022**PROVINCIAL NOTICE NO 81/2022****EASTERN CAPE PROVINCE****KOUGA MUNICIPALITY (EC 108)****REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS
&
DEPARTURE FROM THE ZONING SCHEME PROVISIONS****ERF 47, ASTON BAY****SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016: KOUGA MUNICIPALITY**

Notice is given that the Municipal Planning Tribunal on 22 April 2022, approved the removal of title conditions No. C. 6(a); C. 6(b); C. 6(b)(i) & C. 6(b)(ii) applicable to Erf 153 Aston Bay, as contained in Certificate of Consolidation Title T51685/2016 in terms of Section 69 of the Spatial Planning and Land Use Management By-Law, 2016: Kouga Municipality.

D de JAGER
DEPUTY MUNICIPAL MANAGER

JEFFREYS BAY
PO BOX 21
6330

LOCAL AUTHORITY NOTICE 478 OF 2022**PROVINCIAL NOTICE NO 80/2022****EASTERN CAPE PROVINCE****KOUGA MUNICIPALITY (EC 108)****REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS &
DEPARTURE****ERF 22, ASTON BAY****SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016: KOUGA
MUNICIPALITY**

Notice is hereby given that the Municipal Planning Tribunal on 22 April 2022, approved the removal of title conditions B. 6(a); B. 6(b); B. 6(b)(i) & B. 6(b)(ii) applicable to Erf 22 Aston Bay as contained in Certificate of Consolidation Title T19123/2019, in terms of Section 69 of the Spatial Planning and Land Use Management By-Law, 2016: Kouga Municipality.

D de JAGER
DEPUTY MUNICIPAL MANAGER

JEFFREYS BAY
PO BOX 21
6330

LOCAL AUTHORITY NOTICE 479 OF 2022**GREAT KEI LOCAL MUNICIPALITY LAND USE SCHEME**

Notice In Terms Of Sections 18 And 21 Of Great Kei Local Municipality Spatial Planning And Land Use Management (SPLUMA) Bylaws (2016) Read With Section 24 (1) Of The Spatial Planning And Land Use Management Act Of 2013 (Act 16 Of 2013) .Copies of the document will be available for perusal during office hours (7:30 – 16:15) Friday 7:30 -15:00 from Great Kei Municipality offices located on 17 Main Road, Komga, 4950, South Africa. The document will also be available on the municipal website: <https://greatkeilm.gov.za>

Any person or body wishing to provide comments shall:

- a) do so within a period of 60 days from the first day of publication of the notice;
- b) provide written comments; and
- c) provide their contact details as specified in the definition of contact details.

Please do not hesitate to contact the municipality if there is a need for further clarification. Mr. Mbekanyeni Ramukosi (mramukosi@greatkeilm.gov.za) Office No: 043 831 5774 Town Planner

The Department of Agriculture, Land Reform and Rural Development: Ms. Queneth Nenguda (Queneth.Nenguda@dalrrd.gov.za) Office No.043 722 0536, Chief Town Planner

Mr. Lawrence Mambila

MUNICIPAL MANAGER

ISAZISO**INKQUBO YOKUSETYENZISWA KOMHLABA KUMASIPALA WENGINQI OMKHULU WASE-KEI**

Isaziso Ngokwecandelo Le-18 Ne-21 Locwangciso Lomhlaba Kamasipala Omkhulu Wase-Kei Nolawulo Losetyenziso Lomhlaba (SPLUMA) Imithetho Kamasipala (2016) Isifundwe Necandelo 24 (1) Locwangciso Lwendawo Nokusetyenziswa Komhlaba 2013 (Umthetho Ka-2013) (Womthetho Wolawulo).Likopi zolu xwebhu ziya kufumaneka ukuze zifundwe ngamaxesha omsebenzi (7:30 – 16:15) ngoLwesihlanu 7:30 -15:00 kwii-ofisi zikaMasipala waseGreat Kei eziku-17 Main Road, Komga, 4950, eMzantsi Afrika. Olu xwebhu luya kufumaneka nakwiwebhusayithi kamasipala: <https://greatkeilm.gov.za>

Nawuphi na umntu okanye iqumrhu elinqwenela ukunika izimvo liya kuthi:

- a) enze njalo kwisithuba seentsuku ezingama-60 ukususela kusuku lokuqala lokupapashwa kwesaziso;
- b) anike izimvo ezibhaliweyo; kwaye
- c) banike iinkcukacha zabo zoqhagamshelwano njengoko kuchaziwe kwingcaciso yeenkcukacha zoqhagamshelwano.

Nceda ungathandabuzi ukuqhagamshelana nomasipala ukuba kukho imfuneko yengcaciso engaphezulu. UMnu. Mbekanyeni Ramukosi (mramukosi@greatkeilm.gov.za) Office No: 043 831 5774 uMchwangcisi weDolophu

ISebe lezoLimo, uHlengahlengiso loMhlaba noPhuhliso lwamaPhandle: uNksz Queneth Nenguda (Queneth.Nenguda@dalrrd.gov.za) Office No.: 043 722 0536, uMchwangcisi oyiNtloko weDolophu

UMnu. Lawrence Mambila

UMPHATHI KAMASIPALA

Closing times for **ORDINARY WEEKLY** **2022** EASTERN CAPE PROVINCIAL GAZETTE

The closing time is **15:00 sharp** on the following days:

- **24 December 2021**, Friday for the issue of Monday **03 January 2022**
- **03 January**, Monday for the issue of Monday **10 January 2022**
- **10 January**, Monday for the issue of Monday **17 January 2022**
- **17 January**, Monday for the issue of Monday **24 January 2022**
- **24 January**, Monday for the issue of Monday **31 January 2022**
- **31 January**, Monday for the issue of Monday **07 February 2022**
- **07 February**, Monday for the issue of Monday **14 February 2022**
- **14 February**, Monday for the issue of Monday **21 February 2022**
- **21 February**, Monday for the issue of Monday **28 February 2022**
- **28 February**, Monday for the issue of Monday **07 March 2022**
- **07 March**, Monday for the issue of Monday **14 March 2022**
- **14 March**, Monday for the issue of Monday **21 March 2022**
- **18 March**, Friday for the issue of Monday **28 March 2022**
- **28 March**, Monday for the issue of Monday **04 April 2022**
- **04 April**, Monday for the issue of Monday **11 April 2022**
- **08 April**, Friday for the issue of Monday **18 April 2022**
- **14 April**, Thursday for the issue of Monday **25 April 2022**
- **22 April**, Friday for the issue of Monday **02 May 2022**
- **29 April**, Friday for the issue of Monday **09 May 2022**
- **09 May**, Monday for the issue of Monday **16 May 2022**
- **16 May**, Monday for the issue of Monday **23 May 2022**
- **23 May**, Monday for the issue of Monday **30 May 2022**
- **30 May**, Monday for the issue of Monday **06 June 2022**
- **06 June**, Monday for the issue of Monday **13 June 2022**
- **13 June**, Monday for the issue of Monday **20 June 2022**
- **20 June**, Monday for the issue of Monday **27 June 2022**
- **27 June**, Monday for the issue of Monday **04 July 2022**
- **04 July**, Monday for the issue of Monday **11 July 2022**
- **11 July**, Monday for the issue of Monday **18 July 2022**
- **18 July**, Monday for the issue of Monday **25 July 2022**
- **25 July**, Monday for the issue of Monday **01 August 2022**
- **01 August**, Monday for the issue of Monday **08 August 2022**
- **05 August**, Friday for the issue of Monday **15 August 2022**
- **15 August**, Monday for the issue of Monday **22 August 2022**
- **22 August**, Monday for the issue of Monday **29 August 2022**
- **29 August**, Monday for the issue of Monday **05 September 2022**
- **05 September**, Monday for the issue of Monday **12 September 2022**
- **12 September**, Monday for the issue of Monday **19 September 2022**
- **19 September**, Monday for the issue of Monday **26 September 2022**
- **26 September**, Monday for the issue of Monday **03 October 2022**
- **03 October**, Monday for the issue of Monday **10 October 2022**
- **10 October**, Monday for the issue of Monday **17 October 2022**
- **17 October**, Monday for the issue of Monday **24 October 2022**
- **24 October**, Monday for the issue of Monday **31 October 2022**
- **31 October**, Monday for the issue of Monday **07 November 2022**
- **07 November**, Monday for the issue of Monday **14 November 2022**
- **14 November**, Monday for the issue of Monday **21 November 2022**
- **21 November**, Monday for the issue of Monday **28 November 2022**
- **28 November**, Monday for the issue of Monday **05 December 2022**
- **05 December**, Monday for the issue of Monday **12 December 2022**
- **09 December**, Friday for the issue of Monday **19 December 2022**
- **19 December**, Monday for the issue of Monday **26 December 2022**

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Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605.
Tel. (040) 635-0052.