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**CONTROL OF STREET VENDORS, PEDLARS AND HAWKERS BY-LAWS
SCHEDULE**

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Definitions

1. In these regulations, unless the context indicates other wise, any expression to which a meaning has been as signed in the Business Act, 1991 (Act No. 71 of 1991) and the Road Traffic Act, 1989 (Act No. 29 of 1989) shall, when used in these regulations, have the meaning thus assigned and –

"council" means the Dihlabeng Local Municipality.

"street vendor, pedlar or hawker" means any person carrying on business, whether as principal, employee or agent, by selling any goods or services -

- (i) which is conveyed from place to place, whether by vehicle or otherwise;
- (ii) on a public road or at any other place accessible to the public;
- (iii) in, on or from a movable structure or stationary vehicle;

"nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a health risk or a sources or danger to human lives or property or which interferes with persons ordinary comfort, convenience, peace or quiet;

"officer" means -

- (i) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
- (ii) a member of the Force as defined in section 1(1) of the Police Act, 1958 (Act No. 7 of 1958), or
- (iii) a peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act. No. 51 of 1977); "public place" includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right;

"public road" means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof has a right of access and includes -

- (i) the verge of any such road, street or thoroughfare;
- (ii) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (iii) any other work or object forming part of or connected with or belong to such road, street or thoroughfare, "sell" includes to prepare, process, store, offer or display for sale; "sidewalk" means that portion of a verge intended for the exclusive use of pedestrians; "the Act" means the Business Act, 1991 (Act No. 71 of 1991);

"verge" means that portion of the road, street or thoroughfare which is not the roadway.

Carrying on of business

2. Subject to the provisions of these regulations and other applicable legislation, a street vendor, pedlar or hawker may carry on his business within the municipal area of the Council.

Prohibited business areas

3. Subject to the provisions of regulations 2 and 4 no person shall carry on business as street vendor, pedlar or hawker -

- (1) in a garden or park to which the public has a right of access;
- (2) on a verge contiguous to -

- (a) a building belonging to or occupied solely by the State or the Council;
- (b) a church or other place of worship;

- (3) in a building declared to be a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);

- (4) in an area declared by the Council as a prohibited business area in terms of section 6A(2) of the Act or an area to be declared as such;
- (5) at a place where -
 - (a) it causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (b) it causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (c) it substantially obstructs pedestrians in their use of a sidewalk.
- (6) on a verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street vendor, pedlar or hawker concerned, without the consent of that person;
- (7) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto.

Restricted business areas

- 4. (1) The Council may by resolution, after compliance mutatis mutandis with the provisions of section 6A(2)(b) up to (h) of the Act, declare any place within the municipal area of the Council to be an area in which the carrying on of the business of street vendor, pedlar or hawker may be restricted.
- (2) The Council may within the areas contemplated in sub regulation 4.1, restrict the carrying on of the business of street vendor, pedlar or hawker to specified hours, specified places and specified goods or services.
- (3) The Council may within the areas contemplated in sub regulation 4.1, by means of resolution:
 - (a) set part and demarcate stands or areas for the purposes of street vendors, pedlars or hawkers on any public road whereof the management or ownership is vested in the Council, or on any other property occupied and controlled by the Council;
 - (b) extend, reduce or disestablish the stand or areas set apart and demarcated as such;
 - (c) let or otherwise allocate stands or areas set apart and demarcated as such, by agreement.
- (4) The Council may within the areas contemplated in sub regulation 4.1, by means of resolution, after compliance mutatis mutandis with the provisions of section 6A(2)(b) up to (h) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on the condition that such owner or occupier shall admit a specified number of street vendors, pedlars or hawkers on stands or places designated by such owner or occupier on such verge.
- (5) A person shall carry on the business of street vendor, pedlar or hawker on stands or areas contemplated in sub regulations 4.3 and 4.4, only if he is in possession of proof that he is hiring such stand or area or that it has otherwise been allocated to him.
- (6) A person shall within the areas as contemplated in sub regulation 4.1, carry on the business of street vendor, pedlar or hawker only during the hours, on the places and with the goods or services as contemplated in sub regulation 4.2".

Control measures

- 5. (1) No street vendor, pedlar or hawker shall -
 - (a) sleep overnight at his place of business or erect any structure for the purpose of providing shelter, without the prior written approval of the Council;
 - (b) carry on his 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 other property of the Council;
 - (iii) create a traffic hazard;
 - (c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, other than in a refuse receptacle approved by the Council.
- (2) Every street vendor, pedlar or hawker shall -
 - (a) remove from any public road or public place at the conclusion of trading, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him from this provision, has been given by the Council;
 - (b) carry on his business in such a manner as not to be a danger or threat to public health or public safety;
 - (c) at the request of an officer or an employee of the council, move or remove any goods, receptacle, vehicle or movable structure used for his business.

Removal and impoundment

- 6. (1) An offer may remove and impound any goods, receptacle, vehicle or movable structure which he reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of a business of a street vendor, pedlar or hawker -
 - (a) which he finds at a place where -

- (i) the carrying on of the business of a street vendor, pedlar or hawker is prohibited in terms of regulation 3;
 - (ii) the business of a street vendor, pedlar or hawker is being carried on contrary to the provisions of regulation 4.
 - (b) which a street vendor, pedlar or hawker has failed or refused to remove from the place after having been requested to do so by an officer or any employee of the Council, or which have been left there or abandoned.
 - (2) An officer acting in terms of sub regulation 6.1, shall -
 - (a) issue to a street vendor, pedlar or hawker a written proof for any goods, receptacle, vehicle or movable structure so removed and impounded;
 - (b) forthwith deliver any such goods, receptacle, vehicle or movable structure to the Council;
 - (3) An officer, the Council or an employee of the Council shall not be liable for any loss or theft of or damage to any goods, receptacle, vehicle or movable structure removed and impounded in terms of these regulations.
- Display of approval**
7. A street vendor, pedlar or hawker shall carry on his person any written approval granted or issued to him by the Council in terms of these regulations and shall on demand show such written approval to an officer or an employee of the Council.
- Delegation**
8. With the exception of the powers mentioned in regulation 2, 3 and 4, the Council may delegate or assign in writing any power, duty or function imposed by or under these regulations upon the Council, to any person in its employ subject to such conditions as it may deem necessary.
- Offences and penalties**
9. (1) A person who -
- (a) contravenes any provision of these regulations or fails to comply therewith or with any condition imposed in terms thereof;
 - (b) threatens, resists, interferes with or obstructs any officer or any employee of the Council in the performance of his duties or functions in terms of or under these regulations, or
 - (c) deliberately furnishes false or misleading information to an officer or an employee of the Council,
- shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding three months.
- (2) Any person who, after conviction in terms of these regulations, persists in the conduct or neglect which caused the offence, shall be guilty of a continuing offence and liable to a fine as provided by the Ordinance in respect of every day that he so persists.
- (3) Any expense incurred by the Council as a result of a contravention of these regulations or in the doing of anything which a person was directed to do under these regulations and which he failed to do, may be recovered by the council from the person who committed the contravention or who failed to do such thing.
- Repeal**
10. Any by-laws relating to Street vendors, Pedlars and Hawkers adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws
- Short title**
11. This By-law shall be called the Control of Street Vendors, Pedlars and Hawkers By-law, 2022.

[PROVINCIAL NOTICE NO. 43 OF 2022]

BUILDING CONTROL BY-LAWS

SCHEDULE

BY-LAWS SUPPLEMENTARY TO THE NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT, 1977 [ACT 103 OF 1977] AND THE REGULATIONS PROMULGATED THEREUNDER.

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Definitions

- 1 In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, except where otherwise provided, all words and phrases have the same meanings as those contained in the National Building Regulations and Building Standards Act, 1977 [Act 103 of 1977], the National Building Regulations promulgated thereunder and the User's Code for the application of the National Building Regulations, SABS 0400/1990.

"adequate" or "effective" means adequate or effective in the opinion of the Council and "approved" means approved by the Council, regard being had, in all cases, to all the circumstances of the particular case and to accepted principles of drainage installation and, in the case of any appliance, fitting or other object, to the purpose which it is intended to serve;

"anti-siphonage pipe" means any pipe or portion of a pipe provided for the protection by ventilation of the water seal or trap against unsealing by siphonage or backpressure;

"cleaning eye" means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal draining and which remains permanently accessible after completion of the drainage installation;

"communication pipe" any pipe leading from a main to the premises of any consumer as far as the street boundary of such premises situated nearest to such main, or, in cases where the meter is installed inside the premises of any consumer in terms of this part of these by-laws, as far as the inlet of the meter;

"connecting sewer" means that part of a sewerage system which is vested in the Council and by means of which a drain is connected to the Council's sewer;

"connection" means the point where a drain is connected to the connecting sewer;

"conservancy tank" means a tank which is used for the retention and temporary retention of the discharge from a drainage installation and which is emptied at intervals determined by the Council;

"consumer" means the occupier of any premises with whom or which the Council has contracted to supply water or the owner or any person who has entered into a contract with the Council for the supply of water or who is lawfully obtaining water from the Council;

"Council" means the Council of the Municipality of Dihlabeng and/or any duly authorized committee or official of the said Municipality;

"drain" means that portion of a drainage installation other than soil-water pipes, waste-water pipes, ventilation pipes and anti-siphonage pipes, which is vested in the owner of the premises and which has been laid in the

ground and is used or intended to be used for conveying sewage to the connecting sewer or to a common drain or a conservancy tank or septic tank which is situated on the premises;

"drainage installation" means an installation vested in the owner of the premises and includes any drain, soil-water pipe, stack, waste-water pipe, ventilation pipe, anti-siphonage pipe, soil-water fitting, waste-water fitting, mechanical appliance or any other appliance or fitting or combination thereof for the collection and conveyance of sewage;

"drainage work" means the construction or reconstruction of or any alteration or addition to, or any work done in connection with a drainage installation but shall not include any work undertaken solely for purposes or repair or maintenance;

"gully" means a pipe fitting incorporating a trap into which waste water is discharged;

"industrial effluent" means any liquid, whether or not containing matter in solution or suspension, which is emitted in the course of or as a result of any trade or industrial operation, including any mining operation, and includes any liquid besides soil-water, waste-water or storm-water,

"main" means any pipe, aqueduct or other work under the exclusive control of the Council and used by it for the purpose of conveying water to consumers, but does not include any communication pipe, as herein defined.

"Municipal Manager" means the person appointed as Municipal Manager by the municipal council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998] as amended and includes a person acting in this position.

"owner" in relation to immovable property means the person in whom is vested the legal title thereto and includes:

- (a) a person receiving the rent or profits of any land or property from any tenant or occupier thereof, or who would receive such rent or profits if such land or property were leased, whether for his/her own account or as agent for any person entitled thereto;
- (b) in case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act 95 of 1986], the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

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

- (a) a general plan or diagram registered in term of the Land Survey Act, 1927 (Act 9 of 1927) or in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), or
- (b) a sectional plan registered in term of the Sectional Titles Act, 1986 [Act 95 of 1986],

"purified effluent" means the water discharged from a water care works after purification, either into a water course or for purposes of re-use;

"sanitary fitting" or "sanitary appliance" means any soil-water fitting and any waste-water fitting;

"septic tank" means any tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

"sewage" means soil-water, waste-water or industrial effluent whether separately or together;

"sewer" means any pipe with fittings, vested in the Council and used or designed or intended for use for or in connection with the conveyance of sewage;

"soil-water" means any liquid containing human or animal excreta;

"soil-water fitting" means any fitting used for the reception and discharge of soil-water;

"soil-water pipe" means any pipe, other than a drain, used for the conveyance of soil-water with or without waste-water;

"stack" means the main vertical component of a drainage installation or any part thereof other than a ventilation pipe;

"storm water" means any liquid resulting from natural precipitation or accumulation and includes rain-water, spring-water and ground-water;

"tariff" means the tariff of charge regarding the Council's sewerage services, as determined by the Council from time to time in terms of Section 75A of the Local Government: Municipal Systems Act 2000 or any other applicable law;

"trap" means a pipe fitting or portion of a sanitary appliance designed to retain a water seal in position;

"Ventilation pipe" means any pipe or portion of a pipe not conveying any liquid and used to ventilate a drainage installation in order to prevent the destruction of water seals and which leads to the open air at its highest point;

"waste-water" means used water that has not been polluted by soil-water or industrial effluent, and does not include storm water,

"waste-water fitting" means any fitting used for the reception and discharge of waste-water;
"waste-water pipe" means any pipe, other than a drain, used for the conveyance of water-waste only;
"water care works" means any water works for the purification treatment or disposal of effluent;
"water seal" means the water in a trap, which serves as a barrier against the flow of foul air or gas;

Scope Of By-Laws

2. (1) These by-laws are supplementary to the National Building Regulation and shall apply to every building, sewerage installation and/or water installation, and, regarding sewerage and water installations in particular, to the operation and maintenance of any such installation in any new building or existing building with or without any alteration or addition to such an existing installation, whether or not required by the Council to be made or altered in terms of the National Building Regulations or these bylaws.
- (2) Any building, sewerage installation and/or water installation may, at any time after its completion and commissioning, be subjected to such inspection, approval, tests and control as the Council shall deem fit or require.

Cat-heads, cranes and platforms

3. Cat-heads, lifting cranes, platforms and other such contrivances shall not overhang any street or sidewalk without the prior written consent of the Council.

Slab footways or pavement

4. (1) The owner or occupier of an erf adjoining a street, may lay or fix slab footways or pavements on any street sidewalk or footway.
- (2) Paving or slabs shall be laid to the grade, line and cross-fall pointed out by the Council and shall conform to the following further requirements:
 - (a) For ordinary paving or slabs, the minimum cross-fall shall be 1:100 and the maximum cross-fall 1:25.
 - (b) Non-skid paving or slabs of a type to be approved by the Council shall be used for cross-falls between 1:25 and 1:15: provided that the maximum cross-fall shall not exceed 1:15.
 - (c) Longitudinal grades shall not be steeper than 1:25 for ordinary paving. Slabs and non-skid paving or slabs may be used for longitudinal grades between 1:25 and 1:15: provided that the maximum longitudinal grade shall not exceed 1:15.
- (3) When carriage openings are formed in kerbs and cross footways or pavements, such openings shall be paved or slabbed.
- (4) The Council may, for purposes of this section, impose such conditions as it may deem necessary in the interests of public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

Planting on footways and sidewalks

5. (1) The owner or occupier of an erf adjoining a street may, at his/her own cost, grade and plant with grass any land lying between the erf and that part of the street intended, laid out or made up for the use of vehicular traffic.
- (2) The owner or occupier of an erf aforesaid may plant with flowers or small shrubs, a strip of land not exceeding 1 m in width immediately adjoining the said erf.
- (3) The Council may impose such conditions as it deems necessary, regard being had to public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

Street gutter bridged

6. No person shall bridge over or enclose any gutter or storm water drain under the control of the Council without the prior written consent of the Council.

Encroachments

7. (1) A cantilevered overhanging roof may be erected over the street boundary or building line, at a height of at least 2,75m above the finished ground level, measured from the finished ground level to the lowest point of the overhanging roof.
- (2) Foundations that are at least 0,75m under the ground level may exceed a street boundary or building line with a maximum of 0,5m.
- (3) Sunshades and overhead lamps may exceed a street boundary or building line: provided that there shall be a head clearance of at least 2,1m, measured from the finished ground level to the lowest point of such sunshades or overhead lamps.
- (4) Eaves projections may exceed the street boundary or building line.

Restriction on the erection of buildings within the one-in-fifty-year flood line

8. (1) No building shall without the prior permission of the Council be erected so that it is, at its nearest point, nearer to the centre of any natural watercourse than a line, as may be determined by the Council, indicating the maximum level likely to be reached on an average every fifty years by flood water in the said watercourse.
- (2) For the purpose of this section, a natural watercourse means a topographic land depression which collects and conveys surface storm water in a definite direction, and includes any clearly defined natural channel, which conveys water in a definite course along a bed between visible banks, whether or not its conformation has been changed by artificial means and whether or not such channel is dry during any period of the year, and includes any river, spruit, and stream.

Relay of storm water from a high-lying erf to a lower lying erf

9. If, in the opinion of the Council, it is impracticable for storm water to be drained from any high-lying erf direct to a public street, the owner of any lower lying erf shall be obliged to accept and/or permit the passage of such storm water and the owner of such high-lying erf, the storm water from which is discharged over the lower lying erf, shall be liable for a proportionate share of the cost of any pipe-line or drain which the owner of such lower lying erf may find necessary to construct for the purpose of conducting the water so discharged

Enclosures

10. Where any erf is enclosed in whichever manner, such enclosure shall be designed, erected and maintained according to sections 11, 12 and 13 subject to any other provisions of these By-laws.

Height restrictions

- 11 (1) No enclosure except those on Industrial and Business zoned erven irrespective of the type of material used, may exceed a height of 2.1m.
- (2) Apart from the provisions of subparagraph (1) hereof, barbed wire or similar wire and safety spikes may be erected only from a height of 1.75m.

Design and appearance

12. (1) An enclosure, as provided in paragraph 1 hereof, which is visible from an adjacent street or public open space shall comply with the following conditions
- (a) All surfaces which are visible from such street or public open space shall:
 - (i) be skilfully finished;
 - (ii) be of good quality material;
 - (iii) be without defect; and
 - (iv) have an exposed or finished side;
 - (b) painted surfaces visible from such street or public open spaces, shall be white only or a different colour as approved by the Council.
 - (c) If such enclosure is made of precast material and is visible from such street or public open space, it shall only have a brick pattern and be painted white or a different finish or colour as approved by the Council.
 - (d) If wood forms part of such enclosure, it shall be thoroughly treated with a wood-preserving agent.
- (2) An enclosure, as provided in paragraph 1 hereof, which is visible from any adjacent erf, shall comply with the following requirements:
- (a) All surfaces fronting on the adjacent erven shall be -
 - (i) skilfully finished;
 - (ii) of good quality material;
 - (iii) without defect; and
 - (iv) maintenance free
 - (b) if applicable, the struts, posts and columns of such an enclosure shall show on the owner's side
 - (c) If wood forms part of such enclosure, it shall be thoroughly treated with a wood-preserving agent.
- (3) Notwithstanding the provisions in these By-laws -
- (a) the Council may agree to it that the maximum heights, as stipulated in paragraph 1 hereof, be exceeded;
 - (b) the enclosure, as provided in paragraph 1 hereof, shall, within a distance of 4.5m from any street boundaries or public open space boundaries be splayed or lowered to a height of 1m, if the Council so requires;
 - (c) no barbed wire or similar wire and safety spikes in any area Industrial - zoned erven excluded may be visible from any street, public open space or adjacent erf;
 - (d) the enclosure shall be properly maintained to the sole satisfaction of the Council.
 - (e) the height of any enclosure or wall will be measured from natural ground level.

Roofs

13. (1) Sheet metal which is used for roofs and is visible from the street or surrounding erven shall be properly painted within fifteen months after construction thereof if the Council so requires.
- (2) No roof surface may have a luminous finish.

Connection to sewer

14. (1) No part of any drainage installation shall extend beyond the boundary of the piece of land on which the building or part thereof served by the drainage installation is erected: provided that, where it considers it necessary or expedient to do so, the Council may permit the owner to lay a drain at his/her own expense through an adjoining piece of land upon proof of the registration of an appropriate servitude or of a notarial deed of joint drainage, as the Council may require.
- (2) Subject to the provisions of subsection (3), and without prejudice to the provisions of the National Building Regulations regarding the inspection and testing of drainage installations, the owner of a premises shall, 14 days before the drainage installation on his/her premises will be ready for connection to a connecting sewer, advise the Council of his/her intention to so connect. As soon as the Council has provided the connecting sewer, he/she shall connect the drain to it at his/her own expense.
- (3) Any alternative or additional connection required by the owner shall be subject to the approval of the Council and shall be effected at the owner's expense.
- (4) No person shall permit the entry of any substance whatsoever other than clean water for testing purposes into any drainage installation before the drainage installation has been connected to the sewer.
- (5) Save as may be otherwise authorized by the Council in writing, no person other than an official duly authorized to do so, shall lay and connect any connecting sewer to the sewer.
- (6) The conveyance of sewage from two or more premises by means of a common drain to a connecting sewer may be authorized by the Council.

Disconnection of Drainage Installations and Conservancy or Septic Tanks

15. (1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner shall cause it to be disconnected and either completely removed or completely filled with earth or other suitable material: provided that the Council may require such tank to be otherwise dealt with, or may permit it to be used for some other purpose subject to such conditions as the Council may consider necessary, regard being had to all the circumstances of the case.
- (2) After all the requirements of the National Building Regulations in regard to disconnection have been complied with and on request by the owner, the Council shall issue a certificate to the effect that the disconnection has been completed in terms of the National Building Regulations and that any sewerage charges raised in respect of the disconnected portion of the drainage installation shall cease to be raised with effect from the first day of the month following the issue of such certificate: provided that, until such certificate shall have been issued by the Council, any such charges shall continue to be raised.
- (3) When a drainage installation is disconnected from a sewer, the Council shall seal the opening so made and shall recover from the owner the cost of such work in terms of section 14(5).
- (4) Any person who, without the permission of the Council, breaks or removes or causes or permits the breakage or removal of any such seal referred to in subsection (3), shall be guilty of an offence.
- (5) Where a soil-water fitting has during the month been connected to or disconnected from a drainage installation which discharges into a sewer system, the tariff, excluding the fixed tariff for every erf, stand, premises or other area, with or without improvements, which, in the opinion of the Council, can be connected to a sewer, shall be calculated as if such connection or disconnection had taken place on the first day of the month following the month in which such connection or disconnection was effected.

Drainage Work which does not comply with the Requirements

16. (1) Where any drainage installation has been constructed or any drainage work has been carried out which fails in any respect to comply with any of the provisions of the National Building Regulations or these by-laws, the owner shall, on receipt of a written notice by the Council to do so and notwithstanding the fact that he/she may have received approval of plans in respect of the said installation or work in terms of the National Building Regulations or previous by-laws, carry out such repairs, replacements, maintenance work or alteration to the installation as and within the time which the said notice may specify.
- (2) When, in the opinion of the Council, a nuisance exists as a result of the emission of gas from any trap or sanitary fitting or any other part of a drainage installation, the Council may require the owner, at his/her own expense, to take such action as may be necessary to prevent the recurrence of the said nuisance.
- (3) Where any sewage, after being discharged into a drainage installation, enters or overflows any soil-water fitting or waste-water fitting connected to the same drainage installation and leaks from the drainage installation whether by reason of surcharge, back pressure or any other circumstance, the

Council may, by notice in writing, require the owner to carry out within the period specified by such notice any work necessary to abate such entry, overflow or leakage of sewage and to prevent any recurrence thereof.

- (4) The Council may, instead of serving notice as aforesaid or where such notice has not been complied with within the time prescribed therein, without prejudice to its right also to prosecute the person or body to whom the notice was directed, because of an infringement of the National Building Regulations or these by-laws, proceed itself to carry out any such alteration, removal or other work as it may deem necessary for compliance with the provisions of the National Building Regulations or these by-laws and may recover the cost thereof from the owner by the ordinary process of law in terms of subsection [5].
- (5) Where any work other than that for which a fixed charge has been determined, is undertaken by the Council, the costs of which it is entitled in terms of these bylaws to recover from any person, there may be included in such costs such claim to be determined by the Council as will cover all expenditure reasonably incurred by the Council.

Maintenance

- 17. Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and severally liable in terms of this section for the maintenance and repair of such drainage installation

Drainage and Sewer Blockages

- 18. (1) No person shall cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank, pipe, drain or fitting as will cause its blockage or ineffective operation.
- (2) When the owner or occupier of a premises has reason to believe that a blockage has occurred in any drainage installation thereon, then he/she shall forthwith inform the Council of the facts and take steps to have it cleared.
- (3) Where a blockage occurs in a drainage installation any work necessary for its removal shall, subject to the provisions of subsection (5), be undertaken by or under the supervision of a plumber or registered person as required in the National Building Regulations in regard to the control of plumbers and plumbing work.
- (4) Any plumber or registered person as aforesaid shall, before proceeding to remove any blockage from a drainage installation, notify the Council by telephone or otherwise of his/her intention to do so, and shall when he/she has done so, notify the Council of that fact and of the nature, location and cause of the said blockage.
- (5) The Council shall, whether or not it has been requested by the owner to do so, be entitled, at its own discretion, to remove a blockage from a drainage installation and may recover the costs thereof from the owner in accordance with Section 16(5).
- (6) Should the clearing by the Council of any blockage in a drainage installation necessitate the removal or disturbance of any paving, lawn or other artificial surfacing on any premises, the Council shall not be liable for the reinstatement thereof.
- (7) Should any drainage installation on any premises overflow as a result of an obstruction in the connecting sewer, and the Council is reasonably satisfied that such obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage and the Council may recover such cost from the owner in accordance with Section 16(5).
- (8) Where a blockage has been removed from a drain or portion of a drain which serves two or more pieces of land, the charges for the clearing of such blockage shall be recoverable in the first place in equal portions from each of the owners thereof, who shall however, be jointly and severally liable for the whole charge.

Interference with or Damage to Sewers and Water Care Works

- 19. Any damage caused to the Council's sewer or any part of its sewerage or water care works by or in consequence of the non-compliance with or contravention of any provision of the National Building Regulations or these by-laws shall be rectified or repaired by the Council at the expense, to be assessed by it, of the person responsible for the said non-compliance or contravention or of causing or permitting same.

Entry onto Premises

- 20. (1) An official authorized by the Council shall have the right to enter upon any premises at any reasonable time in order to take samples of or test sewage or industrial effluent or to carry out any inspection or work in connection with a drainage installation which the Council may deem necessary.
- (2) Any owner or occupier of premises who denies or causes or suffers any other person to deny entry to premises to any official demanding the same in terms of subsection (1), or who obstructs or causes or suffers any person to obstruct such official in the performance of his/her duties, or who withholds or causes or suffers any other person to withhold information required by the official for the purpose of

carrying out his/her said duties, or who gives or causes or suffers any other person to give to the official any information which is to his/her knowledge false, shall be guilty of an offence.

Manholes on Municipal Property

21. (1) Where, for any reason whatsoever, the provision of adequate means of access to the Council's connecting sewer is impracticable on any private premises, the Council may, at the expense of the owner, cause or permit a manhole to be constructed over the Council's connecting sewer in such public place and in such position and of such materials and dimensions as the Council may decide and, in addition, the owner shall bear the cost, as assessed by the Council, of any alteration to existing services in the public place which may, by reason of the construction of the manhole, be necessary.
- (2) The owner of the private premises referred to in subsection (1) shall, if so required by the Council, pay rental to the Council for the space occupied by the manholes in the public place.

Mechanical Food-Waste or other Disposal Units

22. (1) No person shall incorporate into a drainage installation a mechanical food waste or other disposal unit or garbage grinder which has a power capacity in excess of 500W, unless a standard water meter, which the Council installs and seals at the cost of the owner and to which the Council has the right of access at all times, has been connected into the supply pipe which provides water to the unit.
- (2) The Council may require the owner or occupier of any premises on which a food-waste or other disposal unit or a garbage grinder has been installed, or the owner of such unit or grinder, either to remove, repair or replace any unit which, in the opinion of the Council, is functioning inefficiently or which may impair the working of the Council's sewerage system.
- (3) The owner shall, upon the removal of any such unit or grinder, notify the Council in writing within 14 days of its removal.
- (4) The charges as prescribed in the applicable tariff shall be paid in respect of the discharge of a food-waste, other disposal unit or a garbage grinder referred to in subsection (1).

Sewage or other Pollutants not to enter Storm water drains

23. (1) The owner or occupier of any piece of land on which steam or any liquid other than potable water is stored, processed or generated, shall provide all facilities necessary to prevent any discharge, leakage or escape of such liquid to any street, storm water drain or watercourse except where, in the case of steam, the Council has specifically permitted such discharge.
- (2) Where the hosing down or flushing by rainwater of an open area on any private premises is, in the opinion of the Council, likely to cause the discharge of objectionable matter into any street gutter, storm water drain, river, stream or other watercourse, whether natural or artificial, or to contribute towards the pollution of any such watercourse, the Council may instruct the owner of the premises to execute, at his/her own cost, whatever measures by way of alterations to the drainage installation or roofing of the area it may consider necessary to prevent or minimize such discharge or pollution

Storm water not to enter Sewers

24. No person shall discharge or cause or permit to be discharged any storm water or any substance other than sewage into a drainage installation.

Discharge from Swimming Pools

25. Water from fountains, boreholes, wells, reservoirs or swimming pools situated on private premises shall be discharged into a drainage installation only with the prior written consent of the Council and subject to such conditions as to place, time, rate of discharge and total discharge as the Council may impose.

Permission to Discharge Industrial Effluent

26. (1) No person shall discharge or cause or permit to be discharged into any sewer, any industrial effluent or other liquid or substance other than soil-water or waste-water without the prior written permission of the Council or, if such permission has been obtained, otherwise than in strict compliance with any and all of the conditions of such permission.
- (2) Every person shall, before discharging any industrial effluent into a sewer, make application in writing to the Council for permission to do so on the prescribed form, to be completed in duplicate, and shall thereafter furnish such additional information and submit such samples as the Council may require.
- (3) The Council may, at its discretion, having regard to the capacity of any sewer or any mechanical appliance used for sewage or any water care works, whether or not vested in the Council and subject to such conditions as it may deem fit to impose, including the payment of any charge assessed in terms of the relevant tariff, grant permission for the discharge of industrial effluent from any premises into any sewer.
- (4) A person to whom permission has been granted in terms of subsection (3) to discharge industrial effluent into a sewer shall, before doing or causing or permitting to be done anything which results in any change in the quantity or discharge or nature of that effluent, notify the Council in writing of the date on which it is proposed that the change shall take place and of the nature of the proposed change.

- (5) Any person who discharges or causes or permits to be discharged any industrial effluent into the sewer without having first obtained permission to do so in terms of subsection (3) shall be guilty of an offence and be liable to such charge as the Council may assess for the conveyance and treatment of the effluent so discharged and for any damage caused as a result of such unauthorized discharge.
- (6) Without prejudice to its rights in terms of subsection (5) or of Section 27(2)(c), the Council shall be entitled to recover from any person who discharges into a drain or sewer any industrial effluent or any substance which is prohibited or restricted in terms of Section 27 or which has been the subject of an order issued in terms of Section 27(2), the whole cost of expenses or charges incurred or to be incurred by the Council or of losses suffered or to be suffered as a result of any or all of the following:
 - (a) Injury to persons, damage to the sewer or any water care works or mechanical appliance or to any property whatsoever, as the result of the breakdown, either partial or completely of any sewer or water care works or mechanical appliance, whether under the control of the Council or not; or
 - (b) A prosecution in terms of the Water Act, 1956 (Act 54 of 1956), as amended, or any action against the Council consequent on any partial or complete breakdown of any water care works or mechanical appliance caused directly or indirectly by the said discharge, including fines and damages which may be imposed or awarded against the Council.
- (7) Due to any change in circumstances arising from a change in the sewage treatment process or the introduction of new or revised or stricter or other standards by the Council or in terms of the Water Act, 1956 (Act 54 of 1956), as amended or as a result of any amendment of these by-laws or due to any other reason, the Council may from time to time or at any time review, amend, modify or revoke any permission given or any conditions attached to such permission and/or impose new conditions for the acceptance of any industrial effluent into the sewer or prohibit the discharge of any or all such effluent into the sewer or prohibit the discharge of any or all of such effluent into the sewer upon giving adequate written notice in advance of its intention to do so, and, upon expiration of such period of notice the previous permission or conditions, as the case may be, shall be regarded as having lapsed and the new or amended conditions, if any, as the case may be, shall forthwith apply.

Control of Industrial Effluent

- 27. (1) The owner or occupier of any premises from which industrial effluent is discharged into a sewer, shall provide adequate facilities such as overflow level detection devices, standby equipment, overflow catch-pits or other appropriate means effectively to prevent the accidental discharge into any sewer, whether through the negligence of operators, power failure, failure of equipment or control gear, overloading of facilities, spillage during loading or unloading or for any other similar reason, of any substance prohibited or restricted or having properties outside the limits imposed in terms of these by-laws.
- (2) The owner or occupier of any premises on which industrial effluent originated and who intends applying treatment to such effluent before discharging it, shall obtain prior written permission from the Council.
- (3) The Council may, by notice served on the owner or occupier of any premises from which industrial effluent is discharged, require him/her, without prejudice to any other provision of the National Building Regulations or these by-laws, to do all or any of the following:
 - (a) To subject the effluent before it is discharged into the sewer, to such pre-treatment as will ensure that it will at all times conform in all respects with the requirements of Section 27(1) or to modify the effluent cycle of the industrial process to such an extent and in such a manner as in the opinion of the Council is necessary to enable any water care works receiving the said effluent, whether under the control of the Council or not, to produce treated effluent complying with any standards which may be laid down in respect of such works in terms of the Water Act, 1956 (Act 54 of 1956), as amended;
 - (b) to restrict the discharge of effluents to certain specified hours and the rate of discharge to a specified maximum and to install, at the expense of the owner or occupier such tanks, appliances and other equipment as in the opinion of the Council may be necessary or adequate for compliance with the said restrictions;
 - (c) to install a separate drainage installation for the conveyance of industrial effluent and to discharge the same into the sewer through a separate connection, as directed by the Council, and to refrain from discharging the said effluent through any drainage installation intended or used for the conveyance of domestic sewage or from discharging any domestic sewage through the said separate installation for industrial effluent;
 - (d) to construct at his/her own expense in any drainage installation conveying industrial effluent to the sewer one or more inspection, sampling or metering chambers of such dimensions and materials and in such positions as the Council may prescribe;

- (e) to pay, in respect of the industrial effluent discharged from the premises, such charge as may be calculated in terms of the tariff: provided that, where, due to the particular circumstances of any case, the actual chemical oxygen demand [COD] or permanganate value [PV] and the concentration of metals in the effluent cannot be assessed by means of the method of assessment prescribed by the SABS, the Council may use such alternative method of assessment as it may deem expedient and the charge to be levied shall be assessed accordingly;
- (f) to provide all such information as may be required by the Council to enable him to assess the charges payable in terms of the tariff; and
- (g) for the purposes of subsection (f) to provide and maintain at his/her own expense a meter or meters measuring the total quantity of water drawn from any borehole, spring or other source of water, excluding that of the Council, used on the property and discharged as industrial effluent into the sewer.

Metering and Assessment of the Volume and Composition of Industrial Effluent

28. (1) The Council may incorporate, in such position as it shall determine in any drainage installation conveying industrial effluent to a sewer, any meter or gauge or other device for the purpose of ascertaining the volume or composition of the said effluent, and it shall be an offence for any person to pass, open, break into or otherwise interfere with or do damage to any such meter, gauge or other device: provided that the Council may, at its discretion, enter into an agreement with any person discharging industrial effluent into the sewer, determining an alternative method of assessing the quantity of effluent so discharged.
- (2) The Council shall be entitled to install and maintain any such meter, gauge or device as aforesaid at the expense of the owner of the premises on which it is installed.
- (3) The owner of any premises on which is situated any borehole or well used for a water supply for trade or industrial purposes shall:
- (a) register such borehole or well with the Council;
 - (b) provide the Council with full particulars of the discharge capacity of the borehole or well; and
 - (c) if the Council has reason to doubt the reliability of the particulars given, carry out, at the expense of the owner, such tests on the discharge capacity of the borehole or well as may, in the opinion of the Council, be necessary for the purpose of these by-laws.

Prohibited Discharges

29. (1) No person shall discharge or cause or permit the discharge or entry into any sewer of any sewage, industrial effluent or other liquid or substance which:
- (a) in the opinion of the Council, may be offensive to or may cause a nuisance to the public;
 - (b) is in the form of steam or vapour or has a temperature exceeding 44°C at the point where it enters the sewer;
 - (c) has a pH value less than 6,0 or greater than 10,0;
 - (d) contains any substance of whatsoever nature likely to produce or emit explosive, flammable, poisonous or offensive gasses or vapours in any sewer;
 - (e) contains any substance having a flashpoint of less than 90°C or which emits a poisonous vapour at a temperature below 93°C;
 - (f) contains any material of whatsoever nature, including, oil, grease, fat or detergents capable of causing interference with the proper operation of water care works;
 - (g) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
 - (h) contains any substance in such concentration as is likely in the final treated effluent from any water care works to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
 - (i) exceeds any of the limits or concentrations of substances specified in the Annexure: provided that the Council may approve such greater limits or concentrations for such period or on such conditions as it may specify on consideration of the effect of dilution in the sewer and of the effect of such substance on the sewer or any sewage treatment process if the Council is satisfied that, in the circumstances, the discharge of such substance will not:
 - (i) damage any sewer, mechanical appliance, water care works or equipment; or
 - (ii) prejudice the use of sewage effluent for re-use; or
 - (iii) adversely affect any waters into which purified sewage effluent is discharged, or any land or crops irrigated with the sewage effluent;
 - (j) contains any substance of whatsoever nature which, in the opinion of the Council:
 - (i) is not amenable to treatment at the water care works, or which causes or may cause a breakdown or inhibition of the normal sewage treatment processes; or

- (ii) is of such nature as is or may be amenable to treatment only to such degree as to prevent the final treated effluent from the water care works from satisfactorily complying in all respects with any requirement imposed in terms of the Water Act, 1956 (Act 54 of 1956); or
 - (iii) whether listed in the Annexure or not, either alone or in combination with other matter may:
 - (aa) generate or constitute a toxic substance detrimental to the health of persons employed at the water care works or entering the Council's sewers or manholes in the course of their duties; or
 - (bb) be harmful to sewers, water care works or land used for the disposal of purified sewage effluent; or
 - (cc) adversely affect any of the processes whereby sewage is purified or any re-use of purified sewage effluent.
- (2) (a) Any person receiving from an official duly authorized thereto by the Council a written order instructing him/her to stop the discharge into the sewer of any substance referred to in subsection (1), shall forthwith stop such discharge.
- (b) Any person who contravenes the provisions of subsection (1) or who fails to comply with an order issued in terms of subsection (2)(a), shall be guilty of an offence.
- (c) Notwithstanding the provisions of subsection (2)(b), should any person have failed to comply with the terms of an order served on him/her in terms of subsection (2)(a) and such discharge is likely, in the opinion of the Council, to cause damages to any sewer or mechanical or other appliance or to seriously prejudice the efficient operation of any water care works, the Council may, after further written notice, refuse to permit the discharge of any industrial effluent into the sewer until such time as the industrial effluent complies in all respects with the Council's requirements as prescribed in terms of these by-laws, in which event the person responsible for the discharge shall forthwith stop it, or if he/she fails to do so, the Council may prevent him/her from proceeding with the discharge.

Connection from mains

30. (1) All communication pipes which are intended for preventive or automatic use in case of fire shall be laid by the Council as far as the boundary of the consumer's property
- (2) Such communication pipes shall be used only for fire extinguishing purposes.
- (3) No take-off of any kind shall be made, other than those in connection with automatic sprinklers and drenchers, hydrant connections or necessary for a pressure tank upon the top of a building, which tank shall be controlled by a suitable ball tap.

Valves in Communication Pipes

31. Every communication pipe shall be fitted with a proper stop valve, which said valve shall be -
- (a) supplied by the Council at the expense of the consumer;
 - (b) installed between the consumer's property and the main;
 - (c) of the same diameter as the communication pipe;
 - (d) in such position as may be determined by the Council.

Additions to System

32. No further sprinkler shall be added or connected to any existing fire extinguishing system after such system has been connected to the mains without the prior written consent of the Council.

Extension of System to other premises

33. No extension or connection from any fire extinguishing system to other premises shall be made, and in the event of any such connection or extension being made, the Council shall be entitled to enter upon any premises and to take all steps necessary to disconnect such connection or extension at the cost of the persons responsible for such extension or connection.

Inspection and approval of Fire Extinguishing Service

34. No supply of water shall be made or given until the fire extinguishing system has been inspected and the Council has certified in writing that such service is in accordance with these by-laws and the work has been carried out to the Council's satisfaction

Connection to be at pleasure of the Council

35. Connection to the mains shall be at the pleasure of the Council, which shall be entitled to disconnect any fire extinguishing services at any time.

Installation of Reflux Valve

36. In all private installations where a fire pump connection is installed, a reflux valve to close off the supply from the Council's mains when the fire pump connection is being used shall be installed between the boundary of the property and the fire pump connection.

Sprinkler system

37. (1) A sprinkler system may be installed in direct communication with the main, but the Council shall not be deemed to guarantee any specified pressure of water at any time.
- (2) When an automatic sprinkler system has been installed and completed, the owner shall advise the Council in writing within 14 days of the date of completion of the installation of such sprinkler system.

Header tank or duplicate supply from mains

38. In the event of a header tank being installed above ground level, it must be provided with an overflow pipe, which shall discharge in such a position as to be readily observable, and shall not be led away by any down-pipe to any drain.

Notices

39. (1) Every notice, order or other document issued or served by the Council in terms of these by-laws shall be valid if signed by the Municipal Manager or an official of the Council duly authorized thereto by the said Municipal Manager.
- (2) If a notice is to be served on a person in terms of these by-laws, such service shall be effected by:
- (a) Delivering the notice to him personally or to his duly authorized agent or;
 - (b) By delivering the notice at his residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
 - (c) If he has nominated an address for legal purposes, by delivering the notice to such an address; or
 - (d) By registered or certified post addressed to his last known address.
 - (e) In the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate;
 - (f) If service cannot be effected in terms of the aforesaid sub-sections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land to which it relates.
- (3) Any notice, order or other document served in terms of these by-laws on any person shall be so served by delivering it, or a true copy thereof, to the person to whom it is addressed personally or at his last known residence or place of business or by posting it to him by registered post.
- (4) In every notice, order or other document issued or served in terms of these by-laws, the premises to which it relates shall be specified but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his name is not known.

Penalty Clause

40. Any person who contravenes or fails to comply with any provision of these bylaws shall be 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

Repeal Of By-Laws

41. Any by-laws relating to building regulations adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short Title

42. This by-law is called the By-law Relating to Building Regulations, 2022

ANNEXURE

LIMITS OF CONCENTRATION OF CERTAIN SUBSTANCES

Subject to the provisions of Section 27(1) of these by-laws:

- (1) The limits of the PV, pH and electrical conductivity of sewage are as follows:
- (a) PH-within the range 6,0-10,0;
 - (b) Electrical conductivity not greater than 300m/Sm at 20°C.
- (2) The maximum permissible concentrations of pollution expressed in milligrams per litre [mg/l] are as follows:
- (a) GENERAL:
 - (i) PV-not to exceed: 1 400mg/l;
 - (ii) Caustic alkalinity [expresses as CaCO₃]: 2 000 mg/l;
 - (iii) Substances in suspension [including fat, oil, grease, waxes and like substance]; 2 000mg/l;
 - (iv) Substances soluble in petroleum ether. 500mg/l;
 - (v) Sulphides, hydro-sulphides and polysulphides [expressed as S]: 50mg/l;

- (vi) Substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or water care works [expressed as HCN]: 20mg/l;
 - (vii) Formaldehyde [expressed as HCHO]: 50mg/l;
 - (viii) Phenolic compounds: 1.0mg/l;
 - (ix) Non-organic solids in suspension: 100mg/l;
 - (x) Chemical oxygen demand [COD]: 5 000mg/l;
 - (xi) All sugars and/or starches [expressed as glucose]: 1 500mg/l;
 - (xii) Available chlorine [expressed as Cl]: 100mg/l;
 - (xiii) Sulphates and sulphites [expressed as SO₄]: 1 800mg/l;
 - (xiv) Fluorine-containing compounds [expressed as F]: 5mg/l;
 - (xv) Anionic surface activators: 500mg/l;
 - (xvi) Orthophosphate [expressed as P]: 10mg/l.
- (b) **METALS**
- (i) Group 1:
 - (aa) Chromium [expressed as Cr];
 - (bb) Copper [expressed as Cu];
 - (cc) Nickel [expressed as Ni];
 - (dd) Zinc [expressed as Zn];
 - (ee) Silver [expressed as Ag];
 - (ff) Cobalt [expressed as Co];
 - (gg) Cadmium [expressed as Cd];
 - (hh) Manganese [expressed as Mn].

The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, shall not exceed 20mg/l, nor shall the concentration of any individual metal in any sample exceed 5mg/l.
 - (ii) Group 2:
 - (aa) Lead [expressed as Pb];
 - (bb) Selenium [expressed as Se];
 - (cc) Mercury [expresses as Hg].

The total collective concentration of all metals in Group 2 (expressed as indicated above), in any sample of the effluent shall not exceed 50mg/l, nor shall the concentration of any individual metal in any sample exceed 20mg/l.
 - (iii) Group 3:
 - (aa) Arsenic (expressed as As);
 - (bb) Boron (expresses as B).

The total collective concentration of the metals in Group 3 (expresses as indicated above) in any sample of the effluent shall not exceed 20mg/l.
- (c) **RADIO-ACTIVE WASTE:**
- Radio-active waste or isotopes: such concentration as may be laid down by the Atomic Energy Corporation or any State Department: Provided that, notwithstanding the requirements set out above in this Annexure, the Council reserves the right to limit the total mass of any substance or impurity discharges per 24 hours into the sewers from any premises: Provided further that the method of testing in order to ascertain the concentration of any substance mentioned above shall be the test normally used by the Council for this purpose. Any person discharging into a sewer any substance referred to in the Annexure, may ascertain the details of the appropriate test from the Council.

[PROVINCIAL NOTICE NO. 44 OF 2022]

**DIHLABENG LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAWS
BY-LAWS RELATING TO MUNICIPAL CEMETERIES**

SCHEDULE

CEMETERIES BY-LAW

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CHAPTER 1: INTERPRETATION

1. Definitions

- (1) In these by-laws, unless the context otherwise indicates, an expression to which a meaning has been assigned in the Local Government Ordinance, 1962 (Ordinance No 8 of 1962), the Structures Act and the Systems Act or any other applicable legislation, shall have the meaning so assigned to it, and -

“**adult**” means a deceased person over the age of 12 years and a corpse buried in a coffin that will fit into a grave for adults as contemplated in section 14;

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

“**berm**” means a concrete base on which a memorial is erected;

“**Births and Deaths Registration Act**” means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

“**body**” means any dead human body, including the body of a stillborn child;

“**burial**” means burial or inhumation into earth or any other form of burial and any other mode of disposal of a body;

“**burial order**” means an order issued in terms of the provisions of the Births and Deaths Registration Act 1992 (Act No. 51 of 1992) authorizing a burial;

“**caretaker**” means the official appointed by the Council to supervise and control a cemetery or cemeteries, and his delegates;

“**cemetery**” means any land or part thereof, including the buildings and works thereon, within the municipal area duly set aside and reserved by the Council or approved by the Council for the purpose of burials and made available for public use from time to time for burials;

“**child**” means a deceased person that has not yet reached the age of 12 years, that is being buried in a coffin that fits into a grave for a child as contemplated in section 14;

“**columbarium**” means the memorial wall or a wall of remembrance provided by the Council for the burial of ashes;

“**Commonwealth war grave**” means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

“**corpse**” means any dead human body including the body of a stillborn child;

“**Council**” means –

- (a) the Local Municipality of Dihlabeng established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, exercising its legislative and executive authority through its municipal Council; 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); or
- (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.

“**cremation**” means the process of disposing of a human body by fire;

“**crematorium section**” means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

“**cremated remains**” means all recoverable ashes after the cremation process;

“**Director: Community Services**” means the official appointed by the Council from time to time in such position and his/her delegates;

“**exhumation**” means the removal of a body from its grave;

“**grave**” means any piece of land excavated for the burial of a body within a

cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

“grave of conflict” means the grave of a person who died while defending the country;

“hero” means a person who performed a heroic act for the country and is given the status of a hero by the Council;

“heroes acre” means an area of land set aside for the burial of a hero;

“holder” means a person to whom a reservation certificate for a specific grave has been issued

“indigent person” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organization or non-governmental organization can be found to bear the burial costs of such deceased person and includes a pauper;

“indigent relief” means assistance received for the burial of an indigent person;

“lawn section” means a section in a cemetery set aside by the Council where memorial work is restricted to a headstone only;

“medical officer of health” means the officer appointed by District Council or any other person acting in the capacity of the medical officer of health;

“memorial section” means a section of a cemetery set aside for the erection of memorials;

“memorial wall” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

“memorial work” means any headstone, monument, plaque, or other work, or object, or portion thereof erected or intended to be erected in any cemetery upon a grave to commemorate a deceased person;

“municipal area” means the area under the control and jurisdiction of the Council;

“niche” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“office hours” means Monday to Friday 07:30 to 16:30 excluding Saturdays, Sundays and Public holidays;

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

“prescribed” means prescribed by the Council;

“prescribed fee” means the fees determined from time to time by the Council by means of resolution;

“resident” means a person who at the time of his death, was ordinarily resident within the municipality or under law liable for the payment of assessment rates, rent, service charges or levies by the Council;

“South African Heritage Resources Agency” means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

“still-born” 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, and

“still birth” in relation to a child, has a corresponding meaning as still-born;

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

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000)

“victim of conflict” means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

- (2) In these by-laws, unless the context otherwise indicates, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.
- (3) If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.
- (4) These by-laws are subject to the National Environmental Management Act, 1998 (Act No. 107 of 1998).

CHAPTER 2: ESTABLISHMENT AND MANAGEMENT OF CEMETERIES

2. Establishment of cemeteries

- (1) The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintenance of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.

- (2) The Council may set aside reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Council may deem necessary for exclusive use by the members of particular religion or denomination, or for the burial of adults, children, security forces or war heroes, low and high maintenance areas.

3. Official hours

- (1) The cemetery and the office of the caretaker shall be open during the hours as determined by the Council. The cemetery office shall be open from Monday to Friday.
- (2) Burials shall take place on the days and during the hours determined by the Council.
- (3) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit.
- (4) No person shall be or remain in a cemetery or part thereof or after the office hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.

4. Register

- (1) A register of graves and burials shall be kept at the municipal offices.
- (2) Such register shall 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.

5. Numbering of graves

- (1) All graves in a cemetery that are occupied of for which a burial has been authorized in terms of the provisions of section 9, shall be numbered by the Council.
- (2) The number shall be affix to the grave and indicated on a plan to be kept available in the caretaker's office.

6. Reservation of a graves

- (1) No reservations of a grave in a cemetery shall be allowed.
- (2) Reservation of graves made and recorded in the office records of the Council shall still be valid and the Council shall honour such reserved rights.

7. Transfer of reserved rights

- (1) A reserved right as contemplated in section 6(2), may not be transferred without the prior approval of the Council.
- (2) Application to transfer such rights shall be made to the caretaker in writing.
- (3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder on condition that the applicable tariff is been paid.
- (4) The reserve right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any), minus 10% administration fees, will be refunded to the holder.

8. Number of corpses in a grave

- (1) Two corpses may be buried in a grave with measurements as contemplated in sub-section 14 (1) subject to the provision of sub-section 8(2) (b) : Provided that only a child may be buried on top of another child in a grave with measurements 2 133 mm deep.
- (2) (a) A family or relative of a person that was buried in a single grave with measurements of 2 400 mm deep (8 feet) in the case of an adult, and 2 133 mm deep (7 feet) in the case of a child, may, apply to the Council in terms of sub section 9(1) for permission to have a recently deceased family member or relative buried on top of the first deceased family member or relative.

- (b). A person applying for the reopening of a grave for a second interment must sign a reopening document granting permission for the opening of the grave at the cemetery along with the other documents required in terms of section)

CHAPTER 3: BURIALS

9. Application for a burial

- (1) Application for permission for a burial in a cemetery shall be made to the caretaker in writing by completing and submitting a prescribed form. An application shall be accompanied by:
 - (a) the prescribed burial order;
 - (b) the prescribed fees; and
 - (c) a reservation certificate, if applicable.
- (2) No person shall, without the prior written consent of the Council, execute, cause or allow a burial in any other place in the municipality than a cemetery established and managed by the Council. This includes the burial of a corpse and of ashes.
- (3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (4) No person shall execute a burial in a cemetery without -
 - (a) the permission of the caretaker;
 - (b) arranging a date and time of such burial with such caretaker; and
 - (c) a specific grave has been allocated for the purpose of the burial
- (5) In allocating a date and time for a burial, the caretaker shall take into account the customs of the deceased, and the people responsible for the burial and their religion or church affiliation.
- (6) In allocating a grave the caretaker shall as far as practicable possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him to select the section of his choice, but not the individual grave of his choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial shall be executed only in a grave allocated to him.
- (7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set in a part of a cemetery set aside for such purpose and in such manner as it may deem fit.
- (8) An applicant must give notice of the postponement or cancellation of a burial to the caretaker at least one working day before the time set for the burial.
- (9) In a case of a cancellation of a burial-
 - (a) a refund will not be made to the applicant for costs incurred for opening an existing grave;
 - (b) the Council will only refund the applicant for costs incurred for opening a new grave.
- (10) 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.

10 Burial of a corpse

- (1) All graves shall be provided by the caretaker with the exception of brick-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.
- (2) There shall be at least 1 200 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 shall be placed in a coffin for the burial thereof, except as provided for the Muslim community.

- (4) No person shall 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 cemetery reserved by the Council in terms of the provision of Section 2 for the use of some other denominations.
- (5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall 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 shall comply with the directions of the caretaker as to the route to be taken within the cemetery.
- (7) No person shall convey or expose a corpse on any part thereof in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to any burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Council for a period of not less than ten years.

11. Burial of ashes

- (1) Ashes may be buried in a coffin and only such coffin containing ashes may be buried in a grave with measurements as contemplated in sub-section 14; provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the caretaker.
- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of a memorial tablets of approved material to be fixed on the building, columbarium or other facility shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (4) Niches will be allocated by the caretaker strictly in order in which the applications therefore are received and no reservations for future use will be made.
- (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 may refuse the application.
- (6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Council and shall only be opened for the purpose of withdrawing an urn or casket therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it will once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker in writing by completing and submitting
- (9) No person shall 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 provision of section 9;
 - (b) Approval for the erection of the memorial work has been obtained in terms of the provision of sub-section 26 (1); and
 - (c) The prescribed fees have been paid.
- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker as set out in section 3.
- (11) No permanent wreaths, sprays, flowers or flora 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 shall be made of material approved by the Council and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

12. Burial of indigent persons

- (1) A person making an application for an indigent person's burial must make a declaration to that effect.
- (2) An indigent person may be buried according to conditions determined by the Council.

13. Persons dying outside the municipal area

- (1) The provision of these by-laws shall apply mutatis mutandis to any burial in a cemetery of a person who has died outside the municipality.

14. Grave measurements

- (1) The excavation of a grave for an adult shall be at least 2 400mm deep, 2 300 mm long and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1 524 mm deep, 1 520 mm long and 610 mm wide.
- (3) The excavation of a grave for the interment of a cremated corpse shall be 610 mm wide, 610 mm long and 610 mm deep.
- (4) An applicant for a burial may, by giving at least 24 hours notice before the burial, request that a grave be enlarged or deepened.
- (5) If a child's coffin is too large for a child's grave it must be buried in an adult's grave, on payment of the prescribed fee.
- (6) Deviations from measurements of graves shall be as follows:

Extra wide	:	2300 mm long and 840 mm wide
Extra long	:	2530 mm long and 760 mm wide
Brick nogging	:	2600 mm long and 1050 mm wide.
- (7) The area of a single grave space for an adult shall be 1500 mm wide by 2600 mm long.
- (8) The area of a single grave space for deceased children shall be 1500 mm long and 1000 mm wide.
- (9) All graves shall be prepared by the Council with the exception of brick-lined or concrete-lined graves in which case the brickwork or concrete work shall be carried out by the undertaker to the satisfaction of the Council and in conformity with the specifications applicable to ordinary graves.

15. Number of bodies in a coffin

- (1) Only one body in a coffin is allowed for burial.
- (2) Burial of more than one body in a coffin may be allowed if :
 - (a) application is made to and approved by the caretaker
 - (b) the prescribed fee has been paid; and
 - (c) as long as the coffin size does not exceed the grave dimensions
- (3) Such application may be made in respect of -
 - (a) family members who either died together or a short while after each other and the burial of the first dying member has not yet taken place;
 - (b) a parent and young child or children who either died together or a short while after each other, and the burial of the first dying member has not yet taken place; In this case a parent and not more than 2 children under the age of 3 years are permitted to be buried in one coffin.
 - (c) a mother and child who died during childbirth;

16. Private rights

- (1) The holder of private rights includes –
 - (a) a person who purchased a grave or who received a grave as a gift from the purchaser and whose name appears in the register of the Council;
 - (b) a person who paid the prescribed burial fees in respect of the first burial in the grave;
 - (c) a person to whom private rights to a grave have been transferred;
 - (d) a person who inherited the private rights .
- (2) The private rights in a grave are transferable, but such transfer only becomes effective on registration by the Council.
- (3) If there is a dispute about the holder of private rights, the dispute must be referred to the Director Community Services for determination.

17. Coffins

- (1) Coffins to be placed in a grave must be made of natural wood or other perishable material.

18. Covering of coffins

- (1) Every coffin must be covered with at least 300 mm of soil immediately after burial;
- (2) There must be at least -
 - (a) 1 200 mm of soil between a coffin of a buried adult and the surface of the ground; or
 - (b) 900 mm of soil in the case of a coffin of a child.

19. Body bags

- (1) If there is more than one body in a coffin each body must be contained in a separate body bag.
- (2) A body intended for burial at a cemetery must be sealed in a body bag inside a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the applicant

20. Religious or memorial services

- (1) A person who desires to have a religious or memorial service at a cemetery or crematorium must apply to the office-in-charge and pay the prescribed fee.

21. Control of hearses at the cemetery

- (1) No person in a cemetery may –
 - (a) drive a hearse or cause a hearse to be driven except on a designated roadway;
 - (b) park a hearse or detain a hearse on a roadway after the coffin has been removed from the hearse; or
 - (c) park a hearse in such a manner that it interferes with other burials in progress.

22. Conveyance of coffins and bodies

- (1) An applicant is responsible at his or her own cost for ensuring that a coffin is conveyed to the cemetery for burial.
- (2) No person may in any street, cemetery, crematorium or other public place convey a body in a disrespectful manner.

23. Instructions at cemeteries

- (1) The caretaker at the cemetery may issue instructions relating to -
 - (a) the parking of vehicles;
 - (b) a funeral procession;
 - (c) the duration of a service.
- (2) Every person taking part in a funeral procession at the cemetery, must comply with all reasonable instructions of the caretaker.

**CHAPTER 4:
CREMATION**

24

Cremation

- (1) Cremation within the municipality shall only take place in an approved crematorium established for that purpose and in accordance with the applicable legislation.

**CHAPTER 5:
EXHUMATION**

25

Conditions of exhumations

- (1) No person may exhume or cause to be exhumed a body without the written consent of the Premier of the Free State Provincial Government as contemplated in the Burial Place Ordinance, 1952 (Ordinance No 4 of 1952) and then only after notifying the Council, the Department of Health and the SAPS exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed.
- (2) Any person duly authorized to exhume a corpse as set out above, shall furnish such authority to the caretaker at least 48 working hours before the time proposed for the exhumation of such corpse, and shall at the same time pay the prescribed fees.
- (3) Whenever an exhumation is to take place, the caretaker must inform the Provincial Commissioner of the South African Police Services.
- (4) An exhumation and removal of any corpse shall be only in the presence of the caretaker, or any authorized member of the cemetery personnel, accompanied by the funeral undertaker, a member of the South African Police Services and a member of the Department of Health and in accordance with the stipulated legislation applicable to exhumation and re-burials.
- (5) If remains are to be exhumed from any grave, only a funeral undertaker under the supervision of the caretaker, may cause the grave to be excavated for such exhumation in accordance with the stipulated legislation applicable to exhumation and re-burials.
- (6) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the caretaker.
- (7) A grave from which any corpse is to be removed shall, if required by the caretaker, be effectively screened from public view during the exhumation.
- (8) The person who applied for the exhumation of a corpse, shall provide an acceptable receptacle for each body or remains and shall remove the remains after the exhumation.
- (9) No person shall be permitted to re-open a grave unless he has satisfied the caretaker that he is authorized thereto.
- (10) After the exhumation of a corpse and the removal of the remains, all rights in the grave will revert to the Council. The re-use of the grave shall be done in consultation with the Director: Community Services.
- (11) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial.
- (12) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (13) The South African Police must -
 - (a) if there is proof of illegal burial immediately exhume the body; and
 - (b) take it to a government mortuary for investigation.
- (14) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.
- (15) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the

Commonwealth War Graves Act, 1992 (Act No. 8 of 1992).

- (16) The Council may, if a body has been buried in contravention of these By-laws, cause the body to be exhumed and re-buried in another grave.
- (17) The relatives of the deceased must be -
 - (a) notified of the intended exhumation and re-burial; and
 - (b) allowed to attend the re-burial.

CHAPTER 6: MEMORIAL WORK

26. Erection of memorial work

- (1) A person intending to erect a memorial work must make an application in writing by completing and submitting the prescribed application form to the office- in-charge.
- (2) Such application must be made not less than five working days before the date of erection.
- (3) Memorial work may only be erected during working hours, but may, with the approval of the caretaker, be erected outside working hours.
- (4) No person may—
 - (a) erect memorial work, or bring material into a cemetery for the purpose of erecting memorial work, without the written consent and approval of the caretaker; and the prescribed fees has been paid.
 - (b) remove memorial work for additional inscriptions or other alterations without the consent of the caretaker; or
 - (c) erect a memorial work on a Saturday, Sunday or a public holiday, without the written consent of the caretaker.
- (5) The erection of trellies around graves is prohibited.
- (6) Council is not liable for damage to memorial work resulting from any subsiding soil.
- (7) Graves of the war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognized body or by the government of any foreign country, shall upon application to the Council,
- (8) The Council may prohibit the erection of a memorial work or may remove erected memorial work which is —
 - (a) of inferior workmanship or quality;
 - (b) is indecent, offensive or objectionable; or
 - (c) in contravention of these By-laws, without compensating the owner.
- (9) A person erecting memorial work must at the request of the officer-in-charge produce the written consent.
- (10) Memorial work or material to be used in the erection of such work, may not be conveyed in a cemetery in a manner that may damage the roadways, pathways, lawns, grounds, other memorials or adjacent graves.
- (11) On completion of such work, any surplus material or rubble, resulting from the erection of any memorial work, must be removed by the person responsible for such erection, immediately after its completion and he shall leave the grave and the cemetery in a clean and tidy condition.
- (12) A person engaged in the erection of memorial work in a cemetery, shall comply with the following provisions:
 - (a) Arrangements will beforehand be made with the caretaker with regard to the date and time of the intended erection;
 - (b) Memorial work must be constructed or made of durable material, approved by the South African Bureau of Standards with a life expectancy of at least 25 years.

- (c) All separate parts of any memorial work other than masonry-construction shall be affixed by copper or galvanized iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work; when joining any part of the memorial work the person must use copper or galvanized iron pins as follows-
 - (i) for memorial work up to a height of 500 mm, two or more pins of at least 5mm thick and 100 mm long;
 - (ii) for memorial work 501 mm up to a height of 1 000 mm, two or more pins at least 10 mm thick and 200 mm long; or
 - (iii) for memorial work 1 001 mm and higher at least two or more pins 20 mm thick and 300 mm long;
 - (d) Any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;
 - (e) The underside of every flat stone memorial and the base or landing of every headstone shall be set at least 50mm below the natural level of the ground;
 - (f) All headstones shall be securely attached to the base.
 - (g) Flat stones shall consist of one solid piece in the case of all graves;
 - (h) All headstones shall consists of granite, marble, bronze or any other durable metal or stone approved by the Council;
 - (i) All curbing or memorial work on graves shall be erected on concrete foundations at least 1210 mm wide and 200 mm deep over the full width in the case of adult graves and 910 mm wide and 200 mm deep in the case of children graves.
 - (j) The size of monumental tombstone (all inclusive) shall be as follows:

Single grave	:	2440 mm long x 1070 mm wide
Child grave	:	1370 mm long x 760 mm wide
Double grave	:	2440 mm long x 2290 mm wide
 - (k) Any memorial work must display the number assigned to the grave by the officer-in-charge, in permanent and visible markings on the side of the base of the memorial work;
 - (l) The name of the maker, designer or erector of the memorial work may appear on the work and must be placed at the base of the memorial work.
- (13) The Council may, after due notice, at any time change or alter the position of any memorial work in any cemetery provided that 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 provision of this regulation shall be executed at the expenses of the Council.

27. Dismantling of memorial work

- (1) Only a holder of private rights, or a person authorized in writing by the holder of such rights, may, with the written permission of the officer-in-charge, dismantle, alter, or disturb, any memorial work on a grave.
- (2) Dismantled memorial work must either be removed from a cemetery or be left on the grave on which such memorial work had been erected.
- (3) The officer-in-charge may in the case of a second or subsequent burial in such grave, permit memorial work to be left elsewhere in the cemetery, for a period not exceeding 30 days after such burial.
- (4) The person dismantling the work must immediately after the work is completed, remove any surplus material, or rubble, resulting from the dismantling of any memorial work.
- (5) If a holder of rights or person referred to in subsection (1) -
 - (a) fails to re-erect dismantled memorial work within 30 days after it was dismantled; or
 - (b) Leaves such memorial work within the cemetery in contravention of subsection (2), the Council may give 30 days' written notice to such holder of rights or person, instructing him or her to remove such memorial work from the cemetery with any rubble resulting there from, at his or her own expense or to re-erect such memorial work.
- (6) If any memorial work has –
 - (a) been damaged;
 - (b) become a danger to the public; or
 - (c) been erected in contravention of these By-laws,

- the Council may give written notice to the holder of rights or person referred to in subsection (1), instructing him or her, at his or her own expense, within a period specified in the notice, to –
- (i) Alter or make such memorial work safe so that it complies with the provisions of these By-laws;
 - (ii) Dismantle and remove such memorial work from the cemetery Together with all rubble resulting there from.
- (7) If such holder of rights or person referred to in subsection (1) fails to comply with a notice in terms of subsection (5) or (6), the Council may –
- (a) re-erect the memorial work;
 - (b) dismantle and dispose of the memorial work and remove any rubble resulting there from; or
 - (c) Make the memorial work safe, and such holder or person will be liable for any costs incurred by the Council.
- (8) The Council may without giving any notice, or incurring any liability to the holder of rights or person referred to in subsection (1) –
- (a) dismantle the memorial work and remove it and any rubble resulting therefrom, except memorial work that is protected by the provisions of the National Heritage Resources Act, 1999, (Act No. 25 of 1999); or
 - (b) Make the memorial work safe, if such memorial work has become so dangerous to the public that immediate steps to safeguard the public are essential.
- (9) After the Council has acted in terms of subsection (8), it must immediately, in writing, notify the holder of rights or person that, unless he or she reclaims the memorial work from the cemetery within a specified period, the Council will dispose of the memorial work.
- (10) Such holder of rights or person referred to in subsection (1) is liable for costs incurred by the Council, when the Council has acted in the manner contemplated in subsection (8).
- (11) If the holder of rights or person referred to in subsection (1) fails to pay the costs referred to in subsection (10), or to reclaim the memorial work dismantled by the Council, the Council may dispose of such memorial work in any manner it deems fit.
- (12) If any proceeds are derived from the disposal, such proceeds will be offset against the cost of the dismantling, removal, storing, and disposing, of memorial work and rubble resulting therefrom.

28. Requirements for memorial work in lawn section

- (1) The following provisions apply to memorial work and graves in a lawn Section –
- (a) the dimensions of the base of any headstones on an adult's grave must not exceed 900 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves, such base must not exceed 2 200 mm in length and 260 mm in width;
 - (b) the dimensions of the base of any headstone of a child's grave must not exceed 610 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves such base must not exceed 1 200 mm in length and 260 mm in width;
 - (c) no portion of any headstone may extend beyond the horizontal dimensions of its base;
 - (d) headstones must be erected on the concrete berms supplied by the Council, except in the case of a temporary erection where the applicant must provide a foundation suitable to support the headstone, until the Council has installed the berm;
 - (e) no part of any memorial work may exceed 1 500 mm in height above the berm;
 - (f) any headstone must be so positioned that the front edge of the headstone is at least 130 mm from the edge of the berm;
 - (g) no object other than a headstone which may incorporate more than two sockets for receptacles for flowers may be placed on any grave; and a vase containing natural flowers, or artificial flowers and foliage, may be placed in a socket built in the headstone and such vase must not exceed 300 mm in height; and
 - (h) a kerb demarcating any grave and a slab covering are not permitted.

29 Gardening of graves and other objects on grave

- (1) The Council is responsible for keeping cemeteries clean unless these By-laws provide otherwise.

- (2) No person may –
 - (a) plant, cut or remove plants, shrubs or flowers on a grave without the permission of the officer-in-charge;
 - (b) plant, cut or remove plants, shrubs or flowers on the berm section; or
 - (c) Place a metal cot on any grave.
- (3) A person may only erect, place or leave, an object or decoration on a grave during the first 30 days following the burial.
- (4) Natural or artificial flowers contained in receptacles may be placed on a grave at any time, but in a grave within a berm section or with a headstone, such flowers may only be placed in the socket provided.
- (5) The officer-in-charge may –
 - (a) remove all withered natural flowers, faded or damaged artificial flowers and any receptacle placed on a grave; or
 - (b) 30 days after publishing a general notice remove all objects of decoration, for the purpose of beautification of the area.
- (6) The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is a result of the negligence of any employee of the Council.

CHAPTER 7: MAINTENANCE

30. Maintenance of graves

- (1) A memorial work erected upon a grave shall at all times be maintained in good order and condition by the responsible person. Should any work fall into a state of disrepair or constitute a danger or be a disfigurement of the cemetery, the Council may by written notice addressed to the responsible person by registered post at his last known postal address, require of him to effect such repairs as may be considered necessary. On failure to effect the required repairs within one month of the date of such notice, the Council 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.
- (2) Unless otherwise provided for in these by-laws, the Council shall be responsible for keeping cemeteries in a neat and tidy condition. Council shall maintain the graves, as part of the cemetery, at its own cost and in accordance with its own standards and programmes.
- (3) No person shall plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (4) The Council shall have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.
- (5) No person shall deposit any flowers, grass, weeds or other material 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

31. Prohibited acts

- (1) No person -
 - (a) under the age of 12 years may enter any cemetery unless when accompanied by an adult, or with the consent of the officer-in-charge;
 - (b) may enter or leave any cemetery, except by the gateway provided for that purpose.
 - (c) may enter any office or enclosed place in a cemetery, where entry is prohibited, without the consent of the officer-in-charge, which may be given only when such person is attending business connected with such cemetery.
- (2) No person may, within any cemetery or crematorium -
 - (a) interfere with any fountain, statue, monument, equipment, fence, grave or Council property;
 - (b) pick, damage, deface or destroy any flower, plant or seed;
 - (c) damage, deface or remove any memorial work, grave, building, fence or fixtures;

- (d) throw litter outside containers provided by the Council for that purpose;
 - (e) sit, stand, walk, climb, draw, or write on any grave or memorial work;
 - (f) reside in a cemetery, or, without the written consent of the officer-in -charge, build any structure or encroach on any land;
 - (h) capture, chase, shoot at, or interfere with any bird, or animal, except where licensed to do so, or take, touch or damage birds' eggs or nests;
 - (i) light any fire or burn any object unless there is special provision therefore made by the Council;
 - (j) drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these By-laws;
 - (k) drive or ride any vehicle, except in the places referred to in paragraph (j) at a speed exceeding 15 km per hour;
 - (l) carry on or solicit business, hold any demonstration, or perform an activity which is not normally associated with a cemetery or crematorium;
 - (m) cause a nuisance or commit any offensive or indecent act;
 - (n) play any game except in a designated area;
 - (o) use a facility provided for the opposite sex;
 - (p) brew, sell or drink alcohol or abuse drugs;
 - (q) play any musical instrument without the written consent of the officer-in-charge;
 - (r) deliver a public speech except for a funeral service or cremation, without the written consent of the officer-in-charge,
 - (s) do anything which may endanger or cause disturbance to any person ;
 - (t) hold organized functions, advertise, dig any hole, trench or place any tent, caravan, booth screen, stand, or any construction or obstruction, without the written consent of the officer-in-charge;
 - (u) undertake any community or voluntary work, without the written consent of the officer-in -charge;
 - (v) make any film, without the written consent of the officer-in -charge, and payment of the prescribed fee;
 - (w) remain between sunset and sunrise without the written consent of the officer-in-charge;
 - (x) bring or allow an animal, except a guide dog, without the consent of the officer-in-charge; and
 - (y) hinder, obstruct or resist the officer-in-charge or any official of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these By-laws.
 - (z) bribe or try to bribe any employee in the service of the Council in regard to any matter in connection with a cemetery or burial, neither with money gifts nor any other benefit.
- (3) Any animal found in a cemetery may be impounded and must be released on payment of a fee.
- (4) No person shall 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. b

CHAPTER 9: MISCELLANEOUS

32 Injuries and damages

- (1) A person using a cemetery do it on his own risk, and the Council accepts no liability whatsoever for any personal injuries by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.
- (2) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he accordingly indemnifies the Council, its members, employees or agents, whether in person or official capacity, against liability for all claims from whichever nature by himself, his dependents or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

33 Fire-arms and traditional weapons

- (1) No fire-arms and traditional weapons shall be allowed in a cemetery.

34. Offences and penalties

- (1) Any person who-
- (a) contravenes or fails to comply with any provision of these By-laws;
 - (b) fails to comply with any notice issued in terms of these By-laws;
 - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
 - (d) obstructs or hinders an authorized official or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R60 000.00 or in imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
- (2) Any expenses incurred by the Council 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 Council from the person who committed the contravention or who failed to do such thing.

35 Repeal of By-laws

Any By-laws relating to cemeteries and cremation adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these By-laws.

36 Short title

These By-laws are called the Cemetery By-laws, 2022.

[PROVINCIAL NOTICE NO. 45 OF 2022]

**COMMONAGES BY-LAWS
SCHEDULE
BY-LAWS RELATING TO COMMONAGES**

Purpose of By-Laws

The purpose of these by-laws is to set aside land identified as commonage for the pasture of animals and for the purpose of establishing garden allotments; to assist with local development and provide for an inexpensive portion of land; to provide for the conservation of the commonage through the prohibition of certain activities, the damaging of vegetation, bird- and animal life and to provide for matters incidental thereto.

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Annexure A

Definitions

- 1. In these by-laws, unless the context otherwise indicates, words referring to -
 - (a) the singular include the plural and vice versa;

(b) any one gender include both genders, and -

"animal" means any cattle, sheep, goat, horse, mule, donkey, pig, and ostrich or the hybrid of such animal; and

"commonage" means any land or portion of land which is in possession or under the control of the municipality and set aside by the municipality for the purposes of establishing grazing camps for animals or plots for gardening or other economic activity;

"municipal area" means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

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

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

"permit holder" means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;

"plot" means any portion of a commonage set aside by the municipality for other purposes than grazing.

Reserving Land As Commonage

2. The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land:

- (1) reserve suitable municipal land as commonage,
- (2) at any time add defined municipal land to the commonage so reserved, and
- (3) at any time, partly or wholly withdraw any land which forms part of the commonage

Grazing permit required to graze animals on commonage

3. A person shall not graze animals on the commonage of the Municipality, unless;

- (1) he is the holder of a grazing permit issued by the Municipality, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animal to be kept in the camp;
- (2) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in sub section (1) and is not older than 8 months; and
- (3) he has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued; and
- (4) a permit holder is partly or wholly be exempted of such payment in terms of the indigent policy of the Municipality.

Application for and issue of grazing permit

4. (1) An application for a grazing permit must -
 - (a) be directed to the Municipal Manager;
 - (b) be on the prescribed form made available by the Municipality for this purpose;
 - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
 - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager must take into account the availability and condition of land in the commonage of the Municipality to accommodate the required number of animals for which application is made;
- (3) After due consideration of the application, the Municipal Manager must -
 - (a) issue the permit as applied for by the applicant;
 - (b) issue a permit for a lesser number of animals than applied for; or
 - (c) give written notification to the applicant that his or her application was unsuccessful and state the reasons thereof.
- (4) An aggrieved person may in terms of section 62(4)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.
- (5) A permit for the grazing of animals on the municipal commonage is —
 - (a) valid for one year or less and all permits shall lapse on the last day of June of each year;
 - (b) subject to the conditions set out in the permit, and;
 - (c) subject to prior payment of the fees determined by the Municipality.
- (6) The Municipality may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to comply with —
 - (a) a condition subject to which the permit was issued;
 - (b) any provision of this By-law; or
 - (c) a lawful direction by the Municipal Manager or of the veterinary surgeon appointed by the Municipality.
- (d) a permit holder must be given an opportunity to give reasons why his permit must not be

withdrawn.

- (7) A permit to graze animals on the commonage of the Municipality is not transferable

Plot Permit Required to Undertake Gardening or Other Economic Activity on Commonage

5. A person shall not undertake gardening or any other economic activity on any plot set aside for this purpose on the commonage of the Municipality, unless; -
- (1) he is the holder of a plot permit issued by the Municipality, subject to the conditions of such permit stipulating the plot number in the commonage and the kind of economic activity to be conducted on that plot, and
 - (2) he has paid the commonage plot fees, determined by the Municipality, in respect of the period for which the permit was issued; and
 - (3) a permit holder may partly or wholly be exempted of such payment in terms of the indigent policy of the Municipality.

Application for and Issue of Plot Permit

6. (1) An application for a plot permit must -
- (a) be directed to the Municipal Manager;
 - (b) be in the prescribed form made available by the Municipality for this purpose;
 - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
 - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager must take into account the availability and condition of plots on the commonage of the Municipality to accommodate the required economic activity for which application is made;
- (3) After due consideration of the application, the Municipal Manager must -
- (a) issue the permit as applied for by the applicant, or
 - (b) give written notification to the applicant that his application was unsuccessful and state the reasons thereof.
- (4) An aggrieved person may in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.
- (5) A plot permit for gardening or any other economic activity on the municipal commonage is issued —
- (a) for a period of one year or less and all plot permits shall lapse on the last day of June of each year;
 - (b) subject to the conditions set out in the permit, and;
 - (c) subject to prior payment of the fees determined by the Municipality.
- (6) The Municipality may withdraw a plot permit for gardening or other economic activity on the municipal commonage if the permit holder contravenes or fails to comply with —
- (a) a condition subject to which the permit was issued;
 - (b) any provision of this By-law; or
 - (c) a lawful direction by the Municipal Manager, and
 - (d) a permit holder must be given an opportunity to give reasons why his permit must not be withdrawn.
- (7) A plot permit to undertake gardening or other economic activity on the commonage of the Municipality is not transferable.

Management and Maintenance of Commonage

7. (1) The Municipal Manager is responsible for the proper management and maintenance of all land forming part of the commonage.
- (2) The Municipality will have the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality. All animals, which are not registered, will be impounded.
- (3) It is the owner's responsibility to mark and register his animals

Appointment of Veterinary Surgeon

8. The Municipality must appoint a veterinary surgeon on a full time or part time basis, to fulfil the functions prescribed by or under any law relating to animals.

Appointment of Municipal Commonage Inspector

9. The Municipality must appoint a commonage inspector on a full time or part time basis, to fulfil the functions prescribed by the municipal manager

Commonage Management Committee

10. (1) Commonage users of each town may establish a commonage management committee facilitated by the municipal manager as set out in Annexure A;
- (2) The provisions of sections 3, 4, 5 and 6 are not applicable to a commonage management committee;
- (3) The municipal manager in the event of leasing the commonage in a town to a functioning commonage

- management committee may not issue grazing or plot permits to any individual person or group of persons on that commonage;
- (4) The municipal manager shall lease the whole commonage in a town to a commonage management committee established in sub section (1) for a period not exceeding 9 years under such conditions as determined by the Council;
 - (5) The commonage management committee may sub-let grazing camps or garden plots to specific interest groups recognised by the commonage management committee
 - (6) The lease agreement contemplated in sub section (3) and the agreements contemplated in sub section (4) shall lapse when the commonage management committee ceases to exist, in which event the municipal manager must:-
 - (a) Consider the re-allocation on application by each permit or plot holder of such camp(s) or plot(s) that were allocated to him or her by the commonage management committee; and
 - (b) Apply sections 3, 4, 5 and 6 where applicable to each applicant before the issue of a grazing or plot permit to such applicant.

Functions of the Municipal Manager

11. The Municipal Manager must: —

- (1) Divide each piece of land reserved as commonage in terms of section 2, in separate camps suitable for the grazing of animals or gardening plots, allocating a number to each camp and garden plot;
- (2) Provide, in each camp or plot such facilities as may be necessary for the maintenance of animals or gardening in that camp or plot;
- (3) Compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates and waterholes;
- (4) Allocate the animals of each permit holder, lessee or renter to a specific camp or camps and notify such permit holder accordingly;
- (5) Ensure that the necessary infrastructure (fences, water, roads etc) is in place before any permit is issued or lease or rental agreements are entered into;
- (6) Ensure that leases or rental agreements are fair and fully understood by the lessee or renter
- (7) Ensure that both Municipality and lessees adhere to the commonage management plan.
- (8) Ensure that commonages are accessible to persons registered as indigent in terms of the municipality's indigent policy and endeavour to terminate as soon as possible any leases or users agreements with any institution or person other than registered indigent persons
- (9) develop and implement a proper program of rotation of grazing on land reserved as commonage by the Municipality; and
- (10) keep proper records, open for public inspection, regarding-
 - (i) all permit or lease holders or rentees;
 - (ii) dates of expiry of all permits;
 - (iii) payments or exemptions of payment of all permit holders,
 and any other matter which, in the opinion of the Municipal Manager, needs to be recorded.

Prohibited Actions

- 12.
- (1) A person is not allowed to keep any animal in any residential area or on the boundaries thereof
 - (2) A person is not allowed to keep a pig on the commonage in any place other than in an enclosure or cage as approved by the municipal manager;
 - (3) A person is not allowed to keep any animal on the commonage of which he is not the bona fide owner;
 - (4) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal.
 - (5) A person is not allowed in, on or at any of the Municipality's water resources without prior written approval from the Municipality;
 - (6) A person shall not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage or in any street, or road, thoroughfare or public place without the consent of the Municipality;
 - (7) A person shall not without prior permission of the Municipality, accumulate, dump or deposit or cause to be accumulated, dump or deposited on any portion of the commonage any scrap or waste;
 - (8) A person shall not on grazing camps of the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the municipality;
 - (9) A person shall not make bricks, or erect brick-, lime - or charcoal kilns, on the any land within the municipal area, or on land under control of the municipality, without prior written consent of the Municipality, except on land denoted for such purposes in terms of an approved spatial development plan and zoning scheme and further subject to payment of the fees determined by municipality;

- (10) A person shall not cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of grazing camps on the commonage without prior written permission of the Municipality;
- (11) A person shall not interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
- (12) A person shall not make use of any road over the commonage other than such roads as shall be allowed open by the municipality from time to time;
- (13) A person shall not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the municipality;
- (14) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the municipality, shall be guilty of an offence;
- (15) A person shall not kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage;
- (16) A person shall not set traps of whatsoever description on the commonage without the prior written consent of the municipality;
- (17) A person shall not remove any bees, hives or honey from the commonage without the written permission of the Municipality;
- (18) A person shall not hunt, shoot, catch, disturb or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest, and
- (19) If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of this section.

Prevention of Veld Fires

13. A permit holder, lessee or renter must provide and maintain on the commonage a firebreak as determined by the municipal manager: Provided that in the event of a failure by the permit holder, lessee or renter to provide and maintain such fire break, the municipal manager may provide and maintain a firebreak and recover the costs thereof from such permit holder, lessee or renter.

Liability

14. The permit holder shall be liable for:-
 - (1) Any damage or claims, which originate from damage caused by his animal or animals outside the commonage, and.
 - (2) Any damage to or loss of the infrastructure or installations on a grazing camp or plot at the expiry of the permit.

Transitional Arrangements

15. 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 this By-law, as the case may be.

Penalties

16.
 - (1) A person who contravenes or fails to comply with any provision of this By-law or any requirement or condition hereunder, shall be guilty of an offence.
 - (2) A person convicted of an offence in terms of subsection (1) shall be liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

Repeal of by-laws

17. Any by-laws relating to commonages adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

18. These by- laws shall be called the Municipal Commonage By -law, 2022

ANNEXURE A

Commonage Management Committee Structure

1. The municipal manager should facilitate the commonage users of each town to form interest groups representative of all like-minded users who must develop a constitution, ground rules, and an informed leadership structure who will manage the group's production and financial affairs positively;
2. Each interest group must develop and maintain a management plan for the respective enterprises of that interest group;
3. Two members of an interest group should be elected to a Town Management Committee;
4. The Town Management Committee should elect three or four representatives (or one each from the interest groups) to the Municipal Commonage Management Committee;
5. Each Town Commonage Management Committee must develop and maintain an overall commonage

- management plan for the town;
- 6 The Municipal Commonage Management Committee is the accountable body for all lease agreements, commonage management plans, maintenance of assets, collecting of rentals from the interest groups and the paying over thereof to the Municipality
-

[PROVINCIAL NOTICE NO. 46 OF 2022]

**DUMPING AND LITTERING BY-LAWS
SCHEDULE**

DEFINITIONS

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

“council” means the Dihlabeng Local Municipality or its successor(s) in-law or any officer employed by the Council or any committee designated by the Council, acting by virtue of a delegated authority vested in him/her or it by the Council in connection with these By-laws.

“dump” means to dispose of waste in any manner other than a manner permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments and sewage and storm water systems. The act of “littering”, which retains its ordinary meaning, is excluded from the definition of “dump”;

“municipality” means the Dihlabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“person” includes a natural person, company, closed corporation, trust, association and partnership;

“waste” means any matter, whether liquid or solid or a combination thereof, which is a by-product, emission, residue or remainder of any product, process or activity and which has been discarded, but excludes any radioactive matter.

(PROHIBITION OF UNAUTHORISED DISPOSAL)

2. (1) No person may—

- (a) dispose of waste, or knowingly or negligently cause or permit waste to be disposed of, in or on any land, waterbody or at any facility unless the disposal of that waste is authorised by law. or
- (b) dispose of waste in a manner that is likely to cause pollution of the environment or harm to health and wellbeing.

LITTERING

3. (1) An owner of privately owned land to which the general public has access, must ensure—

- a) that sufficient containers or places are provided to contain litter that is discarded by the public; and
- b) that the litter is disposed of before it becomes a nuisance, a ground for a complaint or causes a negative impact on the environment.

(2) No person may—

- a) throw, drop, deposit, spill or in any other way discard any litter into or onto any public place, land, vacant erf, stream, watercourse, street or road, or on any place to which the general public has access, except in a container or a place specifically provided for that purpose: or
- b) allow any person under that person's control to do any of the acts contemplated in paragraph (a)

(4) If the provisions of subsection 1 1(a)(b) and 3(2)(a) are contravened, Council may direct, by way of a written notice in terms of subsection (5) (7), any or all of the following persons—

- (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
- (b) the generator of the waste, whether or not the generator is responsible for the contravention;
- (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (5);
- (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (5);
- (e) any person who negligently failed to prevent the contravention from taking place, to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

- (5) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for this purpose.
- (6) Council may issue notices—
 - (a) for the purposes of giving directions in terms of subsection (4);
 - (b) for compelling persons to comply with their obligations under subsections (5); and
 - (c) for any other purpose under this by-law, and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.
- (7) In addition, or as an alternative to, the steps set out in subsection (4), or if a person fails to comply with directions given in a notice issued under subsection (5), Council may itself take whatever steps it considers necessary to clean up or remove the waste, to rehabilitate the premises or place and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may then recover the costs of taking these steps from any of the persons listed in subsection (4), who shall be jointly and severally liable therefore.
- (8) The costs claimed under subsection (7) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

OFFENCES

- 3. Any person who—
 - (1) contravenes section 2(1)(a);
 - (2) contravenes section 2(1)(b);
 - (3) contravenes section 3(2)(a)
 - (4) contravenes section 4(5) 6(7);
 - (5) fails to comply with the terms of any notice issued under section 4(6);
 - (6) obstructs Council when Council is taking steps under section 4(7), is guilty of an offence.

PENALTIES AND CONVICTIONS

- 4. (1) A person convicted of an offence referred to in section 3(1) is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment, in addition to any other penalty or award that may be imposed or made in terms of the National Environmental Management Act.
- (2) A person convicted of an offence referred to in section 3(2), 3(3), 3(4) and 3(5) is liable to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment, in addition to any other penalty or award that may be imposed or made in terms of the National Environmental Management Act.
- (3) A person who is convicted of an offence in terms of this Act and who persists after conviction in the act or omission that constituted the offence commits a continuing offence and is liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 20 days, or to both such fine and such imprisonment, in respect of each day that person persists with that act or omission.
- (4) A court convicting a person of a first offence under this by-law may impose a sentence of community service in place of a fine or imprisonment.
- (5) A court may, when considering sentence, take into account as aggravating circumstances that, inter alia—
 - (a) a convicted person has delayed in complying with the terms of any notice or directions given to the person under this by-law;
 - (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence.
 - (c) the severity of the offence in terms of its impact or potential impact on health, well-being, safety and the environment; and
- (6) If a person is convicted of an offence under this by-law which has caused damage to or loss of property or which has had an adverse impact on the environment then, in addition to any other sentence it imposes, the court may—
 - (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of the injured person, order the convicted person to pay the injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 51 of 1977;
 - (b) order the convicted person to, at his or her cost, and to the satisfaction of the Council, repair the damage and/or make good the loss and/or rehabilitate the environment.
- (7) If a person is convicted of an offence under this by-law, the court may, in addition to any other punishment which it imposes, issue an order compelling the person to comply, within a period

determined by the court, with the relevant provisions of this by-law or, where applicable, with the relevant provisions of any notice issued under this by-law.

(8) If—

- (a) a manager, agent or employee does or omits to do an act which it was his or her task to do or refrain from doing and which, under this by-law, is an offence for the employer to do or refrain from doing; and
- (b) the act or the omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission, then the employer is guilty of the offence and proof of the act or omission by the manager, agent or employer is prima facie evidence that the employer is guilty under this subsection; provided that no penalty other than a fine shall be imposed if a conviction is based on this subsection.

REPEAL OF BY-LAWS

5. Any by-laws relating to dumping and littering adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

SHORT TITLE

6. This by-law is called the By-law Relating to Dumping and Littering, 2022.

[PROVINCIAL NOTICE NO. 47 OF 2022]

ELECTRICITY SUPPLY BY-LAW SCHEDULE

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CHAPTER 1: GENERAL

Definitions

1. For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), and referred to in these by-laws as the Systems Act, shall bear the same meaning in these by-laws, and unless the context indicates otherwise—

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

“**applicable standard specification**” means the standard specifications as listed in Schedule 2 attached to these by-laws;

“**authorised official**” means a person authorised by the municipality in terms of these by-laws to execute work, conduct an inspection and monitor and enforce compliance with these by-laws;

“**certificate of compliance**” means a certificate issued in terms of the Regulations in respect of an electrical

installation or part of an electrical installation by an accredited person;

"consumer" in relation to premises means—

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

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

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

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

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV to 220 kV;

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an ac voltage of 1000V (or a dc voltage of 1500 V);

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV to 44 kV;

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

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an installation;

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

"motor starting current" in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

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

"municipal manager" means the municipal manager as defined in section 82(1)(a) of the Structures Act;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person, includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;

"owner" includes any person that has the title to any premises or land, or any person receiving the rent or profits for allowing the occupation or use of any land, premises or part of any premises who would receive such rent or profit if the land or premises were let or used whether he does so himself or for another;

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

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

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

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

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

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

"SANS Codes" means the South African National Standards Codes or the South African Bureau of Standards Codes as defined in Regulation No 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993) or as may be published in the future in terms of that act;

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

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

"service delivery agreement" means an agreement between the municipality and a service provider in terms of which the service provider is required to provide electricity services;

"service provider" means any person who has entered into a service delivery agreement with the municipality in

terms of section 81(2) of the Systems Act;

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

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

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

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

"tariff" means the charge to users for the provision of electricity services or for any related charge, determined and promulgated by the municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa; and

"voltage" means the root-mean-square value of electrical potential between two conductors.

CHAPTER 2: GENERAL CONDITIONS OF SUPPLY

The Provision of Electricity Services

2. (1) The municipality must take reasonable measures within its available resources progressively to ensure regular access by the local community to electricity services.
 - (a) In planning for and setting service standards and levels of service for the provision of electricity services, and
 - (b) in providing electricity services, the municipality may differentiate between geographical areas and categories of users within the local community but, in doing so, the municipality must comply with national legislation and in particular the requirements of section 73 of the Systems Act.

Exclusive Provision of Electricity Services

3. Save for Eskom Limited, providing electricity services under the Electricity Act 41 of 1987, only the municipality may supply or contract for the supply of electricity services within its jurisdiction.

Supply by agreement

4. (1) No person shall use or be entitled to use electricity supplied by the municipality or service provider unless or until he has entered into an electricity supply agreement in writing with the municipality or service provider for the provision of electricity services
- (2) The provisions of an agreement relating to the supply of electricity services (henceforth the "Electricity Supply Agreement") together with the provisions of these by-laws shall in all respects govern electricity supply.
- (3) A person who uses an electricity supply without entering into an electricity supply agreement shall be liable for the cost of electricity used as stated in section 38 of these by-laws notwithstanding the fact that he has not entered into an agreement.

Application for Supply

5. (1) Application for the supply of electricity services shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the municipality, and the estimated load, in kVA, of the installation, shall be stated in the form.
- (2) An application made under subsection (1) shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.
- (3) An application for the supply of electricity services for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the municipality, which may specify any special conditions to be satisfied in such a case.

Processing of Requests for Supply

6. Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.

Permission to Use Property

7. (1) The municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the municipality, or on any private property, unless and until the prospective consumer has obtained and deposited with the municipality written permission granted by

the owner of the private property or by the person in whom is vested the legal title to the land or thoroughfare, as the case may be, authorising the laying or erection of the service connection on the property.

- (2) If permission under subsection (1) is withdrawn at any time, or if the private property or thoroughfare changes, and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, as well as that of any removal of a connection which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

Statutory Servitude

8. (1) Subject to the provisions of subsection (3) and in order to provide, establish and maintain electricity services within its municipal area, the municipality may—
- (a) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, and close up and destroy electricity supply mains;
 - (b) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the municipality;
 - (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property neither owned by the municipality nor under the control or management of the municipality, it shall pay the owner of the street or property compensation in an amount agreed upon by the affected owner and the municipality or, in the absence of agreement, compensation determined either by arbitration or a court of competent jurisdiction.
- (3) The municipality shall, before commencing any work other than repairs or maintenance, on or in connection with any electricity supply main on or under immovable property not owned by the municipality or not under the control or management of the municipality, give the owner or occupier of the property reasonable notice of the proposed work and the date on which it proposes to commence its work.

Improper Use

9. (1) If the consumer uses electricity for any purpose, or deals with it in any manner, which the municipality has reasonable grounds for believing interferes in an improper or unsafe manner, or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the municipality may, with reasonable notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed: Provided that the consumer has been given reasonable notice of the intention to disconnect, and the reasons for doing so, and an adequate opportunity to make representations as to why it should not be disconnected, unless in the opinion of the municipal manager it would be unsafe to do so in the circumstances.
- (2) The fee as prescribed by the municipality for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown by the consumer that the consumer did not use or deal with the electricity in an improper or unsafe manner.

Deposits

10. (1) The municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to it.
- (2) The amount of the deposit in respect of each electricity installation shall be determined by the municipality, and each such deposit may be increased if the municipality considers the deposit held to be inadequate.
- (3) Deposits paid under this section shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.
- (4) On cessation of the supply of electricity, the amount of such a deposit, free of any interest, less any payments due to the municipality, shall be refunded to the consumer by the municipality.

Payment of Charges

11. (1) The consumer is liable to pay for the provision of electricity services according to the tariff, a copy of which is obtainable free of charge from the municipality.
- (2) All accounts shall be due and payable when issued by the municipality and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected

- should the charges in respect of such supply remain unpaid after the due date.
- (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to his premises.
 - (4) Where an authorised official has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and is obstructed or prevented from effecting a disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of disconnecting the service.
 - (5) After disconnection for non-payment of an account, the prescribed tariff and any amounts due for electricity consumed shall be paid to the municipality before the electricity supply is re-connected.

Interest on Overdue Accounts

12. The municipality may charge interest on accounts which are not paid by the due date appearing on the account, at an interest rate as approved by the municipality from time to time.

Principles for the Resale of Electricity

13. (1) Unless otherwise authorised by the municipality, no person shall sell or supply electricity, supplied to his premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place.
- (2) If electricity is resold for use upon the same premises, the electricity resold shall be measured by a sub-meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the municipality.
- (3) The tariff, rates and charges at which and the conditions of sale under which electricity is resold under subsection (2) shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the municipality or a service provider.
- (4) Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the municipality to its electricity consumers.

Right to Disconnect Supply

14. (1) The municipality may give notice to any consumer that it intends to disconnect the supply of electricity if, in its opinion, there is an appreciable risk of harm or damage to any person or property.
- (2) The notice referred to in subsection (1) shall be—
- (a) for 14 (fourteen) days;
 - (b) shall inform the consumer of the nature of the risk;
 - (c) shall call upon him, if he does not wish the discontinuation to take place, to give good and adequate reasons within that period why this should not happen.
- (3) Where he has failed either to give good and adequate reasons or to remedy the cause of the risk, the municipality may disconnect the supply of electricity to such premises.
- (4) Where any person, who is liable in law to pay for any supply of electricity, fails to pay for it, the municipality may give such a person notice calling on him to make such payment and the notice must –
- (a) be for 14 (fourteen) days;
 - (b) inform him of the amount due and payable;
 - (c) notify him that if he does not pay it, his electricity shall be disconnected unless he gives good and adequate reasons within that period why this should not happen.
- (5) Where he has failed either to pay the due amount or to give good and adequate reasons as envisaged in subsection (4), the municipality may disconnect the supply of electricity to such premises.
- (6) Where the municipality is of the opinion, on reasonable grounds, that risk of harm to person or property is immediate or immanent, the municipality may, subject to any other provision in these by-laws, disconnect the supply of electricity to any premises.
- (7) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the municipality, or in the case where the municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises by the municipality.

Non-Liability of the Municipality

15. (1) A person who applies to the municipality for the supply of electricity in terms of section 5 of these by-laws does so on the basis that, if his application is accepted by the municipality, it shall be agreed that the municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained

- by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity.
- (2) The provisions of subsection (1) must be included in the application form and must also be brought to the attention of the applicant by the municipality, where it is possible to do so, when the applicant lodges an application.

Leakage of Electricity

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

Failure of Supply

17. (1) The municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality.
- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality shall have the right to charge the consumer the tariff as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

Seals of the Municipality

18. The meter, service protective devices and all apparatus belonging to the municipality shall be sealed or locked by an authorised official, and no other person shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with the seal or lock.

Tampering With Service Connection or Supply Mains

19. (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (2) Where the municipality has good grounds for believing that a consumer has contravened subsection (1), the municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer in circumstances where, in the opinion of the municipality, there are good grounds to believe that a failure to disconnect could constitute an appreciable risk of harm or damage to person or property, in which case the person shall be liable for all tariffs levied by the municipality for such disconnection; but if that risk is not immediate or imminent or appreciable, the provisions of subsections 14(1) to (3) shall apply with any necessary changes.
- (3) Where a consumer or any person has contravened subsection (1) and the contravention has resulted in the meter recording less than the true consumption, the municipality shall have the right to recover from the consumer the full cost of his estimated consumption.

Protection of Municipality's Supply Mains

20. (1) No person shall, except with the consent of the municipality and subject to any conditions imposed by it—
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in a manner which interferes with or endangers the supply mains;
- (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
- (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
- (e) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from; and
- (f) the owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines, or provide a means of protection which in the opinion of the municipality will adequately prevent the tree from interfering with the conductors should the tree, or a branch of it, fall or be cut down; and should the owner fail to observe this provision, the municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or any other vegetation which has the same effect, in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.

- (2) The municipality may subject to obtaining an order of court, demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws.
- (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

Prevention of Tampering with Service Connection or Supply Mains

- 21. If the municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the municipality.

Unauthorised Connections

- 22. No person other than a person specifically authorised thereto by the municipality in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

Unauthorised Reconnections

- 23. (1) No person other than a person specifically authorised thereto by the municipality in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected—
 - (a) the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard;
 - (b) the municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full; and
 - (c) the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

Temporary Disconnection and Reconnection

- 24. (1) The municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff prescribed for each such disconnection and subsequent reconnection.
- (2) In the event of a necessity arising that requires the municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation, and if the consumer is in no way responsible for bringing about this necessity, the municipality shall not be entitled to payment of the tariff referred to in subsection (1).
- (3) Where there are circumstances which the municipality has good grounds to believe are exceptional, the municipality may temporarily disconnect the supply of electricity to any premises without notice for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose, but, where there are no such exceptional circumstances, the municipality must provide adequate notice to the user of the electricity before a temporary disconnection of electricity services may take place.

Temporary Supplies

- 25. (1) A person who receives a temporary supply of electricity will receive it on the clear understanding that it shall be a condition of the giving of any temporary supply of electricity that, if such a supply is found to interfere with the efficient and economical supply of electricity to other consumers, the municipality shall have the right, after giving reasonable written notice to the consumer, or, under circumstances which it has good grounds to consider exceptional without notice, to terminate the supply at any time and, the municipality shall not be liable for any loss or damage occasioned by the consumer by such a termination other than loss or damage caused by a wrongful intentional or negligent act or omission by the municipality.
- (2) A person who receives a temporary supply shall be notified by the municipality, before or at the time when he receives it, of what is provided in subsection (1).

Temporary Work

26. (1) Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the municipality.
- (2) Full information as to the reasons for and nature of temporary work shall accompany the application for permission, and the municipality may refuse the permission or may grant the permission upon terms and conditions as it may consider desirable and necessary.

Load Reduction

27. (1) At times of peak load, or in an emergency, or when, in the opinion of the municipality, it is necessary for any reason to reduce the load on its electricity supply system, the municipality may without notice interrupt and, for a period as the municipality considers necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.
- (2) The municipality shall not be liable for any loss or damage directly or consequentially due to or arising from an interruption and discontinuance of the electricity supply envisaged in subsection (1).
- (3) The municipality may install upon the premises of the consumer any apparatus or equipment necessary to give effect to the provisions of subsection (1), and any authorised official may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting or changing apparatus or equipment.
- (4) The consumer or the owner, as the case may be, shall, when installing an electrically-operated water storage heater, provide any necessary accommodation and wiring.

High, Medium and Low Voltage Switchgear and Equipment

28. (1) In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the municipality, be paid for by the consumer.
- (2) All equipment contemplated in subsection (1) shall be compatible with the municipality's electrical performance standards.
- (3) No person shall open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the municipality.
- (4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the municipality shall be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to the appointment.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and any other equipment required by the municipality or any authorised official.

Substation Accommodation

29. (1) The municipality may, on such conditions as it considers fit, require an owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant.
- (2) The accommodation must be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.
- (3) The municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the municipality, the additional accommodation must be provided by the applicant at the cost of the municipality.

Wiring Diagram and Specification

30. (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall if requested by the municipality be supplied to it in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the municipality through mains separate from the general distribution system, a complete specification and a set drawings which in the opinion of the municipality is adequate, for the plant to be installed by the consumer shall, if so required by the municipality be forwarded to it for approval before any material in connection therewith is ordered.

Standby Supply

31. No person shall be entitled to a standby supply of electricity from the municipality for any premises having a

separate source of electricity supply except with the written consent of the municipality and subject to any terms and conditions laid down by the municipality.

Consumer's Emergency Standby Supply Equipment

32. (1) No emergency standby equipment provided by a consumer in terms of the Regulations or for his own operational requirements shall be connected to any installation without the prior written approval of the municipality.
- (2) Application for an approval in subsection (1) must be made in writing and must include a full specification of the equipment and a wiring diagram.
- (3) The standby equipment shall be so designed and installed that it is impossible for the municipality's supply mains to be energized by means of a back-feed from the equipment and the consumer must provide and install the required protective equipment.
- (4) Where by special agreement with the municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the municipality's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for the safe parallel operation, to the satisfaction of the municipality.

Circular Letters

33. The municipality may from time to time issue Circulars detailing its requirements regarding matters not specifically covered in the Regulations or these by-laws but which are necessary for the safe, efficient operation and management of the provision of electricity services.

CHAPTER 3: SERVICE PROVIDERS

Agreement and Assignment

34. (1) The municipality may, subject to its responsibilities under section 81 of the Systems Act, discharge any of its obligations under section 2 of these by-laws by entering into a service delivery agreement with a service provider or service providers.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these by-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- (3) If a municipality has entered into a service delivery agreement with a service provider, it must publish a notice in the Provincial Gazette for the province in which it is situated listing which rights and powers of the municipality under which provisions of these by-laws have been assigned to the service provider.
- (4) Where the term "municipality" appears in a provision of these by-laws listed in the notice in subsection (3) it shall be read as "service provider" in that provision.

Customer Charter

35. Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality and must—
- (a) accord with the provisions of these by-laws;
- (b) be accessible to the public;
- (c) establish the conditions of supplying the service; and
- (d) provide for the circumstances in which electricity services may be limited.

CHAPTER 4: RESPONSIBILITIES OF CONSUMERS

Consumer to Erect and Maintain Electrical Installation

36. Any electrical installation connected or to be connected to the supply mains, and any additions or alterations to it which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at his own expense and in accordance with these by-laws and the Regulations.

Fault in Electrical Installation

37. (1) If any fault develops in the electrical installation, which constitutes a hazard to any person or to livestock, or property, the consumer shall immediately disconnect the electricity supply and without delay give notice to the municipality which shall immediately take steps to remedy the fault.
- (2) The municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

Discontinuance of Use of Supply

38. If a consumer wishes to discontinue using an electricity supply, he shall give at least two full working days' notice in writing of the intended discontinuance, failing which he shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after the notice has been given.

Change of Occupier

39. (1) A consumer vacating any premises shall give the municipality not less than two full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he shall remain liable for the supply.
- (2) If the person taking over occupation of the premises wishes to continue using the electricity supply, he shall make application in accordance with the provisions of section 5 of these by-laws, and if he fails to make application for electricity services within ten working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he shall be liable to the municipality for the provision of electricity services from the date of occupation till the time when the supply is disconnected.
- (3) Where premises are fitted with a pre-payment meter any person occupying the premises at that time shall be presumed to be a consumer, unless he satisfies the municipality that he did not use the electricity supplied to the premises, and if he fails to satisfy the municipality, he shall be liable for all tariffs owed to the municipality for that metering point as well as for any outstanding tariffs (whether accrued by him or not) until he ceases to occupy the premises or until an application made by him in terms of section 5 has been accepted, whichever happens sooner.

Service Apparatus

40. (1) A consumer who applies for the supply of electricity services in terms of section 5 does so on the basis that if the application is granted, he shall be liable for all costs to the municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the municipality or caused by an abnormality in the supply of electricity to the premises; and the municipality shall inform him that it agrees to supply it to him only on that basis.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the municipality and having been previously used, are removed without its permission or damaged so as to render reconnection dangerous, the owner or occupier of the premises during such period shall bear the cost of overhauling or replacing the equipment or service apparatus.
- (3) Where there is a common metering position, the liability detailed in subsection (2) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (2) shall be stated in a certificate from the municipality which shall be presumed, unless the contrary is proved, correctly to reflect the amount stated to be due.

CHAPTER 5: SPECIFIC CONDITIONS OF SUPPLY

Service Connection

41. (1) The consumer shall bear the cost of the service connection.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the municipality, vests in the municipality; and the municipality is responsible for the maintenance of the service connection up to the point of supply.
- (3) The municipality shall determine what work should be carried out in order to install a service connection to the consumer's premises.
- (4) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (5) The consumer shall provide, fix and maintain on his premises those ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as are required by the municipality for the installation of the service connection.
- (6) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but shall not be less than 10 mm² (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by an authorised official.
- (7) Unless otherwise approved by the municipality, only one service connection shall be provided by the municipality to each registered erf.
- (8) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk

- (9) supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the municipality.
- (10) Within the meter box, the service conductor or cable, as the case may be, shall terminate in an un-obscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (11) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

Metering Accommodation

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

CHAPTER 6: SYSTEMS OF SUPPLY

Load Requirements

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

Load Limitations

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

Interference with Other Persons' Electrical Equipment

- 45. (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
- (2) The assessment of interference with other persons' electrical equipment must be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer must, at his own cost, install

the necessary equipment to filter out the interference and prevent it reaching the supply mains.

Supplies to Motors

46. (1) Unless otherwise approved by the municipality the rating of a low voltage single-phase motor shall be limited to 2kW and the starting current shall not exceed 70A; and motors exceeding these limits shall be wound for three phases at low voltage or a higher voltage as may be required.
- (2) The starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows:

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

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

Power Factor

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

Protection

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

CHAPTER 7: MEASUREMENT OF ELECTRICITY

Metering

49. (1) The municipality shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain metering equipment rated by the municipality at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period

shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the municipality and read at the end of such period except where the metering equipment is found to be defective, or the municipality invokes the provisions of section 51(3) of these by-laws, in which case the consumption for the period shall be estimated.

- (3) Where the electricity used by a consumer is charged at different tariff levels, the consumption shall be metered separately for each rate.
- (4) The municipality shall be entitled to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the municipality.

Accuracy of Metering

- 50.
- (1) A meter shall be presumed, unless the contrary is proved, to be registering accurately if its error, when tested in the manner prescribed in subsection (6), is found to be within the limits of error as provided for in the applicable standard specifications.
 - (2) The municipality shall have the right to test its metering equipment.
 - (3) If it is established by test or otherwise that the municipality's metering equipment is defective, the municipality shall—
 - (a) in the case of a credit meter, adjust the account rendered; or
 - (b) in the case of prepayment meters—
 - (i) render an account where the meter has been under-registering, or (ii) issue a free token where the meter has been over-registering.
 - (4) The consumer shall be entitled to have the metering equipment tested by the municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (3) and (7) shall be made and the aforesaid fee shall be refunded.
 - (5) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an independent testing authority, approved by the municipality, and the result of the test shall be final and binding on both parties.
 - (6) Meters shall be tested in the manner as provided for in the applicable standard specifications.
 - (7) When an adjustment is made to the electricity consumption registered on a meter, the adjustment shall either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the municipality from consumption data in its possession; and where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
 - (8) When an adjustment is made as contemplated in subsection (7) the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, but the application of this section shall not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove his claim in a court of competent jurisdiction.
 - (9) Where the actual load of a consumer differs from the initial estimated load provided for under section 5(1) to the extent that the municipality considers, on good grounds, that it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
 - (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (7), it must—
 - (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations relating to what has been said in the notice, and
 - (c) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why his account should not be adjusted as notified.
 - (11) Should the consumer fail to make any representations during the period referred to in subsection (10) the municipality shall be entitled to adjust the account as notified in subsection (10), but may do so only if it has—
 - (a) considered any reasons provided by the consumer in terms of subsection (10) and must not make any adjustment unless satisfied that there are good grounds for doing so; and
 - (b) if an authorized official decides, after having considered the representation made by the consumer that the representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (7), the municipality shall be entitled to

adjust the account as notified in terms of subsection (10), subject to the consumer's right to appeal against the decision of the official in terms of section 62 of the Systems Act.

Reading of Credit Meters

51. (1) Unless decided otherwise by the municipality, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly.
- (2) The municipality shall not be obliged to effect any adjustments to the charges contemplated in subsection (1).
- (3) If for any reason the credit meter cannot be read, the municipality may render an estimated account based on rational principles taking into account factors including previous usage; and the electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (4) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made by the municipality and the final account rendered accordingly.
- (5) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee to the municipality.
- (6) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts; and any such correction shall only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period.
- (7) The application of subsection (6) does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in any court of competent jurisdiction.

Prepayment Metering

52. No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (1) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (2) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the municipality.
- (3) The municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens.
- (4) The municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

CHAPTER 8: ELECTRICAL CONTRACTORS

Additional Requirements

53. (1) Where an application for a new or increased supply of electricity has been made to the municipality, it may at his discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) An application for a new or increased supply of electricity is done on the condition that the person making the application accepts that the examination, test and inspection that may be carried out at the discretion of the municipality, in no way relieves the electrical contractor, accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation; and the examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently, or with the most suitable materials for the purpose, or that it is in accordance with these by-laws or the safety standard, and the municipality shall not be held responsible for any defect or fault in such electrical installation.
- (3) Before the municipality accepts notification in terms of subsection (1), it or he shall inform the applicant of the content of subsection (2).

Damage by Electrical Contractors

54. Where an electrical contractor, or any person accredited by the municipality, performs work on a consumer's premises, he does so on behalf of the consumer and under the control or supervision of the consumer, and the municipality shall neither be liable for the cost arising from the work done or in any way liable for any loss or damage which may be occasioned by fire or by an accident arising from the state of the wiring on the premises.

CHAPTER 9: COST OF WORK

Cost of Work

55. (1) The municipality may repair and make good any damage to property done in contravention of these by-laws or resulting from a contravention of these by-laws, provided that in effecting any repairs it does so in a manner that conforms to the requirements of the Bill of Rights.
- (2) The cost of any such work carried out by the municipality which was necessary due to the contravention of these by-laws by a consumer shall be born by the consumer and shall be reflected as a debit against his account.

CHAPTER 10: ADMINISTRATIVE ENFORCEMENT PROVISIONS

Part I: Appointment of Authorised Officials

Appointment of Authorised Officials

56. (1) The municipality must appoint authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the Systems Act.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act 51 of 1977) and has no powers of arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorised official, the municipality must have regard to—
- (a) a person's technical understanding and experience of matters related to electricity services; and
 - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the municipality or any service provider of the municipality.
- (5) Upon appointment, authorised officials must be issued with a means of identification by the municipality which must state the name and function of the authorised official, and must include a photograph of the officer.
- (6) An authorised official, acting within the powers vested in him by these by-laws, is required to present identification on demand by any member of the public.

Part II: Powers of Authorised Officials

Right of Admittance to Inspect, Test or do Maintenance Work

57. (1) An authorised official may, by notice in writing served on the owner or occupier of any property, require the owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to the authorised official for the purpose of—
- (a) doing anything authorised or required to be done by the municipality under these by-law or any other law;
 - (b) inspecting and examining any service mains and anything connected with it;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the municipality and making any necessary survey in this connection;
 - (d) ascertaining whether there is or has been a contravention of the provisions of these by-law or any other law, and
 - (e) enforcing compliance with the provisions of these by-laws or any other law,
- (2) Notwithstanding subsection (1), an authorised official who has reasonable grounds to suspect that harm or damage to property may arise or has arisen as a result of the electricity supply to a premises, or in any way related with the provision of electricity services, the authorised official may, without notice, enter

- and search any affected premises and take any action necessary to prevent the harm or damage to property including disconnecting the system in terms of section 9.
- (3) Any action under this section, including subsection (2), must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

Refusal or Failure to Give Information

58. (1) In order to monitor or enforce compliance with these by-laws, an authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require any person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request by a person requested to give information, provide his identification as an authorised official.
- (4) No person shall refuse or fail to give such information as may be reasonably and lawfully required of him by any authorised official or render any false information to any such official regarding any electrical installation work completed or contemplated.

Refusal of Admittance

59. No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any authorised official in the performance of his duty under these by-laws or of any duty connected with or relating to these by-laws.

Part III:

Administrative Penalties

Establishment of an Administrative Penalty System

60. (1) The municipality may establish an administrative penalty system in terms of this chapter.
- (2) A decision to establish an administrative penalty system in terms of subsection (1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.

Infringement Notices

61. (1) If a municipality has established an administrative penalty system, an authorised official may issue an infringement notice to any person who commits an offence listed in Column A of Schedule 3.
- (2) The infringement notice must—
- (a) Specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
 - (b) state the particulars of the infringement;
 - (c) specify the amount of the penalty payable in respect of that infringement designated in Column B of Schedule 3;
 - (d) specify the place where the penalty may be paid; and
 - (e) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he or she may—
 - (i) pay the penalty; or
 - (ii) inform the municipality in writing at an address set out in the notice that he or she elects to be tried in court on a charge of having committed an offence in terms of Chapter 11 of these by-laws.
- (3) If it appears to the authorised official that an alleged offence cannot be adequately punished by the payment of the administrative penalty then the authorised official may refrain from accepting the administrative penalty and may take proceedings against the alleged offender in an appropriate Court in terms of Chapter 11 of these by-laws.

Trial

62. If a person who elects to be tried in court in terms of subsection 61(2)(e)(ii) notifies the municipality of his election, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the infringement notice must be cancelled.

Withdrawal of Infringement Notice

63. (1) Within one year after the infringement notice has been issued an authorised official may, whether or not the penalty has been paid, withdraw an infringement notice on the basis that new information has been received by the municipality or on any other good cause, by—
- (a) sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn; and
 - (b) providing reasons to the municipal manager for the withdrawal of the infringement notice.
- (2) Where an infringement notice is withdrawn after the penalty has been paid, the amount shall be refunded.

Infringement Notice Not an Admission

64. Payment of a penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

CHAPTER 11: JUDICIAL ENFORCEMENT PROVISIONS

Offences

65. (1) Subject to subsection (2), any person who—
- (a) contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for electricity services;
 - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws; or
 - (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these by-laws;
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50 or in default of payment, 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 requiring the discontinuance of such an offence.
- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

CHAPTER 12: GENERAL

Service of Documents and Process

66. For the purposes of the service of any notice, order or other document relating to non-payment for the provision of electricity services, the address of the owner of the premises to which electricity services are provided is the place where service of documents and process shall be made.

Service of Notices

67. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having duly been served—
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
 - (b) 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 either personally or in the manner provided by paragraphs (a), (c) or (d); or
 - (c) if that person's address and the identity or the address of his agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (d) subject to section 66, if sent by registered post, whether service by registered post is, or is not

required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

Compliance with Notices

68. Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.

CHAPTER 13:

REPEAL OF BY-LAWS

Repeal of By-Laws

69. (1) Any by-laws relating to electricity supply adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.
- (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 this By-law, as the case may be.

Short title

70. This By-law shall be called the Electricity Supply By-law, 2022,

ANNEXURE 1: APPLICABLE STANDARD SPECIFICATION

"applicable standard specification" means—

SANS 1019 Standard voltages, currents and insulation levels for electricity supply;
 SANS 1607 Electromechanical watt-hour meters;
 SANS 1524 Parts 0,1 & 2 - Electricity dispensing systems;
 SANS IEC 60211 Maximum demand indicators, Class1.0;
 SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2);
 SANS 0142 Code of practice for the wiring of premises;
 NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;
 NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply; and
 NRS 057 Electricity Metering: Minimum Requirements.

ANEXURE 2: ADMINISTRATIVE PENALTIES

COLUMN A: OFFENCE SECTION	COLUMN B: ADMINISTRATIVE PENALTY
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Section 13	R ...
Section 18	R ...
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Section 45(1)	R ...
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[PROVINCIAL NOTICE NO. 48 OF 2022]

ENCROACHMENT ON PROPERTY BY-LAWS

SCHEDULE

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Short title

Definitions

1. (1) In these By-laws, any word or expression which has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates -
 - "Council"** means -
 - (a) the Local Municipality of Dihlabeng established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), exercising its legislative and executive authority through its municipal Council ; 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); or
 - (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No 32 of 2000) or any other law, as the case may be;
 - "encroachment"** means any physical object which intrudes on or over municipal property, or property which the Council has control over or other property in respect of which a servitude or other property right has been registered in favour of the Council;
 - "m"** means metre;
 - "mm"** means millimetre;
 - "prescribed"** means determined by resolution of the Council made from time to time;
 - "prescribed fee"** means a fee determined by the Council by resolution in terms of any applicable legislation;
 - "public road"** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes -

- (a) the verge of any such road, street or thoroughfare;
 - (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
 - (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

Council permission required

2. (1) No person may, without prior written permission of the Council, make or construct any colonnade, veranda, balcony, bay window, pavement light, showcase or other encroachment on or over any part of a public road, and pavement opening in or under any public road.
- (2) The Council may refuse the permission required in terms of subsection (1) or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the work or service determined by the Council in each case and subject to payment of the prescribed fee.
- (3) The prescribed fee mentioned in subsection (2) is payable in advance at the beginning of each year which is calculated from date of the written permission or the date determined by the Council, and the owner of the encroachment is liable for the payment of the prescribed fee for each encroachment.
- (4) The owner of an encroachment must within 90 days after the date of commencement of these By-laws notify the Council in writing of-
- (a) the existence of the encroachment; and
 - (b) the horizontal dimension of every encroachment measured - parallel to the road boundary on or over which the encroachment exists.
- (5) Until the Council is notified of the horizontal dimension of the encroachment in terms of subsection (4)(b), every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

Rules for the construction of encroachments

3. (1) The design, arrangement and construction of a veranda, balcony, bay window or other encroachment on or over a public road, as well as the paving, kerb and gutter thereof must be to the satisfaction of and to the levels approved by the Council.
- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

Columns

4. (1) The Council may determine areas within the municipal area where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person is permitted to place any veranda column over any pavement where such pavement is less than 2,6 m wide.
- (3) No person may place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre.
- (4) No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.
- (5) No person may place a portion of any veranda column at a distance less than 600 mm back from the front edge of any kerb.
- (6) No person may place a twin or double veranda column over any public road or pavement.
- (7) If a veranda is supported on columns, the columns may not have square arris, no base may project more than 50 mm beyond the bottom diameter of the column and the maximum horizontal axial dimensions of such base may not exceed 350 mm.
- (8) If the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
- (9) No column, including cap and base, may be less than 3 m or more than 3,6 m in height and more than 4,5 m including plinth.
- (10) No person may, without the prior written permission of the Council place a column on a public road where the footway or sidewalk is, or is likely to be occupied by any cable, pipe or other municipal service.
- (11) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.

- (12) Plain piping or tubing may not be used for any column for a veranda and balcony over or on a public road unless architecturally treated for aesthetic purposes.
- (13) The coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.
- (14) Nothing in these By-laws prohibits -
 - (a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
 - (b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are complied with.

Balconies and bay windows

- 5. (1) No balcony, bay window or encroachment may overhang a public road if it is at a height of less than 3 m above the pavement.
- (2) No balcony may encroach more than 1,35 m over any public road.
- (3) No bay window may encroach more than 900 mm over any public road.
- (4) The aggregate horizontal length of a bay window at any level over a public road may not exceed one-third of the length of the building frontage on to that road.
- (5) Any balcony superimposed upon a veranda must be set back at least 1,2 m from the line of such veranda.
- (6) No part of a balcony which is attached to any veranda may be carried up to a height greater than two storeys above the pavement level except that, if the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.
- (7) No dividing wall across a balcony over a public road may exceed 1 m in height or 225 mm in thickness.
- (8) A balcony over any public road may not be the sole means of access to any room or apartment.
- (9) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.
- (10) If any floor of a building is used solely for the parking of motor vehicles, no bay window at the level of the floor may project over any public road for more than 1,35 m for the full length of the building frontage on to that road.

Plinths, pilasters, corbels and cornices

- 6. (1) No plinth, pilaster or other encroachment beyond a building line carried up from ground level is permitted to encroach on a public road.
- (2) Any pilaster, cornice, corbel or similar architectural feature which is at least 3 m above the ground may not exceed the following encroachment over a public road:
 - (a) A pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and any bay window in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
 - (b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;
 - (c) a cornice: 1,05 m if not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

Verandas around corners

- 7. If a veranda is built around a corner of a public road it must be properly splayed or rounded to follow the curve of the kerb.

Pavement openings

- 8. (1) No pavement opening may be the sole means of access to any vault or cellar.
- (2) No pavement opening on any public road may extend more than 1,2 m beyond the building line.
- (3) If flaps are permitted in a pavement opening, no flap may exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guardrails and stanchions.
- (4) A flap opening may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
- (5) The front wall or wall parallel to the kerb in every pavement opening must be built with a suitable batter to the satisfaction of the Council.
- (6) No pavement opening may be covered with a metal bar grating or with a metal plate or with wood.

Maintenance, removal and tenancy of projections

- 9. (1) The owner of any encroachment must maintain the encroachment in good order and repair.
- (2) Any pavement opening, pavement light, wall thereof and basement wall must be made and kept water-tight by the owner.

Encroachment erected in front of building

10. If any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense -
- (a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
 - (b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

Encroachments

11. (1) (a) Any person wishing to erect or construct an encroachment on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form prescribed by the Council for that purpose.
- (b) If, in the opinion of the Building Control Officer, drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.
- (2) The owner of any encroachment or fixture, whether in the course of construction or erection or completed, on, under or over any public road, is regarded as a tenant in respect of the encroachment and, if notified in writing by the Council under the hand of the Building Control Officer to remove any such encroachment or fixture, must do so within a reasonable period stated in the notice.
- (3) The owner of the building in connection with which any encroachment exists, or is proposed -
- (a) must defray any cost incurred in connection with wires or property of the Council;
 - (b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities of the Council.

Offences and penalties

12. Any person who -
- (a) contravenes or fails to comply with any provision of these By-laws
 - (b) fails to comply with any notice issued in terms of these By-laws; or
 - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
 - (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Repeal of by-laws

13. Any by-laws relating to encroachment on property adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

14. These By-laws are called the Encroachment on Property By-laws, 2022.

[PROVINCIAL NOTICE NO. 49 OF 2022]**ENVIRONMENTAL MANAGEMENT BY-LAW****ACT**

To provide for co-operative, environmental governance by establishing principles for decision making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; and to provide for matters connected therewith.

Preamble

Whereas many inhabitants of South Africa live in an environment that is harmful to their health and well-being; everyone has the right to an environment that is not harmful to his or her health or wellbeing; the State must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities; inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices,

Sustainable development requires the integration of social, economic and environmental factors in the planning. Implementation and evaluation of decisions to ensure that development serves present and future generations.

Everyone has the right to have the environment protected, for the benefit of present and future generations. Through reasonable legislative and other measures that.
Prevent pollution and ecological degradation;
Promote conservation; and
Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

The environment is a functional area of concurrent national and provincial legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another;

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Definitions

1. (1) In this Act. Unless the context requires otherwise.
 - (i) 'activities.' when used in Chapter 5 means policies. Projects.
 - (ii) 'Agenda 21. Means the document adopted at the United Nations Conference of Environment and Development held in Rio de Janeiro. Brazil in June 1992.
 - (iii) "Best practicable environmental option". Means the Option that provides the most benefit or causes the least damage to the environment as a whole. At a cost acceptable to society. In the long term as well as in the short term.
 - (iv) "Commercially confidential information.' means commercial information. The disclosure of which would prejudice to an unreasonable degree the commercial interests of the holder: Provided that details of emission levels and waste products must not be considered to be commercially confidential notwithstanding any provision of this Act or any other law.
 - (v) "Committee" means the Committee for Environmental Co-ordination referred to in section 7.
 - (vi) 'Community '. Means any group of persons or a part of such a group who share common interests. And who regard themselves as a community.
 - (vii) "Constitution" means the Constitution of the Republic of South Africa. 1996 (Act No. 108 of 1996).
 - (viii) "Department. Means the Department of Environmental Affairs and Tourism:
 - (ix) "Director-General means the Director-General of Environmental Affairs and Tourism.
 - (x) "ecosystem.' means a dynamic system of plant. Animal and micro-organism communities and their non-living environment interacting as a functional unit.
 - (xi) "environment.' means the surroundings within which humans exist and that are made up of.
 - (i) The land. Water and atmosphere of the earth:
 - (ii) micro-organisms, plant and animal life:
 - (iii) any part or combination of (i) and (ii) and the interrelationships among and between them: and
 - (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being:
 - (xii) "Environmental implementation plan. Means an implementation plan referred to in section 11.
 - (xiii) "Environmental management co-operation agreement. Means an agreement Referred to in section 35(1).
 - (xiv) "Environmental management plan. Means a management plan referred to in section 11.
 - (xvi) 'Forum" means the National Environmental Advisory Forum referred to in section 3.
 - (xvii) 'Hazard' means a source of or exposure to danger.
 - (xix) "MEC.' means the Member of the Executive Council to whom the Premier has assigned the performance in the province of the functions entrusted to a MEC by or under such a provision.
 - (xx) "Minister'. Means the Minister of Environmental Affairs and Tourism.
 - (xxi) "national department' means a department of State within the national sphere of government.
 - (xxii) "organ of state" means organ of state as defined in the Constitution.
 - (xxiii) "person" includes a juristic person.
 - (xxiv) "pollution' means any change in the environment caused by

- (i) Substances.
- (ii) Radioactive or other waves.
- (iii) Noise, odours, dust or heat.

Emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future.

(xxv) "Prescribe" means prescribe by regulation in the Gazette.

(xxvi) "Provincial head of department" means the head of the provincial department responsible for environmental affairs.

(xxvii) "Regulation" means a regulation made under this Act.

(xxviii) "state land" means land which vests in the national or a provincial government, and includes land below the high water mark and the Admiralty Reserve but excludes land belonging to a local authority;

(xxix) "sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations.

(xxx) "this Act" includes the schedules, and regulations and any notice issued under the Act.

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(3) A reasonable interpretation of a provision which is consistent with the purpose of this Act must be preferred over an alternative interpretation which is not consistent with the purpose of this Act.

(4) Neither—

(a) a reference to a duty to consult specific persons or authorities, nor

(b) the absence of any reference in this Act to a duty to consult or give a hearing, exempts the official or authority exercising a power or performing a function from the duty to act fairly.

CHAPTER 1

NATIONAL ENVIRONMENTAL MANAGEMENT PRINCIPLES

Principles

2. (1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and

(a) shall apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;

(b) serve as the general framework within which environmental management and implementation plans must be formulated;

(c) serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment;

(d) Serve as principles by reference to which a conciliator appointed under this Act must make recommendations; and

(e) Guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment.

(2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.

(3) Development must be socially, environmentally and economically sustainable.

(4) (a) Sustainable development requires the consideration of all relevant factors including the following:

(i) That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;

(ii) that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;

(iii) that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;

(iv) that waste is avoided or where it cannot be altogether avoided, minimised and re-used or recycled where possible and otherwise disposed of in a responsible manner;

(v) that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;

(vi) that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;

(vii) that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and

- (viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented are minimised and remedied.
- (b) Environmental management must be integrated acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.
- (c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.
- (d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.
- (e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.
- (f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding. Skills and capacity necessary for achieving equitable and effective participation and participation by vulnerable and disadvantaged persons must be ensured.
- (g) Decisions must take into account the interests needs and values of all interested and affected parties, and this includes recognizing all forms of knowledge. Including traditional and ordinary knowledge.
- (h) Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.
- (i) The social. Economic and environmental impacts of activities, including disadvantages and benefits. Must be considered. Assessed and evaluated and decisions must be appropriate in the light of such consideration and assessment.
- Q) The right of workers to refuse work that is harmful to human health or the Environment and to be informed of dangers must be respected and protected.
- (k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.
- (1) There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.
- (m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.
- (o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.

CHAPTER 5

INTEGRATED ENVIRONMENTAL MANAGEMENT

General objectives

- 23. (1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities,
- (2) The general objective of integrated environmental management is to
 - (a) Promote the integration of the principles of environmental management set out in section 2 into the making of all decisions which may have a significant effect on the environment.
 - (b) identify, predict and evaluate the actual and potential impact on the environment. Socio-economic conditions and cultural heritage the risks and consequences and alternatives and options for mitigation of activities, with a view to minimizing negative impacts. Maximizing benefits and promoting compliance with the principles of environmental management set out in section 2
 - (c) ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them
 - (d) ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment
 - (e) ensure the consideration of environmental attributes in management and Decision-making which may have a significant effect on the environment; and
 - (f) identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principle of environmental management set out in section 2.
- (3) The Director-General must coordinate the activities of organs of state referred to in section 24(1) and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the co-ordination of procedures.

CHAPTER 7

COMPLMNC. ENFORCEMENT AND PROTECTION

Part 1: Environmental hazards

Duty of care and remediation of environmental damage

28. (1) Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.

(2) Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures. include an owner of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which

(a) any activity or process is or was performed or undertaken; or

(b) any other situation exists, which causes, has caused or is likely to cause significant pollution or degradation of the environment. 10

(3) The measures required in terms of subsection (1) may include measures (P

(a) investigate, assess and evaluate the impact on the environment:

(b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment: 15

(c) cease, modify or control any act, activity or process causing the pollution or degradation;

(d) contain or prevent the movement of pollutants or the causant of degradation:

(e) eliminate any source of the pollution or degradation: or

(f) remedy the effects of the pollution or degradation. ~o

(4) The Director-General or a provincial head of department may, after consultation with any other organ of state concerned and after having given adequate opportunity to affected persons to inform him or her of their relevant interests, direct any person who fails to take the measures required under subsection (1) t~

(a) investigate, evaluate and assess the impact of specific activities and report 25 thereon:

(b) commence taking specific reasonable measures before a given date;

(c) diligently continue with those measures; and

(d) complete them before a specified reasonable date:

Provided that the Director-General or a provincial head of department may if urgent 30 action is necessary for the protection of the environment issue such directive and consult and give such opportunity to inform as soon thereafter as is reasonable.

(5) The Director-General or a provincial head of department, when considering any measure or time period envisaged in subsection (4), must have regard to the following:

(a) the principles set out in section 2:

(b) the provisions of any adopted environmental management plan or environmental implementation plan:

(c) the severity of any impact on the environment and the costs of the measures being considered:

(d) any measures proposed b> the person on whom measures are to be imposed:

(e) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people:

(j) any other relevant factors.

(6) If a person required under this Act to undertake rehabilitation or other remedial work on the land of another. reasonably requires access to use of or a limitation on use of that land in order to effect rehabilitation or remedial work but is unable to acquire it on reasonable terms, the Minister may—

(a) expropriate the necessary rights in respect of that land for the benefit of the person undertaking the rehabilitation or remedial work who will then be vested with the expropriated rights: and

(b) recover from the person for whose benefit the expropriation was effected all costs incurred.

(7) Should a person fail to comply, or inadequately comply with a directive under subsection (4), the Director-General or provincial head of department may take reasonable measures to remedy the situation. 55

(8) Subject to subsection (9), the Director-General or provincial head of department may recover all costs incurred as a result of it acting under subsection (7) from any or all of the following persons

(a) any person who is or was responsible for or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation:

(b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred or that owner's successor in title;

(c) the person in control of the land or any person who has or had a right to use the land at the time when—

(i) the activity or the process is or was performed or undertaken: or

(ii) the situation came about: or 10

(d) any person who negligently failed to prevent—

(i) the activity or the process being performed or undertaken: or

(ii) the situation from coming about:

Provided that such person failed to take the measures required of him or her under subsection (1).

(9) The Director-General or provincial head of department may in respect of the recovery of costs under subsection (8) claim proportionally from any other person who benefited from the measures undertaken under subsection (7).

(10) The costs claimed under subsections (6), (8) and (9) must be reasonable and may include, without being limited to labour, administrative and overhead costs.

(11) If more than one person is liable under subsection (8) the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1) and (4).

(12) Any person may, after giving the Director-General or provincial head of department 30 days' notice, apply to a competent court for an order directing the Director-General or any provincial head of department to take any of the steps listed in subsection (4) if the Director-General or provincial head of department fails to inform such person in writing that he or she has directed a person contemplated in subsection

(8) to take one of those steps and the provisions of section 32(2) and (3) shall apply to 30 such proceedings with the necessary changes.

(13) When considering any application in terms of subsection (12) the court must take into account the factors set out in subsection (5).

Protection of workers refusing to do environmentally hazardous work

29. (1) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having refused to perform any work if the person in good faith and reasonably believed at the time of the refusal that the performance of the work would result in an imminent and serious threat to the environment.

(2) An employee who has refused to perform work in terms of subsection (1) must as soon thereafter as is reasonably practicable notify the employer either personally or through a representative that he or she has refused to perform work and give the reason for the refusal.

(3) Subsection (1) applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure or otherwise remedied the matter concerned.

(4) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (1).

(5) No person may threaten to take any action contemplated by subsection (1) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (1).

Control of emergency incidents

30. (1) In this section—

(a) "incident" means an unexpected sudden occurrence including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment. Whether immediate or delayed.

(b) "responsible person" includes any person who

(i) is responsible for the incident;

(ii) owns any hazardous substance involved in the incident; or

(iii) was in control of any hazardous substance involved in the incident at the time of the incident;

(c) "relevant authority" means—

(i) a municipality with jurisdiction over the area in which an incident occurs;

(ii) a provincial head of department or any other provincial official designated for that purpose by the MEC in a province in which an incident occurs;

Part 2: Information, enforcement and compliance

Access to environmental information and protection of whistle-blowers

31. (1) Access to information held by the State is governed by the statute contemplated under section 32(2) of the Constitution: Provided that pending the promulgation of such statute, the following provisions shall apply:

(a) every person is entitled to have access to information held by the State and organs of state which relates to the implementation of this Act and any other law affecting the environment, and to the state of the environment and actual and future threats to the environment, including any emissions to water, air or soil and the production, handling, transportation, treatment, storage and disposal of hazardous waste and substances;

(b) organs of state are entitled to have access to information relation to the state of the environment and actual and future threats to the environment, including any emissions to water, air or soil and the production, handling, transportation, treatment, storage and disposal of hazardous waste held by any person where that information is necessary to enable such organs of state to carry out their duties in terms of the provisions of this Act or any other law concerned with the protection of the environment or the use of natural resources;

(c) a request for information contemplated in paragraph (a) can be refused only:

(i) if the request is manifestly unreasonable or formulated in too general a manner;

- (ii) if the public order or national security would be negatively affected by the supply of the information; or
- (iii) for the reasonable protection of commercially confidential information; 5
- (iv) if the granting of information endangers or further endangers the protection of the environment; and
- (v) for the reasonable protection of personal privacy

(2) Subject to subsection (3), the Minister may make regulations regarding access by members of the public to privately held information relating to the implementation of this Act and any other law concerned with the protection of the environment and may to this end prescribe the manner in which such information must be kept: Provided that such regulations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

(3) The Minister must take into account—

- (a) the principles set out in section 2:
- (b) the provisions of subsection (1)(c):
- (c) the provisions of international law and foreign law: and
- (d) any other relevant considerations,

(4) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5): (5) Subsection (4) applies only if the person concerned

- (i) a committee of Parliament or of a provincial legislature:
- (ii) an organ of state responsible for protecting any aspect of the environment or emergency services
- (iii) the Public Protector
- (iv) the Human Rights Commission:
- (v) any attorney-general or his or her successor:
- (vi) more than one of the bodies or persons referred to in subparagraphs (i) to (v):

(b) disclosed the information concerned to one or more news media and on clear and convincing grounds believed at the time of the disclosure.

(i) that the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or

(ii) giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for non-disclosure;

(c) disclosed the information concerned substantially in accordance with any applicable external or internal procedure, other than the procedure contemplated in paragraph (a) or (b), for reporting or otherwise remedying the matter concerned; or

(d) disclosed information which, before the time of the disclosure of the information, had become available to the public, whether in the Republic or elsewhere.

(6) Subsection (4) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.

(7) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (4).

(8) No person may threaten to take any action contemplated by subsection (4) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (4).

Legal standing to enforce environmental laws

32. (1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or any other statutory provision concerned with the protection of the environment or the use of natural resources

- (a) in that person's or group of persons own interest;
- (b) in the interest of, or on behalf of, a person who is for practical reasons, unable to institute such proceedings:
- (c) in the interest of or on behalf of a group or class of persons whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment.

(2) A court may decide not to award costs against a person who, or group of persons which, fails to secure the relief sought in respect of any breach or threatened breach of any provision including a principle of this Act or any other statutory provision concerned with the protection of the environment or the use of natural resources if the court is of the opinion that the person or group of persons acted reasonably out of a concern for the public interest or in the interest of protecting the environment and had made due efforts to use other means reasonably available for obtaining the relief sought.

(3) Where a person or group of persons secures the relief sought in respect of any breach or threatened breach of any provision of this Act or any other statutory provision concerned with the protection of the environment, a court may on application

(a) award costs on an appropriate scale to any person or persons entitled to practise as advocate or attorney in the Republic who provided free legal assistance or representation to such person or group in the preparation for or conduct of the proceedings: and

(b) order that the party against whom the relief is granted pay to the person or group concerned any reasonable costs incurred by such person or group in the investigation of the matter and its preparation for the proceedings.

Private prosecution

33. (1) Any person may—

(a) in the public interest: or

(b) in the interest of the protection of the environment, institute and conduct a prosecution in respect of any breach or threatened breach of any duty other than a public duty resting on an organ of state, in any national or provincial legislation or municipal bylaw, or any regulation, licence, permission or authorisation issued in terms of such legislation, where that duty is concerned with the protection of the environment and the breach of that duty is an offence.

(2) The provisions of sections 9 to 17 of the Criminal Procedure Act, 1977 (Act 51 of 1977) applicable to a prosecution instituted and conducted under section 8 of that Act must apply to a prosecution instituted and conducted under subsection (1): Provided that if

(a) the person prosecuting privately does so through a person entitled to practise as an advocate or an attorney in the Republic

(b) the person prosecuting privately has given written notice to the appropriate public prosecutor that he or she intends to do so; and

(c) the public prosecutor has not within 28 days of receipt of such notice. Stated in writing that he or she intends to prosecute the alleged offence,

(i) the person prosecuting privately shall not be required to produce a certificate issued by the Attorney-General stating that he or she has refused to prosecute the accused: and

(ii) the person prosecuting privately shall not be required to provide security for such action.

(3) The court may order a person convicted upon a private prosecution brought under subsection (1) to pay the costs and expenses of the prosecution, including the costs of any appeal against such conviction or any sentence.

(4) The accused may be granted an order for costs against the person prosecuting privately, if the charge against the accused is dismissed or the accused is acquitted or a decision in favour of the accused is given on appeal and the court finds either:

(a) that the person instituting and conducting the private prosecution did not act out of a concern for the public interest or the protection of the environment: or

(b) that such prosecution was unfounded, trivial or vexatious.

(5) When a private prosecution is instituted in accordance with the provisions of this 10 Act, the Attorney-General is barred from prosecuting except with the leave of the court concerned.

Criminal proceedings

34. (1) Whenever any person is convicted of an offence under any provision listed in Schedule 3 and it appears that such person has by that offence caused loss or damage to any organ of state or other person, including the cost incurred or likely to be incurred by an organ of state in rehabilitating the environment or preventing damage to the environment the court may in the same proceedings at the written request of the Minister or other organ of state or other person concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused.

(2) Upon proof of such amount, the court may give judgement therefor in favour of the organ of state or other person concerned against the convicted person. and such judgement shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.

(3) Whenever any person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order the award of damages or compensation or a fine equal to the amount so assessed.

(4) Whenever any person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may, upon application by the public prosecutor or another organ of state, order such person to pay the reasonable costs incurred by the public prosecutor and the organ of state concerned in the investigation and prosecution of the offence.

(5) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, and the act or omission of the manager, agent or employee occurred because the employer failed to take all reasonable steps to prevent the act or omission in question, then the employer shall be guilty of the said offence and, save that no penalty other than a fine may be imposed if a conviction is based on this sub-section, liable on conviction to the penalty specified in the relevant law, including an order under subsections (2), (3) and (4), and proof of such act or omission by a manager, agent or employee shall constitute prima facie evidence that the employer is guilty under this subsection.

(6) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer

(7) Any person who is or was a director of a firm at the time of the commission by that firm of an offence under any provision listed in Schedule 3 shall himself or herself be guilty of the said offence and liable on conviction to the penalty specified in the relevant law, including an order under subsection (2), (3) and (4), if the offence in question resulted from the failure of the director to take all reasonable steps that were necessary under the circumstances to prevent the commission of the offence: Provided that proof of the said offence by the firm shall constitute prima facie evidence that the director is guilty under this subsection.

(8) Any such manager, agent, employee or director may be so convicted and sentenced in addition to the employer or firm.

(9) In subsection (7) and (8)—

(a) “firm” shall mean a body incorporated by or in terms of any law as well as a partnership: and

(b) “director” shall mean a member of the board, executive committee, or other managing body of a corporate body and, in the case of a close corporation, a member of that close corporation or in the case of a partnership, a member of that partnership.

(10) (a) The Minister may amend Part (a) of Schedule by regulation.

(b) An MEC may amend Part (b) of Schedule 3 in respect of the province of his or her jurisdiction by regulation. 20
CHAPTER

[PROVINCIAL NOTICE NO.50 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY FIRE AND EMERGENCY SERVICES BY-LAW

SCHEDULE

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Chapter 1

APPLICATION AND INTERPRETATION OF BY-LAWS

Application of By-laws

- 1. (1) These by-laws apply-
 - (a) within the area of jurisdiction of the Council; and

- (b) in addition to any applicable national or provincial law.

Definitions and Interpretation

2. (1) In these By-laws unless the context otherwise indicates-
- "above ground storage tank"** means a tank situated above ground for the storage of flammable substances as contemplated in SABS 0131 and SABS 089 Part 1 and SABS 087 Part 3;
- "agricultural holding"** means a portion of land not less than 0.8 hectares in extent used solely or mainly for the purpose of agriculture, horticulture or for breeding or keeping domesticated animals, poultry or bees;
- "approved"** means as approved by the Council;
- "bund wall"** means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;
- "certificate of fitness"** means a certificate contemplated in section 20; "certificate of registration" means a certificate contemplated in section 35;
- "Chief Fire Officer"** means the Chief Fire Officer appointed by the Council in terms of section 5 of the Fire Brigade Services Act and includes any person appointed as acting Chief Fire Officer;
- "Chief Inspector of Explosives"** means the Chief Inspector of Explosive appointed in terms of section 2 of the Explosives Act, 15/2003;
- "Civil Aviation Authority"** means the South African Civil Aviation Authority established in terms of section 2 of the South African Civil Aviation Authority Act, 1998 (Act No. 4 of 1998);
- "class"** means a class of petroleum product based on the following classification:
- (a) Class O: liquefied petroleum gasses;
 - (b) Class I: liquids subdivided as follows:
 - (i) Class IA: liquids which have a closed-cap flash point below 23°C and a boiling point of 35°C; and
 - (ii) Class IB: liquids which have a closed-cap flash point below 23°C and boiling point of 38°C or above;
 - (iii) Class 1C: liquids which have a closed-cap flash point of 23°C or above but below 38°C;
 - (c) Class II: liquids have a closed-cap flash point of 38°C or above but below 60.5°C;
 - (d) Class IIIA: liquids which have a closed-cap flash point of 60.5°C or above below 93°C; and
 - (e) Class IIIB: liquids which have a closed-cap flash point of 93°C or above;
- "combustible liquid"** means a liquid which has a closed-cap flash point of 38°C or above;
- "competent person"** means a person who is qualified by virtue of his or her experience and training;
- "Council"** means the Council of the Municipality referred to in Section 18(1) of the Municipal Structures Act, 1998 and includes any duly authorised political structure, political office bearer, councillor and official thereof;
- "dangerous goods"** means any flammable gas, flammable liquid or flammable solid as contemplated in SABS 0228;
- "dwelling house"** means a single dwelling unit situated on its own site, including any motor vehicle garage and other domestic outbuildings on that site; .
- "dump"** means to abandon or discard any hazardous substance by depositing, discharging, spilling or releasing it;
- "emergency"** means any incident or eventuality which seriously endangers or may endanger any person or property, "emergency route" means that part of any escape route which -
- (a) protects the occupiers of any building from fire; and
 - (b) leads to an escape door;
- "enclosed place"** in respect of domestic animals means any kraal, cage, camp or similar enclosure where domestic animals are kept or exercised;
- "escape door"** means any door at the end of an emergency route and includes any door providing entrance to, or exit from, a building;
- "escape route"** means the entire path of travel, measured from an escape door to the furthest point in any room in a building;
- "explosive"** means
- (a) a substance or a mixture of substances which is capable of producing an explosion;
 - (b) pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke or a combination of these, as a result of self non-detonative self sustaining exothermic chemical reaction including pyrotechnic substances which do not evolve gases;
 - (c) any device or article containing one or more substances contemplated in (a)

- (d) any plastic explosive;
- (e) any other substance or article which the Minister may from time to time in notices in the Gazette declare to be an explosive

"Explosive Act" means the Explosive Act, 2003 (Act No. 15 of 2003), and any regulations made under that Act; "extinguishing stream" means the amount of water that the Service needs in order to extinguish a fire;

"feeder route" means that part of an escape route which allows travel in two different directions to the access doors of least two emergency routes;

"Fire Brigade Services Act" means the Fire Brigade Service Act, 1987 (Act No. 99 of 1987), and any regulations made under that Act

"fire damper" means an automatic damper, including its assembly, which complies with the requirements of SABS 193;

"fire-fighting equipment" means any portable or mobile fire extinguisher, hose reel or fire hydrant;

"fire installation" means any water installation which conveys water solely for the purposes of fire-fighting;

"fireworks" means any pyrotechnic substance contemplated in paragraph (b) of the definition of 'explosives' as defined in Section 1 of the Explosives Act, No. 15 of 2003, which is

- (a) manufactured for the purposes of amusement or entertainment, and
- (b) divided into such classes as may be prescribed

"fireworks display" means the use of fireworks for purposes of a public display; "flammable gas" means a gas which at 20°C and a standard pressure of 101,3 kilopascal

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

"flammable liquid" means a liquid or combustible liquid which has a closed-cap flash point of 93°C or below,

"flammable substance" means any flammable liquid, combustible liquid or flammable gas;

"Group I, II, III, V, VI, VII and IX hazardous substances" means Group I, II, III, V, VI, VIII and IX hazardous substances, as the case may be, as contemplated in the Hazardous Substances Act;

"hazardous substance" means any hazardous substance contemplated in Hazardous Substance Act;

"Hazardous Substances Act" means the Hazardous Substances Act, 1973 (Act No. 15 of 1973), and any regulations made under that Act;

"liquefied petroleum gas" means a mixture of light hydrocarbons (predominantly propane, propane, butane, butane) that is gaseous under conditions of ambient temperature and pressure and that is maintained in a liquid state by an increase of pressure or lowering of temperature;

"member" means a member of the Service and includes the Chief Fire Officer; "Minister" means the Minister of Safety and Security

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

"National Building Regulations and Building Standards Act" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and any regulations made under that Act;

"National Road Traffic Act" means the National Road Traffic Act, 1996 (Act No. 93 of 1996), and any regulations made under that Act;

"Occupational Health and Safety Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"occupier" means any person who occupies or has control over any premises;

"owner" in relation to premises, means the registered owner of the premises and includes -

- (a) any person who receives rental or profit from the premises, whether on own account or as agent;
- (b) a body corporate in respect of any sectional title scheme contemplated under the Sectional Titles Act, 1986 (Act No. 95 of 1986); and
- (c) an executor or curator of any deceased or insolvent estate;

"premises" means any land, building, construction or structure or part thereof and includes any train, boat, aircraft or other vehicle;

"prescribed fee" means a fee determined by the Council by resolution in terms of section 4 of the Local Government Systems Act, 32 of 2000 as amended or any other applicable legislation;

"public gathering" includes any gathering by members of the public-

- (a) to view any theatrical or operatic performances, orchestral or choral recitals or cinematic-graphic screening; or
- (b) to attend, practice or participate in any indoor sports activity, dance, physical activity or other recreational activity,

"public place" means any path, street, walk-way, side-walk, park, place of rest or other place to which the public has authorized or unimpeded access;

"pyrotechnist" means any appropriately qualified person responsible for fireworks at fireworks display;

"registered premises" means any premises in respect of which a certificate of registration has been issued;

"SABS" means the South African Bureau of Standards contemplated in section 2 of the Standards Act, No. 29 of 1993, and SABS followed by any number means a reference to a SABS code of practice, specification or standard of the corresponding number,

"Service" means the Fire Brigade Service established and maintained by the Council as contemplated in section 95;

"service installation" means any automatic fire-extinguishing installation, fire pump connector, fire pump, emergency power or stand-by generator, fire detection, locating or alarm system, emergency lighting or evacuation communication system, mechanical ventilation system, hoist, symbolic safety sign and smoke or fire door assembly;

"spray" means to spray, coat, plate or epoxy-coat with any hazardous substance and "spraying" has a corresponding meaning;

"spraying permit" means a permit contemplated in section 79; "spraying room" means a room contemplated in section 83;

"storage vessel" means a pressure vessel as defined in the Regulations for Pressure Vessels made under the Occupational Health and Safety Act;

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

"use" in relation to fireworks means discharging, lighting or igniting; "vegetation" includes grass, weeds, leaves, shrubs and trees; and

"vehicle" includes a trailer or semi-trailer which -

- (a) has at least 4 wheels with independent axles and suspension system; and
- (b) can be hitched to a truck-tractor or any other motor vehicle contemplated in the National Road Traffic Act

"water installation" means a water installation as defined in the Council's Water Services By-laws.

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

Chapter 2

FIRE PREVENTION AND FIRE PROTECTION

Part 1: Fire Prevention

Certain fires prohibited

- 3. (1) No person may make or allow any other person to make a fire that may endanger any person, animal or property.
- (2) No person may burn or allow any other person to burn any refuse or combustible material -
 - (a) without the prior written permission of the Chief Fire Officer; or
 - (b) unless the refuse or combustible material is burnt in an approved incinerating device.
- (3) Any person who makes a fire or allows any other person to make a fire, must take reasonable steps to ensure that the fire does not endanger any person, animal or property.
- (4) The prohibition in subsection (2) does not apply to any fire made -
 - (a) in an approved and purpose-made stove, fireplace or hearth that forms an integrated part of a building or structure;
 - (b) for the purpose of preparing food on private premises set aside for that purpose; or
 - (c) in any device for preparing food which -
 - (i) is heated by electricity or liquefied petroleum gas; and
 - (ii) is so positioned that the fire does not endanger any person, animal or property.

Storage and accumulation of combustible material prohibited

- 4. (1) No person may store any combustible material or allow it to be stored, at any place or in any manner that may pose a fire hazard to any person, animal or property.

- (2) No person may allow the accumulation of dust at any place in quantities sufficient to pose a fire hazard to any person, animal or property.
- (3) No person may use or allow to be used any sawdust or similar combustible material to soak up any flammable liquid.
- (4) No person may allow soot or any other combustible material to accumulate in any chimney, flue or dust in such quantities or in any manner that may pose a fire hazard to any person or property.
- (5) No person may allow any vegetation to become overgrown at any place under that person's control that may pose a fire hazard to any person, animal or property.
- (6) If a fire hazard contemplated in subsection (5) arises, the owner or occupier of the property concerned must without delay eliminate the hazard or cause the hazard to be eliminated by-
 - (a) cutting any grass, leaves or weeds associated with the fire hazard to a maximum height of 150 millimetres;
 - (b) pruning, chopping down or sawing any shrub or tree; and
 - (c) removing any resulting combustible residue from the property.

Electrical fittings, equipment and appliances

- 5. No person may cause or allow -
 - (a) any electrical supply outlet to be overloaded; or
 - (b) any electrical appliance or extension lead to be used in any manner that may pose a fire hazard to any person or property.

Flame-emitting devices

- 6. No person may use or cause or allow the use of any flame-emitting device, including but not limited to any candle, lantern or torch, in any manner that may pose a fire hazard to any person or property.

Safety fire-breaks required

- 7. (1) Every owner or occupier of an agricultural holding or farm must clear and maintain a safety fire-break along every boundary of the agricultural holding or farm that-
 - (a) is at least 5 metres wide (when measured parallel from the boundary concerned); and
 - (b) contains no vegetation or combustible residue.
- (2) If an obstruction occurs within the boundaries of a safety fire-break, the owner or occupier concerned must clear and maintain a 5 metre-wide safety fire-break around that obstruction.
- (3) No person may clear or maintain a safety fire-break by burning without the prior written permission of the Chief Fire Officer
- (4) Any person who intends to clear or maintain a safety fire-break by burning must -
 - (a) apply in writing to the Chief Fire Officer for permission, stipulating the property concerned and the proposed date and time of the burning; and
 - (b) unless the burning is to be performed by a person or body accredited for this purpose by the Council, request the Service to provide assistance at the burning against payment of the prescribed fee.

Part 2: Fire Protection

Design and construction of buildings

- 8. (1) Subject to the provisions of subsection (3), every owner of a building, excluding a dwelling house, must ensure that it is designed and constructed in a manner that -
 - (a) provides for-
 - (i) the effective drainage of any water that may result from fire-extinguishing activities; and
 - (ii) the discharge of that water directly into a storm water drain;
 - (b) prevents any water that may result from fire-extinguishing activities from draining -
 - (i) down any stairway or lift shaft;
 - (ii) down any electrical shaft or telecommunications service shaft;
 - (iii) down any shaft that is connected to a basement level; or
 - (iv) along any approach to a building or any vehicle access ramp leading to or from a building.
 - (c) if any water resulting from fire-extinguishing activities should spill into a basement, that water is discharged directly into a storm water drain; and
 - (d) complies with the requirements of SABS 0400 (Parts A, K, M, O, T, V and W) insofar as it relates to fire protection.
- (2) Subject to the provisions of subsection (3), every owner of a building equipped with a transformer room must ensure that -

- (a) the transformer room is situated on the ground level;
 - (b) access to the transformer room is from outside the building; and
 - (c) there is adequate and ready access to the transformer room for fire-fighting and maintenance activities.
- (3) Subsection (1) and (2) do not apply in respect of any building which exists at the commencement of these By-laws.

Design and construction of dumping sites

9. (1) Every person who designs or constructs any dumping site, must ensure that it is designed and constructed in accordance with the instructions of-
- (a) the Department of Water Affairs and Forestry; and
 - (b) the Council.

Design and construction of other structures and sites

10. (1) Every person who design, constructs or erects any of the following structures, must ensure that they comply with a rational design as contemplated by the National Building Regulations and Building Standards Act -
- (a) any grain silo;
 - (b) any atrium;
 - (c) any air traffic control tower,
 - (d) any tower for telecommunications or other uses;
 - (e) any thatched structure which is larger than 20 square metres and situated within 4.5 metres of any boundary line of the property concerned;
 - (f) any tent or other temporary structure for holding a public gathering; and
 - (g) any open-plan commercial or industrial premises with a covering distance that exceeds 45 metres measured from any point in the premises to any escape or exit door.
- (2) Every person who designs or constructs any aircraft hanger or helicopter pad, must ensure that it -
- (a) complies with a national design as contemplated by the National Building Regulations and Building Standards Act
 - (b) provides for effective drainage of any liquid from the floor of the hanger or helicopter pad or any approach to the aircraft hanger or helicopter pad;
 - (c) provides for the effective channelling of any liquid from the floor of the hanger or helicopter pad to a drainage area connected to a separator web;
 - (d) prevents the spread of any liquid from the floor of the hanger or helicopter pad; and
 - (e) is equipped with effective earthing devices for the discharge of static electricity.

Requirements for sprinkler systems

11. (1) If a sprinkler system is required in any building in accordance with SABS 0400, SABS 087 (Part III) or SABS 089 (Part I) or if the Council so requires, the owner of the building must ensure that the building is equipped with a sprinkler system.
- (2) Every person who designs, constructs or install a sprinkler system must ensure that it is designed, constructed and installed-
- (i) in accordance with SABS 0287; and
 - (ii) in compliance with the requirements of SABS 0400 (Part A, K, M, O, T, V and W) insofar as it relates to fire protection.

Requirements for extractor fan systems

12. (1) Every person who designs, constructs or installs an extractor fan system, any related ducts or any similar chimney system and every owner of a building in which such a system is installed must ensure that -
- (a) it is designed, constructed and installed in a manner that provides for clearly demarcated, adequate and easy access for inspection, maintenance and repairs; and
 - (b) the conduit and outlet of any such system is installed in a manner that does not result in a fire hazard to any person or property.
- (2) Every owner of a building in which an extractor fan system, any related ducts or any similar chimney system has been installed must ensure that every filter, damper, screen or conduit forming an integral part of the system is residues or any other combustible residues do not accumulate.

Requirements for emergency exits

13. (1) Every owner of a building must ensure that any escape door in that building-
- (a) is fitted with hinges that open in the direction of escape; and
 - (b) Is equipped with a fail-safe locking device or devices that do not require a key in order to exit
- (2) Every owner of a building must ensure that any door in a feeder route -
- (a) is a double swing-type door;

- (b) is not equipped with any locking mechanism.
- (3) Notwithstanding the provisions of subsection (2), if it is necessary that a door, in a feeder route be locked for security reasons, the owner of the building must provide an alternative means of escape approved by the Chief Fire Officer.
- (4) No person may obstruct or allow the obstruction of any escape route from any premises that may prevent or hinder the escape of any person or animal from the premises in an emergency.

Design, identification and access for fire-fighting and rescue purposes

14. (1) Subject to the requirements of any town planning scheme or the conditions of establishment of any township, every person who plans, designs or constructs a building, excluding a dwelling house, must ensure that the premises on which the building is situated, are planned, designed and constructed so that -
- (a) at least one elevation of the building fronts onto a street;
 - (b) if the premises do not front onto a street, an access road is provided with dimensions and carrying capacity approved in writing by the Chief Fire Officer;
 - (c) there is a climate-proof and weather-proof parking surface for parking and operating fire brigade machines and equipment in an emergency -
 - (i) of dimensions at least 10 metres wide;
 - (ii) that runs the full length of the side elevation of the building that borders the surface; and
 - (iii) with a carrying capacity of at least 70 metric tons; and
 - (d) any entrance arch to the premises provides an opening with dimensions at least 4 metres wide x 4.2 metres high, unless there is an alternative and easy access route to the premises of at least the same dimensions.
- (2) For purpose of easy identification by any member of the Service in an emergency, every owner or occupier of premises must ensure that the correct street number of the premises -
- (a) is displayed clearly on the street boundary of the premises in number at least 75 millimetres high; and
 - (b) is visible from the street; and
 - (c) is maintained in a legible condition at all times.

Barricading of vacant buildings

15. Every owner or person in charge of a building or portion of a building that is vacant must, at his or her own cost and to the satisfaction of the Chief Fire Office-
- (a) remove all combustible waste and refuse from the building; and
 - (b) lock, barricade or otherwise secure all windows, doors and other openings in the building in a manner that will prevent the creation of any fire hazard caused by entering of the building by any unauthorized person.

Part 3: Fire Fighting Equipment and Emergency Evacuation Plans

Installation and maintenance of fire-fighting equipment

16. (1) Every owner of a building must ensure that -
- (a) all fire-fighting equipment and service installations on the premises are installed in a manner and condition ready for use in an emergency;
 - (b) all portable and mobile fire-extinguishers and all hose reels on the premises are serviced and maintained in accordance with SABS 0105 and SABS 1475;
 - (c) all fire-fighting equipment and service installations on the premises are -
 - (i) maintained in a good working condition by a competent person; (if) inspected and serviced in accordance with manufacturer specifications; and
 - (iii) are inspected by an appropriately registered and competent person at least once every 12 months; and
 - (d) a comprehensive service record of all fire-fighting equipment and service installations on the premises is maintained and furnished to the Chief Fire Officer every 12 months.
- (2) Every person who inspects, services or repairs any fire-fighting equipment or service installation must -
- (a) on completing the inspection, service or repairs, as the case may be-
 - (i) certify in writing that the equipment or installation concerned is fully functional; and
 - (ii) furnish that certificate to the owner of the premises; or
 - (b) if the equipment or installation cannot readily be repaired to a functional state, notify the Chief Fire Officer of this fact in writing without delay.
- (3) Except for purposes of inspection, service, repair or fire-fighting, no person may remove or interfere with any fire-fighting equipment or service installation at any premises.
- (4) No person may alter, damage, misuse or render ineffective any fire-fighting equipment or service installation at any premises

Chief Fire Officer may designate premises for emergency evacuation plans

17. (1) The Chief Fire Officer may, by written notice, designate any premises as premises requiring an emergency evacuation plan.
- (2) The notice contemplated in subsection (1), must be served on the premises concerned and addressed to the owner or occupier.

Duties of owner or occupier of designated premises

18. (1) The owner, or with the approval of the Chief Fire Officer, the occupier, of any premises designated in terms of section 17 must-
- (a) prepare a comprehensive emergency evacuation plan for the premises in accordance with the guideline contained in Schedule 1 and submit it to the Chief Fire Officer in triplicate within 30 days of service of the designation notice;
 - (b) establish a fire protection committee comprised of occupiers of the premises to assist the owner or occupier to organize a fire protection programme and regular and scheduled fire evacuation drills;
 - (c) ensure that the emergency evacuation plan is reviewed -
 - (i) at least every 12 months;
 - (ii) whenever the floor layout of the premises is changed; and
 - (iii) whenever the Chief Fire Officer requires revision of the plan;
 - (d) ensure that up-to-date emergency evacuation plan, any fire protection programmes, evacuation drills and any related documents are kept maintained and all times available in a control room on the premises for inspection by any member of the Service; and
 - (e) identify a place of safety off the designated premises, but in the immediate vicinity of the premises, where persons who reside or work on the premises may gather during an emergency for the purpose of compiling a list of survivors.
- (2) The Chief Fire Officer may in respect of premises designated in terms of section 17 -
- (a) require the review of any emergency evacuation plan by the owner or occupier and may provide directions in this regard;
 - (b) instruct the owner or occupier to implement a fire protection program that the Chief Fire Officer believe is necessary to ensure the safety of persons and property on the premises; and
 - (c) require the owner or occupier to provide the Chief Fire Officer with a certified copy of the emergency evacuation plan and any associated documents at a specified time and place.

Part 4: Certificates of fitness for certain buildings**Prohibition of public gatherings in certain circumstances**

19. (1) No person may hold a public gathering or allow a public gathering to be held in any building or temporary structure unless a certificate of fitness has been issued by the Chief Fire Officer in respect of that building or temporary structure, unless a certificate of fitness previously issued in terms of this subsection, has not yet expired.
- (2) Subsection (1) does not apply in respect of a building or temporary structure which existed at the commencement of these " By-laws, unless after that date -
- (a) the building or temporary structure is rebuilt, altered, extended or its floor layout is changed; or
 - (b) ownership or control of the building or structure changes.

Application for certificate of fitness

20. (1) Every owner of a building or temporary structure intended for the holding of a public gathering must -
- (a) complete and submit to the Chief Fire Officer an application form for a certificate of fitness in the form and manner determined by the Council; and
 - (b) pay the prescribed fee.
- (2) An application contemplated in subsection (1) must be submitted at least 30 days before any intended public gathering.

Requirements for certificate of fitness

21. The Chief Fire Officer may not issue a certificate of fitness in respect of a building or temporary structure -
- (a) unless the Council is in possession of an up-to-date set of building plans for the premises;
 - (b) unless the building or temporary structure complies with the requirements of these By-laws; and
 - (c) for a period of validity exceeding 12 months.

Form and content of certificate of fitness

22. A certificate of fitness must be in the form determined by the Council and must at least record the following information, where applicable:
- (a) the trade name and street address of each occupier of the building or temporary structure.

- (b) a description of the type of activity carried on by each occupier of the building or structure;
- (c) the full names and addresses of the persons who serve on the governing or similar body of each occupier;
- (d) the maximum permissible number of people who may be admitted to the usable floor area of the building or structure;
- (e) the number of emergency exits and their dimension; and
- (f) the dates of issue and expiry of the certificate and its serial number.

Duties of holder of certificate of fitness

23. The holder of a certificate of fitness must -

- (a) comply with the provisions of the certificate of fitness;
- (b) at all times-
 - (i) display the certificate prominently on the premises; and
 - (ii) maintain the certificate in a legible condition;
- (c) immediately notify the Chief Fire Officer in writing of any change to the trade name, activity or governing or similar body of any occupier of the building or structure; and
- (d) submit any application for renewal of the certificate of fitness at least 30 days before its expiry in the form and manner determined by the Council together with the prescribed fee.

Cancellation of certificate of fitness

24. (1) The Chief Fire Officer may cancel any certificate of fitness in respect of a building or temporary structure if he or she has reason to believe that -
- (a) the owner or occupier concerned contravenes or fails to comply with any provision of these By-laws; or
 - (b) the building or structure contravenes or does not comply with the requirements of these By-laws.
- (2) Subject to subsection (3), before the Chief Fire Officer cancels a certificate of fitness as contemplated in subsection (1), he or she must-
- (a) give the owner or occupier concerned written notice of the intention to cancel the certificate of fitness and the reasons for such cancellation;
 - (b) give the owner or occupier concerned a period of at least 20 days to make written representations regarding the matter; and
 - (c) consider any representations received.
- (3) If the Chief Fire Officer has reason to believe that the failure to cancel a certificate of fitness within the period contemplated in subsection (2) (b), may endanger any person or property, he or she may cancel a certificate of fitness without prior notice to the owner or occupier concerned.
- (4) If the Chief Fire Officer cancels a certificate of fitness in terms of subsection (3), he or she must -
- (a) furnish the owner or occupier of the building or temporary structure concerned with written notice of the cancellation;
 - (b) provide the owner or occupier a period of at least 20 days to make written representations regarding the cancellation; and
 - (c) consider any representations received.
- (5) The Chief Fire Officer may, after considering the representations contemplated in subsection (4), reverse the decision to cancel the certificate of fitness

Part 5: Water supply for fire-fighting purposes

Township development water supply requirements

25. (1) Every person who develops or redevelops a township must design and develop that township with a sufficient water supply for purposes of fire-fighting by members of the Service.
- (2) Every person who develops or redevelops a township must ensure that -
- (a) the storage capacity and rate of replenishment of the reservoirs supplying water to the township are sufficient for the fire-fighting purposes contemplated in these By-laws;
 - (b) the water supply from these reservoirs is reticulated in a manner that ensure that the water supply to any area in the township can be provided from at least two directions; and
 - (a) double supply mains are installed from the water supply source to the distribution reservoirs and double pumps are installed for the delivery of the water supply.
- (3) Subsection (2) (c) is deemed to be satisfied, if-
- (a) the water is supplied to the township from more than one reservoir,
 - (b) each reservoir receives water from a separate supply main and pump; and
 - (c) the reservoirs are connected to each other.
- (4) Every person who develops or redevelops a township must ensure that -
- (a) the water distribution system is designed and equipped with control valves positioned so that it is not necessary to close off any branch or any portion of the distribution system for more than 150 metres in any high risk area or for more than 300 metres in any moderate or low risk area in the event that the system, excluding any of the branches, is damaged or requires repair; and

- (b) if the redevelopment of any township alters the fire risk category of any area in the township as contemplated in section 28, the water reticulation system is adapted without delay so as to comply with the requirements of section 26 and 27.

Township development fire-extinguishing stream requirements

26. Every person who develops or redevelops a township must ensure that the water supply provides a fire-extinguishing stream that is immediately available to members of the Service in an emergency, of the following volume and duration:

Fire risk category	Minimum volume of extinguishing stream (litres per minute)	Minimum duration of extinguishing stream (hours)
High risk	11 500	6
Moderate risk	5 750	4
Low risk	2 300	2

Township development fire hydrant requirements

27. (1) Every person who develops or redevelops a township must ensure that fire hydrants are plotted on a plan and installed in accordance with the following minimum delivery volumes and distance frequencies:

Fire risk category	Minimum volume of extinguishing stream (litres per minute)	Minimum duration of extinguishing stream (hours)
High risk	1980	120
Moderate risk	1 150	180
Low risk	900	240

- (2) Every person who develops or redevelops a township must ensure that the position of the fire hydrants is plotted accurately on a plan that is furnished to the Chief Fire Officer for operational fire-fighting purposes.

Fire risk categories

28. (1) For purposes of section 26 and 27, the following areas of township must be regarded

-
- (a) as high risk -
 - (i) any factory area, high density shopping area, warehouse or commercial building;
 - (ii) any plantation, timber yard or wooden building;
 - (iii) any building higher than 3 storey;
 - (iv) any building in which hazardous substances are used, handled or stored or in which hazardous processes are conducted; and
 - (v) any other area that has a high fire risk or high fire spread risk;
- (b) as moderate risk-
 - (i) any area in which -
 - (aa) factories, commercial buildings or residential buildings are generally detached from each other and do not exceed 3 storey; and
 - (aa) the Chief Fire Officer has not declared the materials processed or stored in these buildings as highly dangerous;
 - (ii) any area where the fire risk and spread risk of fire is moderate;
 - (iii) any area where the fire risk or risk of spread of fire is slight or insignificant

Connections to water reticulation system

29. (1) No person may obtain a water connection to the water reticulation system of the Council unless the fire protection plans for the premises to be connected have been approved by the Chief Fire Officer.
- (2) Every person or owner of premises who requires a water connection to the water reticulation system of the Council must -
- (a) if the premises to be connected are protected by a sprinkler installation, ensure that -

- (i) the connection is calculated and designed for each sprinkler installation in accordance with a rational design as contemplated in the National Building Regulations and Building Standards Act, and
- (ii) the size, delivery pressure and flow of the water connection is calculated in advance by the responsible engineer,
- (b) if the Chief Fire Officer requires a larger water connection for purposes of fire-fighting, provide the larger water connection;
- (c) ensure that the size, work pressure and delivery flow, except in the case of a water connection to a sprinkler installation, is calculated and designed in accordance with SABS 0400 (Part W); and
- (d) ensure that the water installation upon completion complies with the provisions of SABS - 1:1994.

Chapter 3 CONTROL OF FIRE WORKS

Use of fireworks prohibited in certain circumstances

30. (1) Unless so authorized in terms of section 33, no person may use fireworks -
- (a) within 500 metres of any explosive factory, explosives storage place, petrol depot or petrol station;
 - (b) inside any building;
 - (c) on any agricultural holding;
 - (d) at any public place; or
 - (e) at any school, old age home or hospital.
- (2) No person may light or ignite fireworks in any place where animals are present
- (3) Unless so authorized in terms of section 33, no person may light or ignite fireworks on any day or at any time except -
- (a) New Years Eve from 23h00 to 01h00
 - (b) New Years Day from 19h00 to 22h00
 - (c) Hindu New Year from 19h00 to 22h00;
 - (d) Lag b'omer from 19h00 to 22h00;
 - (e) Chinese New Year from 19h00 to 22h00;
 - (f) Human Rights Day from 19h00 to 22h00;
 - (g) Freedom Day from 19h00 to 22h00
 - (h) Guy Fawkes Day from 19h00 to 22h00
 - (i) Divail from 19h00 to 22h00;
 - (j) Christmas Eve from 19h00 to 22h00; and
 - (k) Day of Goodwill from 19h00 to 22h00;
- (3) No person may allow any minor under his or her control to use, light or ignite fireworks in contravention of subsection (1), (2) or (3).

Fireworks display prohibited unless authorized

31. No person may present a fireworks display unless -
- (a) authorized to do so by the Council as contemplated in section 33;
 - (b) authorized to do so by the Civil Aviation Authority and the Chief Inspector of Explosives; '
 - (c) the display is at all times under that person's supervision and control;
 - (d) the Service and a suitably qualified explosive expert from the South African Police Services are at all times in attendance at the display;
 - (e) that person has ensured that -
 - (i) an area with a radius of at least 50 metres is clearly demarcated for the fireworks at the display; and
 - (ii) measures are in place to prevent any person who is not involved in the presentation of the display from entering this launching area; and
 - (f) a pyrotechnics is at all times present and responsible for the use of fireworks at the display.

Application to present fireworks display

32. (1) Any person who wishes to present a fireworks display must apply to the Chief Fire Officer for authorization by completing and submitting an application in the form and manner determined by the Council together with the prescribed fee and the following documentation:
- (a) proof of permission for the fireworks display from the Civil Aviation Authority;
 - (b) proof that an application for the fireworks display has been submitted to the Chief Inspector of Explosives;
 - (c) a letter of consent from the owner or person responsible for the property on which the fireworks display is proposed to be presented; and

- (d) a sketch plan of the proposed venue for the fireworks display, including the demarcated area for the launching of the firework.
- (2) The application, prescribed fee and accompanying documentation must be submitted to the Chief Fire Officer at least 14 days before the date of the proposed fireworks display.

Authority to present fireworks display

- 33. (1) If the Council decides to approve an application to present a fireworks display, it must provide the applicant with written confirmation of its decision and any conditions that it may impose to safeguard persons and property.
- (2) The Council may require that the fireworks display be presented only on suitable premises designated by the Council and > under the supervision and control of an official designated by the Council.

Dealing in fireworks

- 34. (1) No person may deal in fireworks unless -
 - (a) that person holds the required fireworks licence in terms of the Explosive Act; and
 - (b) has the written authority of the Chief Fire Officer
- (2) Any person who wishes to obtain the written authority of the Chief Fire Officer to deal in fireworks as contemplated in sub section (1)(b), must-
 - (a) complete an application in the form and manner determined by the Council; and
 - (b) submit it to the Chief Fire Officer together with the prescribed fee at least 30 days before the authority is required by the applicant
- (3) The Chief Fire Officer may cancel any written authority to deal in fireworks if the holder of the authority contravenes or fails to comply with any provision of these By-laws or any other applicable law.

Chapter 4

CERTIFICATE OF REGISTRATION FOR USE, HANDLING AND STORAGE OF FLAMMABLE SUBSTANCES

Use, handling and storage of flammable substances prohibited in certain circumstances

- 35. (1) Subject to the provisions of subsection (3), no person may use, handle or store any flammable substance or allow such substance to be used, handled or stored on any premises unless that person is the holder of a certificate of registration issued by the Chief Fire Officer in respect of the flammable substance and the premises concerned.
- (2) A certificate of registration contemplated in subsection (1) is not required if the flammable substance concerned is of any class and does not exceed the quantity stipulated in Schedule 2.
- (3) No person may use, handle or store any flammable substance in respect of which no certificate of registration is required or allow such substance to be used, handled or stored on any premises, unless the flammable substance -
 - (a) is used, handled or stored in a manner that ensures that -
 - (i) no flammable substance nor any flammable substance fumes come into contact with any source of ignition that may cause the flammable substance or fumes to ignite;
 - (ii) in the event of a fire or other emergency, the escape of any person or animal is not hindered or obstructed in any way; or
 - (b) is used, handled or stored-
 - (i) in a naturally ventilated room that prevents the accumulation of fumes or gas;
 - (ii) in a suitable place outdoors that ensure the safe disposal of fumes or gas;
 - (c) the flammable substances is stored in strong, gas-tight and labeled containers.

Application for certificate of registration for flammable substances

- 36. An application for a certificate of registration contemplated in section 35 (1) must be completed and submitted in the form and manner determined by the Council, together with the prescribed fee.

Issue of certificate of registration

- 37. (1) If the Chief Fire Officer issues a certificate of registration to any person, that Officer must endorse on the certificate -
 - (a) the class and quantity of the flammable substance for which the premises have been registered;
 - (b) the number of storage tanks or storage facilities on the premises and their capacities;
 - (c) the number of flammable substance storerooms on the premises and their capacities;
 - (d) the number of liquefied petroleum gas installations, types of installations and the combined capacity of all cylinders that may be stored on the premises;
 - (e) the number of storage facilities for any other flammable substance and the volume of each such facility;
 - (f) the period of validity and expiry date of the certificate; and
 - (g) the physical address of the premises and the name and postal address of the occupant
- (2) A certificate of registration

- (a) is not transferable between premises;
 - (b) may not be issued by the Chief Fire Officer for a period exceeding 12 months;
 - (c) may be transferred to the new owner of the premises in respect of which it was issued, only if an application for such transfer is approved by the Chief Fire Officer in writing.
- (3) A certificate of registration is valid only for -
- (a) the installation for which it was issued;
 - (b) the stage of the premises at the time of issue; and
 - (c) for the quantities of flammable substance stated on the certificate.

Availability of certificate of registration at premises

38. The holder of a certificate of registration must ensure that the certificate is available on the premises concerned at all times, for inspection by any member of the Service.

Fire-fighting equipment

39. (1) Any person who holds a certificate of registration or other authorization contemplated in these By-laws must ensure that the premises to which the authorization applies, are equipped with -
- (a) subject to the provisions of subsection (6), portable fire extinguishers -
 - (i) as specified in SABS 1567 (carbon dioxide-type), SABS 810 (dry chemical-type), SABS 1573 (foam-type) and SABS 1571 (transportable-type);
 - (ii) in such numbers as is appropriate in each section of the premises in accordance with the SABS codes applicable to the flammable substance and risk concerned;
 - (b) if applicable, hose reels as specified in SABS 453 (hose reels), that are connected to a water supply -
 - (i) as contemplated in SABS 0400 (Part W); and
 - (ii) that enables each hose reel to maintain a minimum flow of 0.5 litres per second at a minimum work pressure of 300 kPa;
 - (c) if applicable, fire hydrants -
 - (i) with couplings as specified in SABS 1128 (Part II) (fire-fighting equipment - couplings); and
 - (ii) in a ratio of at 1 to every 1000 square metres or part thereof; and
 - (d) if applicable, in relation to any above-ground facility, a sprinkler system or dilute system that -
 - (i) is approved by the Chief Fire Officer; and
 - (ii) with the exception of temporary storage facilities, is installed in a position indicated in the building plans for the premises.
- (2) Notwithstanding the provisions of subsection (1), if the Chief Fire Officer believes that there is any exceptional hazard or risk in respect of the premises concerned, he or she may -
- (a) specify the type of fire extinguishers to be installed;
 - (b) require that a greater number of fire extinguishers be installed; and
 - (c) require that a fire detection or warning system be installed.
- (3) The holder of any certificate of registration or other authorization contemplated in these by-laws must ensure that all fire-fighting equipment contemplated in subsection (1) -
- (a) is inspected, maintained and serviced to the satisfaction of the Chief Fire Officer -
 - (i) by a competent, registered and appropriately qualified tradesman in accordance with the provisions of SABS 1015 and SABS 1475;
 - (ii) at least every 12 months;
 - (b) if installed outside the premises, is adequately protected from the weather; and
 - (a) is positioned prominently or where this is not possible, the position of the fire-fighting equipment is clearly indicated by a symbolic safety sign -
 - (i) in accordance with the specifications of SABS 1186; and
 - (ii) to the satisfaction of the Chief Fire Officer.

Amendment to certificate of registration

40. The Chief Fire Officer may amend any certificate of registration on application by the holder.

Cancellation of certificate of registration

41. The provisions of section 24, read with the necessary changes, apply to any cancellation by the Chief Fire Officer of a certificate of registration.

Renewal of certificate of registration

42. Any application for the renewal of a certificate of registration must be submitted to the Chief Fire Officer at least 30 days prior to the expiry date of the certificate

No authorization required for certain motor vehicle fuel tanks

43. No certificate of registration contemplated in section 35 or any other authorization contemplated in these by-laws is required in respect of flammable liquids in a fuel tank -
- (a) of any motor vehicle; and
 - (b) of any stationery engine if the volume of the fuel tank does not exceed 1 000 litres.

Record of certificates of registration

44. The Chief Fire Officer must keep updated records of all premises in respect of which a certificate of registration has been issued, amended or renewed,

Chapter 5**GENERAL PROVISIONS REGARDING THE USE, HANDING AND STORAGE OF FLAMMABLE SUBSTANCES****General prohibitions regarding use, handling and storage of flammable substances**

45. (1) No person who uses, handles or stores a flammable substance or allows them to be used, handled or stored on any premises may-
- (a) do anything or allow anything to be done that may result in or cause a fire or explosion;
 - (b) do anything or allow anything to be done that may obstruct the escape to safety of any person or animal during an emergency.
- (2) No person may -
- (a) dump or spill or allow the dumping or spilling of any flammable substance into any borehole, sewer, drain system or surface water;
 - (b) discard or allow the discarding of any flammable substance from any premises in any way other than by a competent person who is properly equipped and authorized to do in terms of these by-laws;
 - (c) make or bring any fire or device capable of producing an open flame or allow any other person to do so, within 5 metres of any place where flammable substance is stored;
 - (d) use or allow to be used any device in connection with a flammable substance in any basement level of a building, other than a gas welding or cutting device, used for the sole purpose of maintenance of the building;
 - (e) while any person, except the driver or any other person responsible for a bus contemplated in the National Road Traffic Act, is in or on the bus-
 - (i) fill or allow the filling of its fuel tank; or
 - (ii) transport or allow the transport of any flammable substance on the bus, except in a fuel tank; and
 - (f) deliver or supply or allow to be delivered or supplied, any flammable substance to any premises unless the owner or person in charge of the premises is in possession of a valid certificate of registration.

Use, handling and storage of liquefied petroleum gas

46. (1) No person may use, handle or store liquefied petroleum gas in any quantity exceeding that stipulated in Schedule 2 unless -
- (a) the person is in possession of a certificate of registration contemplated in section 35; and
 - (b) the use, handling and storage of the liquefied petroleum gas complies with the requirements of SABS 087, Parts 1,3, 7 and 10.
- (2) Liquid petroleum gas may only be used, handled or stored within property boundaries and in compliance with safety distances stipulated in SABS 087, Parts 1,3,7 and 10.
- (3) Any storage of liquid petroleum gas cylinders at any service station for retail purposes must comply with SABS 087, Part 7.
- (4) No liquid petroleum gas cylinder may be used, handled or stored at any public exhibition or demonstration without the prior written permission of the Chief Fire Officer.
- (5) An application for permission contemplated in subsection (4) must be made in writing at least 14 days before the event concerned.
- (6) The Chief Fire Officer may impose any reasonable condition on the use, handling and storage of liquid petroleum gas cylinders at a public exhibition or demonstration, including but not limited to, the number of cylinders, the manner of storage, ^ safety distances and other safety requirements.
- (7) Any person using, handling or storing any liquid petroleum gas cylinder at any public exhibition or demonstration must comply with any condition imposed in terms of subsection (6).

Display of symbolic warning signs required

47. (1) The owner of any premises where any flammable or explosive substance is used, handled or stored must in the affected area of the premises, display symbolic signs -
- (a) prohibiting smoking and open flames;
 - (b) of a size and number determined by the Chief Fire Officer; and

- (c) prominently in places where the signs can be clearly observed.
- (2) No person may disregard or allow to be disregarded any prohibition on a symbolic sign displayed in terms of subsection (1).

Duties to report fires, accidents and dumping

48. If any fire, accident or dumping involving a flammable substance has caused damage to any person, animal, property or the environment on any premises, the owner or occupier of the premises must immediately report it to the Chief Fire Officer.

Chapter 6

STORAGE OF FLAMMABLE SUBSTANCES

Storage of flammable substances prohibited in certain circumstances

49. No person may store or allow the storage of any flammable substance in any storeroom unless -
- (a) that person has a certificate of registration contemplated in section 35; and
 - (b) the storeroom complies with the requirements of these By-laws and any other applicable law.

Symbolic safety signs must be displayed

50. The holder of a certificate of registration for a storeroom to be used for any flammable substance must ensure that -
- (a) symbolic safety signs prohibiting open flames and smoking are displayed in the storeroom –
 - (i) of a number determined by the Chief Fire Officer,
 - (ii) of dimensions at least 290 millimetres by 200 millimetres; and
 - (iii) manufactured in accordance with SABS 1186;
 - (b) the groups of flammable substances and their corresponding quantities which may be stored in the storeroom are indicated on the outside of every door to the storeroom in red letters at least 75 millimetres high, against a white back ground.

Construction of flammable substance storeroom

51. Every storeroom must be designed and constructed according to the following criteria:
- (a) the storeroom floor must consist of concrete;
 - (b) the storeroom walls must consist of material that has a fire resistance of a least 120 minutes;
 - (c) the storeroom roof must consist of -
 - (i) reinforced concrete with a fire resistance of at least 120 minutes; or
 - (ii) any other non-combustible material, if the storeroom -
 - (aa) is not situated within 5 metres of any adjacent building or boundary of the premises; or
 - (bb) adjoins a higher wall with no opening within 10 metres above and 5 metres on either side of the storeroom.

Requirements for storeroom doors

52. (1) Every storeroom must be equipped with a fire rated fire door that -
- (a) is manufactured and installed in accordance with SABS 1253;
 - (b) opens to the outside;
 - (c) is equipped with a lock or locks approved by the Chief Fire Officer; and
 - (d) is at all times capable of being opened from the inside of the storeroom without the use of a key.
- (2) A storeroom must be equipped with two or more fire doors if the distance to be covered from any part in that storeroom to a door is 4 metres or more, in which case, the fire doors must be installed as far from each other as is practicable in the circumstances.
- (3) Fire doors contemplated in subsections (1) and (2) must if installed on -
- (a) external walls, be "B" class fire doors; and
 - (b) internal walls in communication within a building, be "D" class fire doors.

Requirements for storeroom windows

53. (1) Every storeroom window frame must -
- (a) consist of steel;
 - (b) have window panels of dimensions not exceeding 450 millimetres x 450 millimetres; and
 - (c) be fitted with wire glass of a thickness not less than 8 millimetres.
- (2) No storeroom window must be capable of being opened.
- (3) Every storeroom window must be fitted to the external wall of a building.

Requirements for storeroom catch pits

54. (1) Every storeroom must be designed and constructed so that its floor is recessed below the level of the doorsill to form a catch pit-
 - (a) with a holding capacity at least equal to the total volume of hazardous substances capable of being stored in the storeroom, plus 10 percent; and
 - (b) if required by the Chief Fire Officer -
 - (i) covered at door sill level by a strong, stable, non- combustible and oxidation free floor grill; and
 - (ii) equipped, at its lowest level, with a non-corrosive drainage valve for cleaning purposes and product recovery
- (2) The floor grill contemplated in subsection (i) must contain a suitably positioned access hatch for cleaning purposes.

Ventilation of storerooms

55. (1) Every storeroom must be designed and constructed to ensure -
 - (a) the effective ventilation of flammable substance fumes;
 - (b) that fumes released from the storeroom into the open air will not come into contact with any source of ignition.
- (2) If the storeroom is designed and constructed for natural ventilation, the owner or person in charge of the storeroom must ventilate the storeroom at a minimum cycle of 30 air changes per hour by installing non-combustible airbricks -
 - (a) that are not less than 140 millimetres by 250 millimetres in extent with non-corrosive gauze wire with a minimum opening diameter of 0.5 millimetres;
 - (b) that are provided in at least 3 external walls of the storeroom; and
 - (c) that are positioned 100 millimetres above the level of the sill and 100 millimetres below the level of the roof and not more than 450 millimetres apart.
- (3) If the storeroom is designed and constructed for mechanical ventilation, the owner or person in charge of the storeroom must equip it with a mechanical ventilation system -
 - (a) designed and installed for this purpose;
 - (a) with a flow rate of 0.5 meters / second across the store;
 - (b) with vanes that consists of a static-free material;
 - (c) that discharged through a vertical metal duct into the open air -
 - (i) not situated within 5 metres opening of a building or erf boundary; and;
 - (ii) termination at least 1 meter above roof height or at least 3.6 meters above ground level, whichever is the greater,
 - (d) equipped with ventilators that are firmly attached to the inside of the walls of the storeroom and, in the case of bottom ventilators, as close as possible to the level of the sill;
 - (e) with all ventilation or air duct openings in the external wall opposite the mechanical ventilator installed 100 millimetres above the level of the sill to ensure effective cross-ventilation; and
 - (f) equipped with ducting material that -
 - (i) is as short as possible in the circumstances and does not have sharp bends; and
 - (ii) is fitted with a fire damper of at least 120 minutes fire resistance at any point where the ducting exits the storeroom, if ducting material is installed external to the storeroom in communication with the remainder of the building.

Electrical equipment in storerooms

56. (1) The owner or person in charge of any storeroom must ensure that -
 - (a) all as short as possible apparatus, fittings or switch gear used or installed in the storeroom are used or installed as contemplated in SABS 0108;
 - (b) no switch gear, distribution box, fuse or other electrical equipment, except electrical equipment as contemplated in SABS 0108, is situated -
 - (i) inside the storeroom; or
 - (ii) in any position where it may come into contact with any flammable substance fumes leaving the storeroom;
 - (c) any metal part, electrical fittings and device used in or in connection with the storeroom are earthed effectively to each other and to the ground;
 - (d) any mechanical ventilation system switch is situated outside the storeroom;
 - (e) any mechanical ventilation system is on at all times, except when the system is being repaired or replaced, in which case the system must be repaired or replaced without delay; and
- (2) Any electrical installation in a storeroom may be installed and certified only by an electrician who is qualified and competent by virtue of his or her training and experience.

- (3) The owner or person in charge of a storeroom must submit the certificate contemplated in subsection (2) to the Chief Fire Officer for record purposes immediately after installation contemplated in that subsection.

Foam inlets required for certain storeroom

57. The owner or person in charge of a storeroom that is used or intended to be used for storing more than 5000 litres of flammable substance must ensure-
- (a) that the storeroom is provided with a foam inlet consisting of a 65mm male instantaneous coupling and mild steel pipe work leading to the inside thereof, and
 - (b) that the foam inlet is identified by a sign in block letters at least 100 millimetres high, displaying the words "foam inter."

Shelving in storerooms

58. The owner or person in charge of a storeroom must ensure that any racking of shelving erected or installed in the storeroom is of non-combustible material.

Unauthorized use and entry of storerooms prohibited

59. No person may -
- (a) without the authority of the owner or person in charge, enter or allow any other person to enter any storeroom;
 - (b) use any storeroom or allow it to be used for any purpose other than for the use, handling or storage of flammable substances;
 - (c) allow any person to work in a storeroom unless all the doors of the storeroom are wide open or the mechanical ventilation system is switched on; or
 - (d) place or allow to be placed any obstruction or hindrance in a passage of any storeroom or in front of any storeroom door.

Mixing and decanting rooms

60. The owner or person in charge of any premises where quantities of flammable liquids exceeding those stipulated in Schedule 3 are decanted or mixed, must ensure that any room where decanting or mixing takes place complies with all requirements of this Chapter applicable to storerooms.

Temporary above ground storage of flammable substances

61. (1) Any person who wishes to store any flammable substance on premises on a temporary basis, must apply to the Chief Fire Officer for a temporary certificate of registration.
- (2) A temporary certificate of registration may be issued by the Chief Fire Officer -
- (a) for a period not exceeding 12 months;
 - (b) if the flammable substance concerned is required -
 - (i) in respect of excavation work, construction work or road construction if the volume of the flammable substance does not exceed 9 000 liters;
 - (ii) in respect of small fleet maintenance or research purposes, if the volume of the flammable substance does not exceed 4 400 liters; and
 - (iii) the application complies with the requirements of SABS 0131 and this Chapter.
- (3) Every holder of a temporary certificate of registration contemplated in subsection (1) must ensure that -
- (a) a storage tank for the flammable substance is not erected within 3.5 metres of any erf boundary, building, excavation, road, driveway or any other flammable substances or combustible material;
 - (b) adequate provision is made for rainwater run-off retaining walls or embankments;
 - (c) no source of ignition or potential source of ignition exists within 5 metres of a storage tank;
 - (d) a symbolic sign of dimensions at least 300 millimetres by 300 millimetres prohibiting smoking and open flames is displayed on every side of a temporary storage tank; and
 - (e) at least two 9 kilogram dry chemical fire extinguishers are installed and kept in good working condition, within 10 metres of a temporary storage tank.

Hand tools must be intrinsically safe

62. The owner or person in charge of any flammable substance storeroom must ensure that any hand tool used in the storeroom is intrinsically safe.

Permanently above ground storage tanks for flammable liquid

63. (1) In addition to any other requirement of this Chapter, the owner or person in charge of an above ground storage tank for flammable liquids must ensure -
- (a) that the tank is erected or installed -
 - (i) in accordance with SABS 0131 and SABS 089, Part I; or
 - (ii) at least 3.5 metres from any erf boundary, building, excavation, road, driveway or any other flammable substance, combustible substances or combustible material;
- (2) Any electrical installation associated with the storage tank must comply with SABS 0108 and SABS 089, Part 2.

Underground storage tanks for flammable liquids

64. The owner or person in charge of any premises used or intended to be used for the underground storage of any flammable liquid must ensure that any underground storage tank, pump, dispenser and pipe work is erected or installed in accordance with SABS 0400, SABS 089, Part 3 and SABS 0130.

Installation, erecting, removing and demolishing prohibited without prior notice

65. (1) No person may, in respect of registered premises, erect, install, remove, demolish, extend or change any delivery pump, storage tank, storeroom, spraying room, gas installation, storage facility, fire protection arrangement or floor layout unless that person has given the Chief Fire Officer at least three working days prior written notice of the intention to do so, in the form and manner determined by the Council.
- (2) The notice in term of subsection (1) must include the intended commencement date and estimated completion date of the proposed work.
- (3) The provisions of subsection (1) do not apply to -
- (a) the temporary removal of equipment for purposes of carrying out necessary repairs;
 - (b) the necessary replacement of equipment or their parts; and
 - (c) the replacement of any storage tank with a tank of the same capacity.

Repair and maintenance of access to storage tanks

66. No person may enter or allow any other person to enter any storage tank that has at any time contained a flammable substance -
- (a) until such tank has been de-aerated and made free of gas and fumes as contemplated in SABS 089 (Part I); or
 - (b) unless that person -
 - (i) is wearing an effective self-supporting breathing apparatus; and
 - (ii) is attached to a rescue rope under the control of a competent and responsible person.

Termination of storage and use of flammable substances

67. (1) If an aboveground or underground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation is located, must -
- (a) notify the Chief Fire Officer in writing within seven days of such storage or use ceasing;
 - (b) ensure that the flammable substance is removed from the installation and the premises are rendered safe within 30 days of the cessation;
 - (c) unless the Chief Fire Officer directs otherwise, remove the installation including any associated pipe work from the premises within 180 days of the cessation; and
 - (d) to the satisfaction of the Council, restore any public foot path or roadway that has been disturbed by the removal of the installation within a period of 7 days of completing such removal.
- (2) Notwithstanding the provisions of subsection (1) if the removal of any underground tank installation for the storage of a flammable substance will detrimentally affect the stability of the premises concerned, the owner or person in charge of the installation may, with the prior written permission of the Chief Fire Officer, fill the underground tank with liquid cement slurry.

Container handling and storage

68. (1) Every flammable substance container must-
- (a) be kept closed when not in use;
 - (b) be declared gas - or vapour -free by a competent person before any modification or repairs are undertaken;
 - (c) be manufactured and maintained in such condition as to be reasonably safe from damage and to prevent leakage of any flammable substance or vapour from the container.
- (2) Every flammable liquid container must be labeled and marked with words and details indicating the flammable liquid contained in the container as well as any hazard associated with the flammable liquid.
- (3) No person may extract flammable liquid from a container of a capacity exceeding 200 litres, unless the container is fitted with an adequately sealed pump or tap.
- (4) Any empty flammable liquid container must be stored in a storeroom.
- (5) Notwithstanding the provisions of subsection (4) the Chief Fire Officer may permit the storage of any empty flammable liquid container in the open air if no storeroom is available and if he or she is satisfied that-
- (a) the storage area is in a position and of sufficient size that a fire hazard or other threatening danger will not be caused;
 - (b) the storage area is well ventilated and enclosed by a wire mesh fence;

- (c) the fence supports are of steel or reinforced concrete;
 - (d) the storage area has an outward opening gate that kept locked when not in use;
 - (e) when the floor area exceeds 10m² an additional escape gate is installed and fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key; and
 - (f) the storage area is free of vegetation and has a non-combustible, firm and level base.
- (6) When the quantity of flammable and combustible liquids to be stored is more than 100 litres of class I and/or more than 210 litres of class II and class III A combined, such flammable and combustible liquids must be stored in a store room.

Chapter 7

TRANSPORT, SUPPLY AND DELIVERY OF DANGEROUS GOODS

Transport of dangerous goods prohibited without permits

69. The owner of any vehicle used for transporting dangerous goods, must -
- (a) be in possession of a valid transport permit issued by the Chief Fire Officer in accordance with the National Road Traffic Act; and
 - (b) ensure that the transport permit is available in the vehicle for inspection at all times.

Application for transport permits

70. An application for a transport permit must be completed and submitted to the Chief Fire Officer in the form and manner determined by the Council together with the prescribed fee.

Requirements of transport permits

71. A transport permit -
- (a) may not be issued by the Chief Fire Officer for a period of longer than 12 months; and
 - (b) must-
 - (i) indicate the date of issue and expiry;
 - (ii) identify the issuing officer and bear that officer's signature;
 - (iii) contain a serial number;
 - (iv) indicate the group and quantity of dangerous goods that may be transported under the permit; and
 - (v) contain a description of the vehicle concerned, including its registration number.

Cancellation of transport permit

72. The provisions of section 24, read with the necessary changes, apply to any cancellation of a transport permit by the Chief Fire Officer.

Exemption from transport permit

73. A transport permit contemplated in section 69 is not required for the transportation of dangerous goods of the type and not exceeding the quantities stipulated in Schedule 3.

Design, construction, maintenance and repair of road tankers

74. Every person who designs, constructs, maintains or repairs any road tanker for the transportation of dangerous goods must -
- (a) comply with the provisions of SABS 0189, SABS 1398, SABS 0233, SABS 087, Part 6 SABS 089, Part 1, SABS 0230 and SABS 1518, as the case may be; and
 - (b) ensure that the road tanker is labelled in a manner that complies with the provisions of SABS 0230 and any applicable law.

Design, construction, maintenance and repair of other vehicles

75. Every person who designs, constructs, maintains or repairs any vehicle for the transportation of dangerous goods, except a road tanker, must ensure that the vehicle -
- (a) is designed and constructed -
 - (i) to safely transport the quantity and type of dangerous goods for which the vehicle is intended to be used; and
 - (ii) with at least two independent axle systems, each with its own suspension system, excluding any trailer forming part of an articulated vehicle;
 - (b) is equipped with -
 - (i) a safety edge or safety railing -
 - (aa) at least 1 metre high when measured from the surface of the body of the vehicle; and
 - (bb) capable of securing dangerous goods containers; (ii) strong and durable straps
 - (cc) capable of fastening dangerous goods containers securely to the body of the vehicle;
 - (dd) that are anchored firmly to the bodywork of the vehicle; and

- (ee) that are fitted with a reversible cog winch mechanism that can be locked;
- (iii) electrical wiring that complies with SABS 314;
- (iv) at least 2 static-free wheel blocks;
- (v) a power insulating switch, excluding the ignition switch, situated in close proximity to the vehicle battery and in a position readily accessible in any emergency; and
- (vi) a spark-proof and static-free tank that is designed, constructed and equipped to protect any dangerous goods consignment from shock or ignition while in transit.

General prohibitions regarding transport of dangerous goods

76. (1) No person may use or allow to be used, any vehicle to transport dangerous goods, unless -
- (a) the vehicle has a valid roadworthy certificate;
 - (b) not exempt in terms of section 73, the vehicle is equipped with at least two 9 kilogram dry chemical fire extinguishers-
 - (i) designed and manufactures in accordance with SABS 810 and maintained in accordance with SABS 0105 and SABS 1475; and
 - (ii) positioned and installed so that there is at least one fire extinguisher on each side of the vehicle that can be reached quickly and easily in the event of a fire.
- (2) No person may use or allow to be used any vehicle to transport dangerous goods unless the vehicle cabin, body, cargo space, cargo tank, fuel tank, chassis and engine are effectively and permanently earthed with each other.

Supply of dangerous goods prohibited in certain circumstances

77. (1) No person may deliver or supply or allow to be delivered or supplied any dangerous goods of a type and in a quantity exceeding that specified in Schedule 2 to any premises that are not registered as contemplated in section 35.
- (2) No person may deliver or supply or allow to be delivered or supplied any dangerous goods to any premises in contravention of any conditions of the certificate of registration applicable to those premises.
- (3) No person may handle or allow to be handled any container containing dangerous goods in a manner that may damage that container.
- (4) Every person who delivers dangerous goods must ensure that:-
- (a) a 9 kilogram dry chemical fire-extinguisher is available at all times during the delivery;
 - (b) during any transfer of the dangerous goods, the delivery vehicle is physically earthed to the storage facility to which the dangerous goods are being transferred;
 - (c) while delivery -
 - (i) the delivery vehicle is placed in such a position that it can be moved easily and quickly in the event of an emergency;
 - (ii) the delivery vehicle is not parked on or across a pavement or a road; (Hi) no delivery hose lies on or across a pavement, road or other premises;
 - (d) no dangerous goods are transferred to a storage facility that does not comply with the requirements of Chapter 6 and the provisions of SABS 0263;
 - (e) any device connected with, or used for, the delivery of the dangerous goods -
 - (i) is designed for its purpose; and
 - (ii) is maintained in a safe and good working condition; and (a) no dangerous goods are spilled during delivery.
- (5) No person may transfer or allow to be transferred any dangerous goods to any motor vehicle, aircraft, vessel, ship or boat while its power source is in operation.
- (6) No person may transfer any dangerous goods to any aircraft unless the aircraft is earthed to the transferral device by means of an earth cable.

Records of transport permits

78. The Chief Fire Officer must keep updated records of all vehicles in respect of which a transport permit has been issued, amended or renewed.

**Chapter 8
SPRAY PAINTING**

Spraying prohibited without spraying permit

79. (1) No person may spray, coat, plate or epoxy-coat any vehicle, article, object or building or part thereof or allow them to be sprayed, coated, plated or epoxy-coated with any flammable substance unless -
- (a) that person is in possession of a spraying permit contemplated in section 80;
 - (b) the spraying, coating, planting or epoxy-coating as the case may be is conducted in a spraying room approved by the Chief Fire Officer on premises registered for that purpose.

Application for spraying permit

80. Any person who wishes to obtain a spraying permit must -

- (a) complete and submit to the Chief Fire Officer an application form for such permit in the form and manner determined by the Council; and
- (b) pay the prescribed fee.

Cancellation of spraying permit

81. The provisions of section 24, read with the necessary changes, apply to the cancellation by the Chief Fire Officer of any spraying permit

Duties of owner, occupier or person in charge of spraying room

82. Every owner, occupier and person in charge of a spraying room must ensure that -
- (a) the spraying room complies with the requirements of this Chapter; and
 - (b) every other person on the premises complies with the provisions of this Chapter.

Design and construction of spraying rooms

83. Every spraying room must be designed and constructed according to the following criteria:
- (a) every window frame must consist of steel with window panels
 - (i) that cannot be opened;
 - (ii) that do not exceed 450 millimetres x 450 millimetres in size; and
 - (iii) that are fitted with wire glass with a thickness not less than 8 millimetres;
 - (b) if based on a brick and concrete construction –
 - (i) the floor must consist of concrete;
 - (ii) the walls must consist of brick or concrete;
 - (iii) the roof must consist of reinforced concrete; and
 - (iv) every door must consist of a Class B-type fire doors as contemplated in SABS 1253; and
 - (c) if based on a metal structure
 - (i) the framework of the structure, including door assemblies must consist of a sturdy steel profile with a minimum wall thickness of 2.5 millimetres;
 - (ii) the framework of the entire structure, including any door, must be clad on both sides with sheet metal with a minimum thickness of 1.3 millimetres;
 - (iii) the framework of the entire structure must be fume-proof, flame-proof and liquid-proof;
 - (iv) the floor must consist of concrete or metal;
 - (v) all material used must have a fire integrity grading of at least 60 minutes; and
 - (vi) the structure must be constructed, installed and finished so that all surfaces are smooth in order to prevent any furring which may hamper ventilation, washing or cleaning of the spraying room.

Water floors for spraying rooms

84. Every spraying room which is designed and constructed with a sunken water floor must be designed and constructed so that-
- (a) the water is covered at the level of the sill by a sturdy, stable, non-combustible and corrosion-free floor grill capable of bearing the weight of every person and object in the spraying room; and
 - (b) the water in the sunken water floor is circulated through an effective non-combustible and cleanable filtering system by a closed circuit pump circulation system consisting of non-corrosive metal pipes of suitable diameter and wall thickness.

Electrical equipment in spraying rooms

85. (1) Any electrical apparatus, light, fitting and switch gear installed or used in a spraying room must be installed and used in accordance with SABS 0108.
- (2) Any switch gear, distribution box, fuse and other electrical equipment, except equipment as contemplated in SABS 0108 must-
- (a) be located outside the spraying room; and
 - (b) be positioned so as not to come into contact with fumes from the spraying room.
- (3) Any switch for the mechanical ventilation system of a spraying room must be situated outside the spraying room.
- (4) Any metal part and electrical fitting and any other device used in, or in connection with, the spraying room, must be earthed effectively with each other and the ground.
- (5) Every electrical installation in a spraying room may be installed only by a suitably qualified electrician who must-
- (a) certify in writing that the installation complies with all applicable legal requirements; and
 - (b) furnish the certificate to the owner or person responsible for the premises concerned.
- (6) The owner or person responsible for the premises on which the spraying room is located must submit the certificate contemplated in subsection (5) to the Chief Fire Officer without delay.

Location of spraying rooms

86. (1) The owner, occupier and person in charge of a spraying room must ensure that there is an escape opening between the spraying room and any other activity, process or area on the premises concerned -

- (a) of a least 1 200 millimetres wide; and
- (b) that must at all times be kept free of any obstruction, refuse or combustible material.
- (2) If any other activity or process which may pose a fire hazard is conducted adjacent to a spraying room on any premises, the escape opening contemplated in subsection (1), must be clearly identified by a fire partition wall-
 - (a) of a height at least 300 millimetres higher than the roof of the spraying room; and
 - (b) with a fire resistance of at least 60 minutes.
- (3) No more than two sides of a spraying room contemplated in section 83 (1) (c), may border a fire partition wall.

Access to spraying rooms

87. In addition to any door for the access of motor vehicles or other objects to any spraying room, every spraying room must have at least two hinged doors for escape purposes that -
- (a) open to the outside of the spraying room;
 - (b) have dimension of at least 800 millimetres wide x 2000 millimetres high;
 - (c) are positioned on opposite sides of the spraying room so that the distance to be covered to any door when any object is in the spraying room for spraying does not exceed 4 metres; and
 - (d) are fitted with a locking mechanism that is at all times capable of being opened from the inside of the spraying room without the use of a key.

Ventilation of spraying rooms

88. Every spraying room must be equipped with a mechanical inlet and outlet ventilation system designed and installed -
- (a) so that ventilation of at least 0.5 metres per second is provided across the spraying room;
 - (b) with vanes consisting of static-free material;
 - (c) so that it releases fumes into the open air from outlets that are not located within 5 metres of any opening of a building or erf boundary;
 - (d) with ventilators that are attached firmly to the inside walls of the spraying room with bottom ventilators affixed as close as possible to the level of the sill;
 - (e) with ventilation and air duct openings installed in opposite walls, doors or the roof so as to ensure effective cross-ventilation; and
 - (f) with ducting material that is fitted with a fire damper and covering of at least 120 minutes fire resistance where the ducting material exists the spraying room, if ducting material is installed external to the spraying room in communication with the remainder of the building concerned.

Fire dampers, protectors and alarms in spraying rooms

89. (1) A fire damper manufactured and installed in accordance with SABS 193, must be affixed in front of any air purification filter or part of such filter on the inside of any spraying room.
- (2) The fire damper must -
- (a) be capable of closing automatically by means of a suitably located sensor that is activated by a rise of more than 10°C in the predetermined working temperature inside the spraying room;
 - (b) be installed so that it will remain in position even if the air duct distorts during a fire; and
 - (c) be equipped with an overriding fusible link
- (3) The ventilation system must be equipped with a sensor that -
- (a) is capable of turning off the ventilation system and any heating device used in connection with the spraying room, in the event of a fire or a rise of more than 10°C in the predetermined working temperature inside the spraying room; and
 - (b) activates a visual and audible alarm inside and outside the spraying room in an event contemplated in paragraph (a).

Design and positioning of ventilation outlets for spraying rooms

90. Every outlet opening from a spraying room must be designed and positioned to release fumes from the spraying room into the open air at least -
- (a) 1 metre above any roof on the premises;
 - (b) 4 metres above the ground level; and
 - (c) 5 metres from any opening of a building situated on or adjacent to the spraying room.

Display of signs on spraying rooms

91. (1) A symbolic sign prohibition open flames and smoking must be affixed to the inside and the outside of every door of a spraying room.
- (2) A symbolic sign contemplated in subsection (1), must be -
- (a) manufactured and installed in accordance with SABS 1186; and
 - (b) of dimensions at least 290 millimetres by 290 millimetres.

Manifold installations in spraying rooms

92. Every manifold installation of a Group II hazardous substance that forms an integral part of the heating system of any spraying room must -
- (a) comply with SABS 087 (Part 1); and
 - (b) the requirements of these By-laws.

General prohibitions regarding spraying rooms

93. No person may -
- (a) use any spraying room or allow any spraying room to be used unless signs prohibiting open flames and smoking are affixed to the spraying room in compliance with section 91;
 - (b) enter a spraying room or allow any other person to enter a spraying room without the authority of the owner, occupier or person in control of the spraying room;
 - (c) use any spraying room or allow any spraying room to be used for any purpose other than spray painting or related activities;
 - (d) enter any spraying room or allow any other person to enter a spraying room unless the mechanical ventilation system is operating; or
 - (e) place any obstruction or hindrance to be placed in any escape opening or in front of any door of a spraying room.

Fire extinguishing equipments in spraying rooms

94. (1) Every spraying room must be equipped with -
- (a) at least one 9 kilogram dry chemical fire extinguisher installed on the inside of the spraying room; and
 - (b) at least one 9 kilogram dry chemical fire extinguisher installed on the outside of the spraying room.
- (2) Fire extinguishers contemplated in subsection (1) must be installed in positions approved by a member of the Service.
- (3) Every spraying room must be protected by at least one fire hose reel as specified in SABS 543 that is connected to a water supply as contemplated in SABS 0400 (Part W); and that enables the hose reel to maintain a flow of at least 0.5 litres per second at work pressure of at least 300 kPa.

Chapter 9

FIRE BRIGADE SERVICES

Establishment and maintenance of Service

95. (1) The Council has established a Fire Brigade Service as contemplated in section 3 of the Fire Brigade Service Act (2) The Council must maintain the Service, which includes -
- (a) appointing a Chief Fire Officer and the necessary members of the Service;
 - (b) ensuring that they are properly trained; and
 - (c) acquiring and maintaining the necessary vehicles, machinery, equipment, devices and accessories to ensure that the Service is effective and able to fulfil its objects.

Objects of Service

96. The objects of the Service are -
- (a) to prevent the outbreak and spread of fire;
 - (b) to fight and extinguish any fire that endangers any person or property,
 - (c) to protect any person and property against any fire hazard or other danger contemplated in these By-laws; and
 - (d) to rescue any person and property from any fire or other danger contemplated in these By-laws.

Service to other persons

97. (1) The Service may, provide any service related to its objects to any other person against payment of the prescribed fee.
- (2) Any service contemplated in subsection (1), may be terminated without notice if the services, equipment or personnel involved in providing that service are required to deal with an emergency.

Instructions by members of Service

98. (1) In addition to any powers under section 8 of the Fire Brigade Services Act, a member may give any instruction to any person in order to secure compliance with these By-laws or to ensure the safety of any person or property.
- (2) An instruction may be given orally or in writing and if the instruction is given orally, the member must confirm it in writing and give it to the person concerned at the earliest opportunity.
- (3) An instruction contemplated in subsection (1) may include, but is not limited to an instruction -
- (a) for the immediate evacuation of any premises;
 - (b) to close any premises until such time as any contravention of these By-laws has been rectified;
 - (c) to cease any activity;
 - (d) to remove any immediate threat to the safety of any person or property;

- (e) to take specified steps to comply with these By-laws, either immediately, for the owner or occupier of the premises concerned to provide the Chief Fire Officer with a written description of the steps to be taken and a timetable for the taking of these steps in order to ensure compliance with these By-laws.

Pretending to be member of Service prohibited

- 99. (1) No person may pretend to be a member.
- (2) No person who is not a member may wear any official clothing, uniform, badge or insignia of the Service.

Certificates to identity members of Service

- 100. (1) The Chief Fire Officer must provide each member with a certificate identifying that person as a member.
- (2) A member, while performing any function or exercising any power under these By-laws must -
 - (a) Keep the certificate provided in terms of subsection (1), on his or her person; and
 - (b) Produce it for inspection on request by any person.

Cost of analysis samples

- 101. Any costs incurred by the Council in connection with the analysis of any sample taken from any premises for the purposes of these By-laws, and a report on such analysis by an institution accredited by the Chief Fire Officer for that purpose may be recovered from the owner or occupier of that premises if the owner or occupier of the premises is not in compliance with these By-laws regarding the substance concerned.

Chapter 10 MISCELLANEOUS

Handling of animals during emergencies

- 102. (1) The owner, occupier or person in charge of any zoological garden, feedlot, stable, research institution, veterinary practice or any place of veterinary science study, must ensure the professional handling of any animal on the premises concerned during an emergency.
- (2) Notwithstanding the provisions of subsection (1), the Chief Fire Officer may, in respect of any premises, authorize a suitably qualified person to handle or put down of any animal during an emergency.
- (3) If an exemption is granted in terms of subsection (2), the Council must issue a certificate of exemption to the person concerned, specifying the scope and period of the exemption and any condition imposed.
- (4) The Council may amend or withdraw a certificate of exemption at any time.
- (5) The holder of a certificate of exemption must ensure that the certificate is available on the premises concerned at all times for inspection by any member.

Approval, authorization or permission under these by-laws

- 104. Any person who requires any approval, authorization or permission contemplated in these by-laws, in respect of which no application procedure is provided, must apply for that approval, authorization or permission -
 - (a) by completing and submitting an application in the form and manner determined by the Council; and
 - (b) by paying the prescribed fee.

Cancellation of approval, authorization or permission

- 105. The provisions of section 24, read with the necessary changes, apply to any approval, authorization or permission contemplated in section 104.

By-laws bind State

- 106. These by-laws bind the State and any person in the service of the State. Offences and penalties

Offences and penalties

- 107. Any person who -
 - (a) contravenes or fails to comply with any provision of these by-laws;
 - (b) fails to comply with any notice issued or displayed in terms of these by-laws;
 - (c) fails to comply with any lawful instruction given in terms of these by-laws; or
 - (d) obstructs or hinders, or improperly influences or attempts to do so, any authorized representative or employee of the Council in the execution of his or her duties or performance of his or her powers or functions under these bylaws; is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.

Repeal of by-laws

- 108. Any by-laws relating to Fire and Emergency Services adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

109. These by-laws are called the Fire and Emergency Services By-Laws, 2022.

Annexure 1

GUIDE FOR EMERGENCY EVACUATION PLANS

Content of emergency evacuation plans

1. Every emergency evacuation plan contemplated in section 17 must contain at least the information under the headings below:

(1) Emergency telephone numbers

A list of all relevant emergency telephone numbers.

(2) General information

- (a) the physical address of the premises;
- (b) a description of the activities on the premises;
- (c) the number of persons present on the premises at any time;
- (d) an indication of any control room on the premises;
- (e) an indication of any alarm system on the premises; and
- (f) the particulars and contact details of every responsible person in the event of an emergency;

(3) Area study

An area study addressing the following:

- (a) a history of emergency incidents on the premises;
- (b) any important and relevant features or landmarks regarding the premises; and
- (c) any information regarding adjacent premises that may be relevant to evacuation in an emergency

(4) Socio-economic or other threats

Any socio-economic or other threats and their potential impact on the premises.

(5) Details of available equipment

Particulars and details regarding the position of the following equipment

- (a) equipment in the control room;
- (b) fire fighter and first aid equipment on the premises; and
- (c) any other equipment which may be relevant in an emergency.

(6) The emergency team

Particulars and details regarding the identity of members of the emergency team, including -

- (a) its management;
- (b) the continuity officers;
- (c) the fire teams; and
- (d) the first aid teams.

(7) Duties of emergency team members

The duties and responsibilities of members of the emergency team.

(8) Action plans and emergency procedures

Details of the specific action plans and emergency procedures applicable to the premises.

(9) Building plans and maps

The building plans of the premises and any relevant topographical map must be included in the evacuation plan.

(10) Emergency plan register The plan must include -

- (a) an updated register of the emergency evacuation plan;
- (b) an updated drill register for the emergency evacuation plan; and
- (c) a bomb threat questionnaire.

Review of emergency evacuation plans

2. (1) An emergency evacuation plan must be reviewed and updated by the owner or occupier of the premises concerned at least once each year and whenever a member of the management of the emergency team ceases to work at the premises.
- (2) Whenever an emergency evacuation plan is reviewed and updated, the owner or occupier of the premises concerned must ensure that all old plans on the premises or in the possession of the management of the emergency team are collected and destroyed in order to eliminate any confusion regarding the validity and accuracy of the evacuation plan.

Emergency evacuation drills

3. (1) An emergency evacuation plan should be drilled at least twice each year and involve the participation of all persons who work or reside in the building concerned.
- (2) The owner or person in charge of a building should give all persons who are to be involved in an emergency evacuation drill at least 21 days notice of the drill.

Emergency evacuation awareness

4. Every person who works or resides on premises should be aware of the emergency evacuation plan for that premises.

Training of persons

5. Every person who resides or works on premises with an emergency evacuation plan should be suitably trained in -
- (a) first aid or fire fighting;
 - (b) emergency aid;
 - (c) emergency evacuation procedures; and
 - (d) emergency management techniques.

Annexure 2**EXEMPTION FROM CERTIFICATE OF REGISTRATION**

A certificate of registration is in terms of section 35 (2) not required if the flammable substances concerned are of a type and do not exceed the quantity stipulated below:

GASES		
Class 0	Liquefied petroleum gas	Flat-Total cylinder capacity may not exceed 9kg per flat
		Houses or commercial premises - Total maximum of 19kg inside and total maximum of 100kg on premises
		Industrial premises - Maximum of 19 kg per 600 m ³ of building space with a total maximum of 100kg
FLAMMABLE LIQUIDS AND COMBUSTIBLE LIQUIDS		
Class I	Liquids that have a closed-cap flash point of below 38°C	Total maximum of 40 litres
Class II	Liquids that have a closed-cap flash point of 38°C or above, but below 60.5°C	Total quantity of Class II and Class III A together may not exceed the maximum quantity of 210 litres
Class III A	Liquids that have a close-cap flash point of 60.5°C or above but below 93°C	

Annexure 3**EXEMPTION FROM TRANSPORT PERMIT**

A transport permit is in terms of section 73 not required for the transport of dangerous goods of the type and not exceeding the quantity stipulated below.

GROUP	DESCRIPTION	QUANTITY
II	GASES	
	Flammable gases	Total cylinder capacity may not exceed 50 kilograms
	Non-flammable gases	Total cylinder capacity may not exceed 333 kilograms
III	FLAMMABLE LIQUIDS	

	With flash points $\leq 18^{\circ}\text{C}$	Total quantity may not exceed 100 litres
	With flash points $> 18^{\circ}\text{C}$ but $\leq 23^{\circ}\text{C}$	Total quantity may not exceed 420 litres
	With flash points $> 23^{\circ}\text{C}$ but $\leq 61^{\circ}\text{C}$	Total quantity may not exceed 1 100 litres
	With flash points $> 61^{\circ}\text{C}$ but $\leq 100^{\circ}\text{C}$	Total quantity may not exceed 1 100 litres
IV	FLAMMABLE SOLIDS	
	Flammable solids	Total quantity may not exceed 250kg
V	OXIDIZING AGENTS AND ORGANIC PEROXIDES	
	Oxidizing agents	Total quantity may not exceed 200kg
	Group II organic peroxides in packets	Total quantity may not exceed 200kg
VI	TOXIC / INFECTIVE SUBSTANCES	
	Group I toxic substances in packets	Total quantity may not exceed 5kg
	Group II toxic substances in packets	Total quantity may not exceed 50kg
	Group III toxic substances in packets	Total quantity may not exceed 500kg
VIII	CORROSIVE / CAUSTIC SUBSTANCES	
	Group I acids in packets	Total quantity may not exceed 50kg
	Group II acids in packets	Total quantity may not exceed 200kg
	Group III acids in packets	Total quantity may not exceed 1000kg
	Group I alkaline substance in packets	Total quantity may not exceed 50kg
	Group II alkaline substance in packets	Total quantity may not exceed 200kg
	Group III alkaline substance in packets	Total quantity may not exceed 1000kg
IX	MISCELLANEOUS SUBSTANCES	
	Liquids	Total quantity may not exceed 210kg
	Solids	Total quantity may not exceed 210kg

Annexure 4
SABS CODES OF PRACTICE AND SPECIFICATIONS

SABS Code	Title
SABS 019	Portable metal containers for compressed gas - basic design, manufacture, use and maintenance.
SABS 087: Part 1	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 1: Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500/ and a combined water capacity not exceeding 3000/ per installation.
SABS 087: Part 3	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 3: Liquefied petroleum gas installations involving gas storage vessels of individual water capacity exceeding 50007.
SABS 087: Part 4	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 4: Transportation of liquefied petroleum gas in bulk by road.
SABS 087: Part 7	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 7: Storage and filling sites for refillable liquefied petroleum gas (LPG) containers of capacity not exceeding 9kg.
SABS 089: Part 1	The petroleum industry, Part 1: Storage and distribution of petroleum products in above ground bulk installations.
SABS 089: Part 2	The petroleum industry, Part 2: Electrical installations in the distribution and marketing sector.
SABS 0105: Part 1	The classification, use and control of fire fighting equipment, Part 1: Portable fire extinguishers.
SABS 0108	The classification of hazardous locations and the selection of apparatus for use in such locations.
SABS 0131	The handling and storage of liquid fuel, Part 2: Large consumer premises.
SABS 0142	The wiring of premises.
SABS Code	Title
SABS 0177: Part 5	The testing of materials, components and elements used in buildings: Non-combustibility at 750°C of building materials.

SABS 193	Fire dampers
SABS 0228	The identification and classification of dangerous substances and goods.
SABS 0230	Transportation of dangerous goods: Inspection requirements of road vehicles.
SABS 0232: Part 1	Transportation of dangerous goods - Emergency information systems, Part 1: Emergency information systems for road transportation.
SABS 0263	The warehousing of dangerous goods, enclosed storage and covered and uncovered outdoor storage yards.
SABS 0400	The application of the National Building Regulations.
SABS 1186: Part 1	Symbolic safety signs, Part 1: Standard signs and general requirements.
SABS 1253	Fire doors and fire shutters.
SABS 1398	Road tank vehicles for flammable liquids.
SABS 1475: Part 1	The production of reconditioned fire fighting equipment, Part 1: Portable rechargeable fire extinguishers.
SABS 1518	Transportation of dangerous goods - Design requirements for road tankers.
SABS 1571	Transportable rechargeable fire extinguishers.
SABS 1573	Portable rechargeable fire extinguishers - Foam type extinguishers.

PROPOSED FINES FOR FLAMMABLE LIQUIDS

Number of section	Description of offence	Fine
35(1)	Failing to comply with requirements to have a Certificate of Registration in respect of Flammable Substances for the premises concerned.	R 1 000,00
35(3)	Use, handle or store any Flammable Substance that will endanger the safety of any building and/or person and/or animal	R 1 000,00

Number of section	Description of offence	Fine
38	Failing to make available Certificate of Registration for the premises concerned	R 500,00
39(1) (a)	Failing to comply with the requirements for equipping premises with portable fire extinguishers	R 1 000,00
39(1)(b)	Failing to comply with the requirements for equipping premises with hose reels	R 1 000,00
39(1)(c)	Failing to comply with the requirements for equipping premises with fire hydrants	R 1 000,00
39 (3) (a)	Failing to comply with the requirement is maintained and serviced	R 1 000,00
39 (3) (b)	Failing to comply with the requirement adequately from the weather	R 500,00
39 (3) (c)	Failing to display symbolic safety signs	R 500,00
45(1) (a)	No person may use, handle or store flammable substances on any premises that will cause a fire or explosion	R 1000,00
45(1)(b)	No person may use, handle or store flammable substances that will obstruct the escape of any person and / or animal during and emergency	R 1 000,00
45 (2) (a)	No person may dump or spill any flammable substances	R 1 000,00
45 (2) (h)	Use or allowed flammable substances in any basement level	R 1000,00
45(2)(j)	Delivery or supply any flammable substances to premises that the are not in possession of a valid Certificate of Registration	R 2 000,00
46(1) (a)	Failing to comply with the requirements to have a Certificate of Registration for the use, handling or storage of liquefied petroleum gas	R 1 000,00
46 (2)	Use, handle or store liquid petroleum gas outside property boundaries	R 1 000,00

Number of section	Description of offence	Fine
46(3)	Failing to comply with the requirements for storing liquid petroleum gas cylinders at Service Stations	R 1500,00
46(4)	Failing to comply with the requirements for liquid petroleum gas cylinders at public exhibitions and/or demonstrations	R 1 000,00
49 (a) (b)	Failing to comply with the requirements for a flammable liquids store	R 1 000,00
60	Failing to comply with the requirements for a mixing and decanting room	R 1 000,00
60(1)	Failing to obtain a temporary Certificate of Registration for storage of flammable liquids on a temporary basis	R 1000,00
63(1)(a)(b)	Failing to comply with the requirements for permanent aboveground storage tanks for flammable liquids	R 1000,00
64	Failing to comply with the requirements for permanent aboveground storage tanks for flammable liquids	R 1000,00
65(1)	Failing to comply with the requirements for installing, erecting, removal and demolishing without prior notification	R 1 000,00
67(1)(a)(b)	Failing to comply with the requirements for the termination of storage and use of flammable substances	R 1000,00
68(6)	Failing to comply with the requirements of flammable and combustible liquids to be stored in a store room	R 1000,00
69 (a) (b)	Failing to comply with the requirements to obtain a permit for the transport of dangerous goods	R 1000,00
74 (a) (b)	Failing to comply with the requirements for the design, construction, maintenance and repair of road tankers	R 1000,00
75 (a) (b)	Failing to comply with the requirements for the design, construction, maintenance and repair of other vehicles transporting dangerous goods	R 1 000,00

Number of section	Description of offence	Fine
76 (1) (b)	Failing to comply with the requirements for fire extinguishers on vehicles transporting dangerous goods	R 1 000,00
77 (1)	Failing to comply with the directive not deliver or supply dangerous goods to unregistered premises	R 2 000,00
77 (2)	Failing to comply with the directive not deliver or supply dangerous goods in excess quantities than what the Registration Certificate allows	R 2 000,00
77 (4)(a)(b)(c)	Failing to comply with the safety requirements when delivery of dangerous goods are made to premises	R 1000,00
77 (4) (d)	Failing to comply with the safety requirements for storage facilities for the storage of dangerous goods	R 2 000,00
79(1)	Failing to comply with the safety requirements to have a spray permit for spray painting with a flammable substances	R 1000,00

[PROVINCIAL NOTICE NO.51 OF 2022]

**FRESH PRODUCE MARKETS BY-LAWS
SCHEDULE**

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CHAPTER 1

1. Definitions

1. In these By-laws, any word or expression which has been defined in the Agricultural Produce Agents Act, 1992 (Act 12 of 1992), has that meaning and, unless the context otherwise indicates:-
 - "Act"** means Agricultural Produce Agents Act, 1992 (Act 12 of 1992);
 - "Administrative Tribunal"** means any administrative tribunal charged by law or delegation of the Council to resolve disputes in terms of this by-law.
 - "approved"** means approved by the Council;
 - "article"** means any produce, goods, object or thing brought onto the market for any purpose whatsoever,
 - "Buyer"** means any person entering the precincts of the market site for the purpose of buying any article on the market or any person who has concluded a direct sale, a direct purchase or a private treaty sale in terms of this by-law;
 - "Buyer's Card"** means a card referred to in subsection 6.7 I issued to a buyer for the purposes of enabling such buyer to purchase produce on the market;
 - "Consignment"** means any quantity of produce entrusted to the Council or a market agent for sale on behalf of any person;
 - "Constitution"** means the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996);
 - "Container"** means any box, carton, pallet, tray, pocket, package or other receptacle of a shape and size approved by the Council;
 - "Council"** means
 - (a) the Local Municipality of Dihlabeng established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), exercising its legislative and executive authority through its municipal Council ; 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); or
 - (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No 32 of 2000) or any other law, as the case may be.
 - "Direct sale"** means any sale of produce concluded by a market agent between a vendor and a buyer, which is in accordance with this by-law, but in respect of which delivery of produce is made directly between vendor and the

buyer, which sale is recorded in Council's official trading system without the produce concerned arriving at or being placed on the market site;

"Direct purchase" means the sale of produce concluded between a vendor and a buyer which is in accordance with this by-law without the sale being concluded by a market agent and which sale goes through Council's official trading system on the market and takes place on the market site;

"Loading Bay" means any area on the market site demarcated by the Council as a "loading bay" with signs and markings laid down under the regulations made under the Road Traffic Act, 1989 (Act 29 of 1989);

"Market" means Council's National Fresh Produce Market established on the area known as and includes all land, buildings, plat-forms and other property within the said area, used either wholly or partially, directly or indirectly for the purpose of conducting the market; or any other market established by the Council within its area of jurisdiction;

"Market Agent" means a fresh produce agent as defined in the Act, or someone who facilitates sales of any produce for the acquisition of gain for his own account or in a partnership or who, on behalf of any other person, buys or sells any produce on the market or negotiates in connection therewith or canvasses or undertakes or offers to canvass to a buyer or vendor therefore, or who concludes a direct sale, direct purchase or private treaty sale;

"Market dues" means all monies due and owing to the Council by any party to any market transaction in terms of this by-law read with the market tariffs;

"Market tariffs" means the tariffs determined by the Council from time to time;

"Nuisance" means any act, omission or conduct which is offensive to any person or which materially interferes with the orderly conduct of the market;

"Private Treaty Sale" means a sale negotiated and concluded between a market agent and a buyer which is recorded in Council's official trading system;

"Procurement" means the distribution of information with a view to gather, store, or organise the movement of or the handling of produce;

"Produce" means any kind of agricultural or horticultural produce, or commodity as approved by Council from time to time;

"Produce entry document" means a document issued to a seller by the Council prior to the entry of the vendor into the market which shall contain such information as the Council may determine;

"Sales docket" means a document issued by the Council containing the information set out in subsection 6.7.5;

"Salesperson" means a person in the employ of a market agent, who acts on behalf of such market agent in any transaction on a fresh produce market or who concludes a direct sale, direct purchase or private treaty sale and is duly authorised by the Council to be employed as a salesperson on that market and who is in possession of a valid permit issued by the Council

"Salesperson's Permit" means the document issued by the Council authorising a salesperson, employed by a market agent, to operate on a fresh produce market in a specific sales section.

"Unit" means the quantity of any produce which forms the basis upon which the price of such produce is calculated, except where the produce is contained in an unbroken container, in which case such produce, as so contained, shall constitute a unit;

"Vendor" means the owner of produce consigned to or brought onto a produce market for sale, or any person bringing any article onto the market for sale or any other purpose, either for himself or for any other person through a market agent, or any other person on whose behalf a market agent has concluded a direct sale, direct purchase or private treaty sale.

"Wholesaler" means a person on the market site who, in terms of a valid contract with the Council, has a right to procure or buy produce, be involved in a direct sale or provide produce to other vendors within an approved designated facility and within Council's official trading system.

CHAPTER 2

Applicability of By-Law

2. This by-law shall be applicable on all markets established, controlled or managed by the Council within its jurisdiction.

CHAPTER 3

General Regulations on Market Site

Business Hours

3. The market shall be open on such days and during such hours as the Council may from time to time determine.

Vehicles and Security

4. (1) The Council shall control and regulate the volume and movement of vehicles entering the market or within the precincts of the market by way of written or oral instructions.

- (2) The Council shall be empowered to set aside parking spaces on the market from time to time and regulate the use of such parking spaces.
- (3) The Council shall set aside loading bays to cater for the loading and off-loading of goods, and the provisions of subsections (1), (2), (4) and (5) of this bylaw shall mutatis mutandis apply to this subsection
- (4) The Council may forbid any vehicle or any class of vehicle from entering or being on the market.
- (5) The Council or its authorised representative or any Peace Officer may on the market, without warrant, search any vehicle or receptacle of whatever nature and seize any article in respect of which any offence has been, or on reasonable grounds, is suspected to have been committed.

Conduct and Control

- 5. The conduct of the market shall be under the control of the Market Master in accordance with all relevant laws and resolutions of the Council, and all persons on the market shall obey his lawful instructions and all such relevant laws and resolutions, including the provisions of these by-laws.

General Conduct of Persons on the Market Site

- 6. (1) The Council shall take all reasonable steps as may be necessary to ensure the safety and health of all persons on the market and an appropriate environment for the conduct of a fresh produce market and to this end shall control and regulate the conduct of persons entering and upon the market site by way of written or oral instructions, directives or policies as amended from time to time.
- (2) No person shall enter any part of the market without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years shall at any time be admitted to any part of the market except when under the direct supervision of an adult who will be responsible and accountable for such minor.

Registration of Porters or Carriers

- 7. (1) No person shall ply for hire as a porter or carrier on the market, unless in possession of a permit issued by the Market Master. Such a permit shall be valid for one week and may be issued to persons approved by the Market Master upon payment of a charge determined in terms of Act 82 of 1970.
- (2) Every person plying for hire as a porter or carrier on the market shall be in possession of a permit as mentioned in subsection (1) by the Market Master.
- (3) No porter or carrier on the market shall ply or canvass for hire by shouting or by persistently following a buyer or prospective buyer or fail to keep his person and clothing in a clean and tidy condition to the satisfaction of the Market Master.
- (4) No porter or carrier on the market shall, at any time while he is not engaged or plying for hire be upon any portion of the market other than an enclosure or area set aside by the Market Master for such purpose.
- (5) Any porter or carrier contravening subsections (1) to (4) inclusive shall be ordered off the market by the Market Master who may also cancel his permit, and no refund of any charge paid by such person shall be made in such event.

Market Sales

- 8. (1) The Council shall take all reasonable steps as may be necessary:-
 - (a) to ensure that the business conducted on the commission floor is transacted in accordance with the laws relating to fresh produce markets.
 - (b) to ensure that all disputes relating to market transactions are resolved as expeditiously as possible.
- (2) The Council may:-
 - (a) satisfy itself in such manner as it may determine that a consignment is truly represented by any sample displayed or offered for sale on the market;
 - (b) inspect any goods brought onto the market site;
 - (c) inspect any goods purchased on the market whilst such goods are on the market site;
 - (d) impound any goods the subject of any, dispute on the market site until such time as such dispute is resolved.
- (3) The Council may by reasonable notice on a notice board or otherwise forbid the sale of any item on the market;
- (4) If the Council reasonably suspects that any articles submitted for sale on the market are stolen property, shall refuse to allow such articles to be offered for sale or to permit them to be sold, and it shall, if it so suspects only after the sale, retain the proceeds of such sale until it has been satisfied as to the ownership of such articles.
- (5) The Council may at the cost of the owner impound, reject or decline to accept any article which in its opinion is offensive, diseased, unsound, unwholesome or unfit for consumption by human beings or animals, or is contained in a container likely to contaminate it or any other article with which such a container may come into contact.

- (6) The Council may by reasonable notice on a notice board or otherwise prohibit or prescribe the use of certain containers for different classes of articles.
- (7) The Council may refuse to release any article if it has reason to believe that either a buyer, vendor, market agent or employee of a market agent has failed to comply with any condition of sale imposed by the Council or this by-law.
- (8) The Council may issue such internal directives regarding sales or purchases as it may deem necessary.

Market Agents

- 9. The Council shall keep a register of all market agents in which is recorded all details of the ownership and the directorate of each market agent and of all persons employed by such market agent.

Information

- 10. (1) The Council may demand any information, for statistical or any other lawful purpose, from any person relating to any aspect of sales on the market.
- (2) The Council may post internal managerial directives relating to the market upon a notice board in a prominent position on the market site and such posting shall be deemed to be sufficient notice of any such matter to all persons concerned.

Monies and dues

- 11 (1) The Council may demand, sue for and recover any amount due to or due by any person on behalf of whom or to whom any produce has been sold. If such a person fails to comply with a demand so made, the Council may set off such amount against any monies in its possession or under its control belonging to such a person.
- (2) If the Council has reason to believe that if monies in its possession are paid out to any person other than the person to whom they are lawfully due, or will not reach the person entitled to them, it may withhold payment of such monies until it is satisfied that they will reach the person entitled to them, or direct that they be paid directly to the person so entitled in a manner determined by the Council.
- (3) The Council shall be empowered to set off any outstanding debts owed to it against any monies in its possession belonging to the debtor.
- (4) No liability shall devolve on the Council for any action taken in good faith in terms of this section.
- (5) Any person operating or trading on the market shall pay to the Council such market dues as prescribed in the applicable market tariffs determined by Council from time to time.

Disputes

- 12. In the event of any dispute arising on the market site, the Council may impound and hold as sequester any property on the market belonging to any party to the dispute, of a value it considers to be sufficient to satisfy the claim of any other party, and may hold such property until such time as the dispute has been determined by the Council or a court of law,

Sequestration of Property

- 13. (1) Any article:
 - (a) left on the market site which is not claimed within 24 hours by the person entitled thereto; or
 - (b) already sold but which remains uncleared at the time of the closing of sales on any day, or
 - (c) impounded by the Council in terms of subsection 8 (4), 8 (5) or 12 shall be sequestered to the Council and the Council may:-
 - (i) sell the articles referred to in subsection (1) (a) forthwith;
 - (ii) re-sell the articles referred to in subsection (1) (b) on the following day, or
 - (iii) sell the articles referred to in section 12 on the determination of the dispute.

Market Management Board

- 14. (1) The Council may appoint a Market Management Board in terms of the Council's Delegation of Operation and Decision Making Powers as amended by the Council from time to time or such other document issued by the Council.
- (2) The Market Management Board shall have an advisory function and shall assist the Council in resolving disputes relating to the market and shall provide the Council with proposals regarding internal managerial, financial and operational matters on request.
- (3) The Constitution and the functions of the Market Management Board shall be those contained in Council's Delegation of Operation and Decision-making Powers.

CHAPTER 4

The Business of Market Agents and their Sales Personnel

Register of Market Agents

- 15. (1) Market agents shall be entitled to operate on the market after being approved by Council according to the procedure which is in place at the time.
- (2) No person shall carry on the trade or business of a market agent on the market unless he is in possession of a valid market agent's licence.

- (3) Every market agent shall, prior to any change in directorship, ownership or change of personnel, obtain the written approval of the Council.
- (4) No market agent shall be involved in or trade in any other agency registered with the Council or trade in or be involved in any sub-agencies.
- (5) Every market agent so applying shall satisfy the Council that:
 - (a) he is a fit and proper person to carry on the trade or business as a market agent; and
 - (b) he is legally qualified to conduct the business of a market agent;
- (6) The Council shall be empowered to refuse to issue, suspend or renew a licence if the market agent concerned:
 - (a) has an interest, either directly or indirectly, or involved in any other business established for the production, sale, purchase or dealing in. produce or articles of any kind usually sold on the market; or
 - (b) has been found guilty of the contravention of any law, by-law or regulation relating to the market;
 - (c) is not a fit or proper person to be trading on or employed at the market;
 - (d) has acted in any way prejudicial to the interest of the market.
- (7) Refusal by the Council to issue, suspend or renew a licence shall not debar an applicant from again applying for a licence within a reasonable time from his application being refused.
- (8) Every licence shall be valid from its date of issue until cancelled or withdrawn by the Council.

Permits

- 16. (1) No salesperson shall be employed as a salesperson until a valid salesperson's permit has been issued by the Council.
- (2) All applications for permits shall be submitted to the Council on the prescribed form.
- (3) Every salesperson so applying shall satisfy the Council that:
 - (a) he is a fit and proper person to carry on the trade or business of a salesperson;
 - (b) he is legally qualified to conduct the business of a salesperson;
- (4) The Council shall be empowered to refuse to issue, suspend or renew a permit if the salesperson concerned:
 - (a) has an interest, either directly or indirectly, or involved in any other business establishment for the production, sale, purchase or dealing in. produce or articles of any kind usually sold on the market; or
 - (b) have been found guilty of the contravention of any law, by-law or regulation relating to the market;
 - (c) is not a fit or proper person to be trading on or employed at the market; or
 - (d) has acted in any way prejudicial to the interest of the market.
- (5) Any refusal by the Council to issue, suspend or renew a permit, shall not debar an applicant from again applying for a permit within a reason time from his application being refused.
- (6) Every permit shall be valid from its date of issue until cancelled or withdrawn by the Council.

Employees

- 17. (1) Every market agent shall be responsible for the conduct of all persons in his employ, and shall be personally liable for any damage done to any property on the market by himself or any of his employees.
- (2) No market agent may:-
 - (a) fail to terminate the services of any employee convicted of a criminal offence of any law, by-law or regulation relating to the marker, or
 - (b) engage or re-engage within the market any person whose services have been terminated in terms of subsection (a).
- (3) Every employee of any person operating on the market site shall be in possession of a valid permit issued by Council in terms of internal directives issued by Council from time to time.

Business Principles

- 18. (1) No market agent shall conduct his business other than in accordance with the provisions of the Act, the Rules made under section 22(1) of the Act or this by-law.
- (2) No market agent shall, when conducting private treaty sales, show preference to any person in any way whatsoever.
- (3) No market agent or employee of a market agent shall purchase produce on the market except for private use and at a price not lower than the price at which similar produce was sold on the market on the same day.

CHAPTER 5

General Practices on the Market Site Delivery Notes and Waybills

19. (1) Every person bringing or causing to be brought onto the market any produce shall, immediately on its entry on the market premises, register such produce with the Council and the relevant party to whom the article is consigned.
- (2) The Council may obtain from the transporting organisation a copy of every deliver, note or waybill issued by the organisation and any other particulars required by him in respect of every article delivered to the market by the said organisation.
- (3) The Council shall issue a goods received note based on the waybill/delivery note presented by the vendor/ transporter showing:
 - (a) the date of arrival;
 - (b) the full name and address of the vendor,
 - (c) the description of the article;
 - (d) the description of the container.
 - (e) the mass or quantity;
 - (f) the variety or quality;
 - (g) the name or code mark of the market agent or party to whom such article is sent;
 - (h) the registration number of the vehicle, if any, and
 - (i) any other particulars that may from time to time be required by the Council
 and every vendor shall be obliged to furnish the council with the full and correct information.

Containers

20. (1) Every container shall have the name and address of the consignor and market agent clearly and legibly marked in capital letters on such container or on a label securely attached to it.
- (2) All other names, addresses or marks, except the name of the consignee, shall be obliterated.

Passage of Risk

21. Every article brought onto the market shall at all times be at the sole risk of the market agent or party to whom it is consigned until it is sold, whereafter the risk shall pass to the new owner.

The Vendor

22. (1) Any vendor who wishes to remove from the market any article brought onto the market site by him shall first obtain the prior written consent of the Council before removing such article.
- (2) No person shall bring onto the market or display, any produce which is packed in such a manner that the produce at the top or sides of the container is of better quality or larger size than the produce in any other part of the container.
- (3) No person other than a person who is a registered market agent may be a vendor on the market sales floors.

Implied Conditions of Agency

23. Every market agent shall account promptly, correctly and in full to the vendor for the proceeds of any sale after receiving payment from the Council and shall pay the vendor the amount owing to him after deducting from such monies any amount which he is legally entitled to do.

CHAPTER 6

Sales Practice

General

24. (1) No-one shall canvass on the sales floor or anywhere on the market, directly or indirectly or by any means whatsoever, with a view to secure direct dealings with potential buyers.
- (2) No articles shall be sold except according to quality, mass, number or otherwise required by law or as determined by the Council.

Direct Sales

25. No person shall conduct a direct sale unless:
 - (1) he has obtained prior written approval from the Council.
 - (2) such details of such sale and such relevant documents and information required for consignment auditing purposes in relation to such sale have been furnished to the Council upon request:
 - (3) Council may from time to time publish commodity lists of products which it deems fit to prohibit for direct sales.

Direct Purchases

26. (1) No person shall enter into any direct purchase arrangement with a vendor unless:
 - (a) he has obtained prior written approval from the Council;
 - (b) the full details of such purchase are declared at the entry gates and the original copy of the waybill(s) is handed in at such control gates:
 - (c) such details of such purchase and such relevant documents and information required for consignment auditing purposes in relation to such purchase have been furnished to the Council upon request;

- (2) No delivery of a declared direct purchase may be received on any part of the market except at the approved trading facility allocated to the recipient.
- (3) No produce received as a direct purchase shall -be stored in the Council's own cold-storage facilities or market agency owned cold-storage facilities unless specific prior written approval from the Council has been acquired.
- (4) Council may from time to time publish commodity lists of products which it deems fit to prohibit for direct purchases.

Procurement

- 27. (1) No person shall co-ordinate, store, serve as broker, trade by computer, or negotiate the movement, storage, trading, assembling or procuring of any produce or consignment thereof on. or off the market sales floor or market site, without having obtained prior written approval from the Council.
- (2) No person shall in whatsoever way serve as a middle-man, communicator, exporter or importer unless prior approval has been granted by the Council.

Market Agents

- 28. (1) It shall be the responsibility of the market agent concerned to ensure that articles which are required to be sold by mass are arranged in units, the mass of which shall comply with any legal requirements, before such articles are displayed for sale, offered fix- sale or sold and such mass shall be clearly and legibly marked on such articles and their containers.
- (2) No articles shall be displayed for sale, offered for sale or sold unless the container is marked in the manner described in section 20.
- (3) No article required by law to be graded, shall be offered for sale or sold on the market unless it has been submitted by the market agent concerned for inspection and has been inspected as prescribed by law and the grade assigned to it as a result of such inspection has been clearly marked on it by such market agent
- (4) No article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner shall be offered for sale or sold or removed from the market agent unless it complies in every respect with the requirements of such law, provided that the Council may, in its discretion, direct that any article be sold if it deems it expedient to do so.
- (5) All sales by market agents shall be conducted by private treaty, unless otherwise directed by the Council.
- (6) No market agent shall offer for sale or sell any article by private treaty unless he is in a position to deliver the article concerned as soon as the purchase price has been paid by the buyer, except in the case of a direct sale when delivery may be effected directly between buyer and vendor.
- (7) No market agent shall conclude a direct sale between a vendor and a buyer and fail to obtain prior authority from the Council, omit or neglect to advise the Council in advance of the details of such direct sale.

Wholesalers

- 29. (1) No wholesaler or his personnel may trade on the sale floors or any other area other than the area designated to him by the Council.
- (2) No wholesaler or his personnel may be involved in retail trading unless Council's prior written approval has been obtained.
- (3) No wholesaler or his personnel may introduce business practices that will result in such wholesaler or his personnel competing with the trade on the commission sales floor.

Purchases and Payment

- 30. (1) All buyers shall obtain from the Council a buyer's card which shall be issued by the Council in the prescribed manner.
- (2) In the case of all sales, whether by private treaty, direct sale or by public auction, the buyer shall immediately upon a sale being concluded present his buyer's card to the market agent concerned who shall record the details of such sale in the prescribed manner.
- (3) No market agent or his employees shall receive or handle cash in respect of any purchase on the trading floor except as prescribed by internal directives issued by Council from time to time.
- (4) No buyer may remove any produce from the market site unless he is in possession of a valid sales docket
- (5) Every sales docket referred to in subsection (4) shall be clearly and legibly completed and shall contain the following information:-
 - (a) the date of transaction;
 - (b) the market agent's name;
 - (c) in the case of a credit buyer, his full code, name and number;
 - (d) a description of the article sold;
 - (e) a description of the type of container used;

- (f) the quality of the article sold;
 - (g) the mass, quantity or number of units, as the case may be. of the article sold;
 - (h) the price per unit;
 - (i) the full purchase price; and
 - (j) such other information as may be required by the Council from time to time.
- (6) In the event of a direct sale, the market agent or vendor shall for the purpose of obtaining the consent of the Council, provide the Council with the purchase price relating to such a sale, a sales docket and a delivery note showing:-
- (a) the date;
 - (b) the name, code and address of the vendor;
 - (c) the name and address of the buyer;
 - (d) the commodity;
 - (e) the quantity and quality of the article sold;
 - (f) the price per unit: and
 - (g) any other information that the Council shall reasonably require in respect of such sale.

Implied Conditions of Sale

31. The market agent shall be responsible for delivering to the buyer the correct quantity, mass, quality, grade and variety of the purchased article in its proper container.

Accounting

- 32 (1) The Council shall keep a correct account of all articles sold and monies handled.
- (2) All accounts of the Council and all books, records and documentation relating thereto shall at all times be open to inspection by any person as may from time to time be appointed by the Council or the Auditor-General to carry out such inspection.
- (3) The Council shall pay the proceeds of the sale of any article consigned to a market agent and sold on the market, or sold by means of a direct sale, to such market agent's Trust account after deducting there from the market dues, levies, duties or charges payable in respect of such sale; provided that in the case of a direct sale the Council may withhold such proceeds pending written certification by the market agent that the sale has been completed and delivery effected to the satisfaction of both vendor and buyer.

CHAPTER 7

Procedures

33. (1) All persons shall:-
- (a) on arrival, register any article brought to the market for sale thereon with the Council in the prescribed manner;
 - (b) pay, at a time specified by the Council on the produce entry document an ad valorem tariff of the value of the produce brought onto the market as prescribed by the market tariffs and assessed by the Council.
 - (c) refrain from conducting business in any manner otherwise than in accordance with this by-law,
 - (d) keep any vehicle, basket or container brought onto the market site clean and tidy to the satisfaction of the Council
 - (e) refrain from selling, offering, introducing, hawking or carrying about for sale any produce on the market without the prior permission of the Council.
 - (f) refrain from placing or causing to be placed any objectionable matter in any refuse receptacle.
 - (g) only enter the market if he has lawful business thereon.
- (2) Without the scope of the powers vested in the Council being limited in any way, no person shall, on the market:-
- (a) smoke in any part where a notice prohibiting smoking is displayed;
 - (b) light a fire, save at such times and in such places as have been authorised by the Council;
 - (c) stand, sit or lie upon or against any produce or container;
 - (d) throw anything at any person or object;
 - (e) without lawful reason tamper with or remove or cause to be removed any produce, container or pallet exposed for sale, or any label on such produce or container,
 - (f) without the written permission of the Council erect any fence or building or convert existing buildings or. erect partitions or. install wiring or electrical installations or fittings or extend existing wiring or electrical installations or fittings or make any other changes of a like to such premises on the market;
 - (g) introduce or cause or allow to be introduced into or enter any drain, gully or stormwater drain any matter likely to cause blockage or damage or any sewerage, oil, foul water or other objectionable substance;

- (h) without the permission of the Council wash, sort, grade or clean fruit, vegetables, any vehicle or other article;
 - (i) interfere with or molest any person or interfere with the proper carrying on of any business;
 - (j) save with the permission of the Council enter or remain or cause any article, animal or other thing to enter or remain on any part thereof on days or at times when the market is closed;
 - (k) fail or refuse to depart or to remove any vehicle, animal or other thing when lawfully instructed by the Council to do so;
 - (l) spit, loiter, use any threatening, obscene, abusive, violent, offensive or disgusting language, make any loud or unseemly noise or cause a disturbance;
 - (m) touch, taste, handle or move any produce exposed for sale in such a way as to render it liable to contamination;
 - (n) wilfully damage or deface any property;
 - (o) discard or deposit in any place other than receptacles provided for the purpose of any fruit-peel, vegetable leaves or other refuse of any kind whatsoever;
 - (p) drive, propel, or ride any vehicle, trolley, handcart or mechanical handling equipment in such a way as to endanger persons or damage property; or
 - (q) disobey any signs or directions within its roadways,
- (3) No person shall offer for sale or sell any produce on the market before the commencement of sales or after the closing of sales.
- (4) No person shall:-
- (a) take any vehicle onto the market site without first obtaining the permission of the Council;
 - (b) neglect or refuse to place any vehicle under his control in the position assigned to such vehicle by the Council or to comply with any lawful direction given to him by the Council for the purposes of section 4.;
 - (c) being in charge of any vehicle, park such vehicle in any place within the market site other than in a space set aside in terms of section 4 (3) hereof, unless he is otherwise directed by the Council;
 - (d) take or cause or permit to be taken onto the market site any class of vehicle forbidden by the Council in terms of section 4 (4);
- (5) No person in charge of any vehicle shall:-
- (a) except by reason of a cause beyond his control, allow such a vehicle to remain stationary in a loading bay for any purpose other than for the loading or off-loading of goods; or
 - (b) permit any vehicle to remain in a loading bay for a period longer than is absolutely necessary for the loading or off-loading of goods; or
 - (c) drive, propel or ride any vehicle within the precincts of the market in such a way as to endanger persons or property.
- (6) No person shall:-
- (a) place any article or thing anywhere on the market site so as to cause inconvenience or obstruction or as to prevent the proper sweeping, washing or cleaning of the market site;
 - (b) ignore an instruction from the Council to immediately remove any article or thing from the market site or from one part of the market site to another when instructed to do so by the Council; or
 - (c) install any article without the prior consent of the Council, subject to the provisions of this by-law, before storing any article on the market site
- (7) No person shall:-
- (a) bring or convey any intoxicating liquor onto the market site, or have intoxicating liquor in his possession whilst on the market site, or enter or remain upon the market site while under the influence of intoxicating liquor without the prior consent of the Council;
 - (b) damage, ruin or tamper with any article brought to the market, or any building or property belonging to the Council on the market site;
 - (c) bring onto the market site any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precincts of the market site;
 - (d) cook food or make tea or any other beverage in any part of the market site other than in such places as may have been set aside for the purpose; provided that the Council may allow tea or any other beverage to be made in premises set aside for market business subject to such premises being kept neat and clean to the satisfaction of the Council;
 - (e) be on the market site when suffering from any contagious or infectious disease;
 - (f) take onto the market site any pets.
- (8) All persons offer for hire as a porter or earner on the Market site shall:
- (a) be in possession of a porter's permit referred to in section 5.;

- (b) wear such identification as may be directed by the Council.
- (9) No porter or carrier on the market site shall:-
 - (a) at any time while he is not engaged or plying for hire, be upon any portion of the market other than an enclosure or other area set aside by the Council for such purpose;
 - (b) ply or canvass for hire by shouting or by persistently following a purchaser or prospective purchaser, or
 - (c) have his person and clothing in an untidy, unhygienic or unseemly condition.
- (10) No person shall sell, expose or offer for sale:-
 - (a) any item precluded for sale by the Council in terms of section 8 (3); or
 - (b) any articles in containers which fail to comply with the prescriptions or specifications of the Council as prescribed under section 8 (6).
- (11) No person, other than the Council shall organise or conduct or attempt to organise or conduct any auction sale on the market site.
- (12) No Council official shall directly or indirectly be allowed to trade or purchase articles on the market, either for his own account or for commission, except such articles as he bona fide requires for his own private consumption, which articles shall not be given to such Council official as a gift or any price below the normal market value of such articles as traded in the day in question.
- (13) Every market agent shall:-
 - (a) supply to his employees such protective clothing as may be required by law and prescribed by the Council;
 - (b) ensure that the clothing referred to in subsection a is:-
 - (i) distinctly marked as prescribed by the Council;
 - (ii) at all times kept clean and in good repair, to the satisfaction of the Council.
 - (c) ensure that his employees on the market are wearing clothing of the kind prescribed in subsection (a);
 - (d) remove and effectively separate from any produce in his custody for sale on the market, any article which at any time is or shows signs of being deteriorated or damaged: or
 - (e) re-sort or re-pack produce referred to in subsection (10) (d) if, in the opinion of the Council, it is necessary to do so.
- (14) Any person concerned with marketing or the handling of produce:-
 - (a) shall wear clothing of the kind referred to in subsection (13) (a) whilst performing their duties when required to do so by the Council;
 - (b) shall undergo an X-ray or other medical examination for tuberculosis at his own expense whenever it is deemed necessary by the Council; and
 - (c) shall submit the results of any examination referred to in subsection (b) to the Council.
- (15) All vendors shall ensure that their produce is free from pesticide and other chemical residue.
- (16) All vendors shall ensure that containers shall indicate whether produce has been radiated or chemically treated

CHAPTER 8

General

- 34. (1) The Council shall not be liable for any loss, damage or injury to any property or any injury or death of any person on the market, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.
- (2) Any person committing a breach of this by-law shall pay to the Council the amount of the damage done, as well as the civil penalty imposed for the breach of the by-law concerned as prescribed in the Market Tariffs.
- (3) No claim referred to in section 13 shall be recognised after the expiry of 90 days from the date of sale, and in such case all the proceeds of such sale shall revert to the market as income.
- (4) Every person shall be presumed to know the provisions of this by-law and of every instruction of the Council published on the notice board on the market site.
- (5) A certificate issued by a duly authorised Council Official indicating the amount which any person owes to Council shall constitute prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

CHAPTER 9

Penalties

- 35. (1) Any person who:-
 - (a) contravenes any provisions of this by-law, or
 - (b) contravenes any condition imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this by-law.

- (c) fails to comply with the terms of any notice served on him in terms of this by-law; or
 - (d) fails to comply with any lawful instruction of the Council,
- shall be guilty- of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine as prescribed for the offence under the Adjustments of Fines, Act, 1991 (Act 101 of 1991).
- (2) Failure to comply with the terms of any condition or notice referred to in subsections 35 (b) or (c) shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

CHAPTER 10

Determination of Market disputes

- 36 (1) In the event of any dispute arising on the market site relating to the sale of any article on the market and not involving the Council as a party, or any direct sale, or any matter incidental thereto, the Council may decide the issue and, subject to an appeal to the Administrative Tribunal concerned, such decision shall be final and binding on the parties.
- (2) Subject to the provisions of Section 34 of the Constitution, in the event of any dispute arising on the market site, relating to the sale of any article on the market and involving the Council as a party, the Administrative Tribunal concerned, may decide the issue, and such decision shall be final and binding on the parties.

Repeal

- 37. Any by-laws relating to fresh produce markets adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

- 38. These By-laws are called the By-laws relating to Fresh Produce Markets, 2022.
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[PROVINCIAL NOTICE NO. 52 OF 2022]

FUNERAL AND FUNERAL UNDERTAKERS BY-LAWS

SCHEDULE

Definition

- 1. In these by-laws words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and vice versa, and unless the context otherwise indicates -
 - “**the Act**” means the National Health Act, 2003 (Act No 61 of 2003), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates:-
 - “**adequately ventilated and illuminated**” means adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No 103 of 1977), as amended or the health bylaws applicable within the area of jurisdiction of Council ;
 - “**Council**” means the Dhlabeng Local Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;
 - “**certificate of competence**” means a document contemplated in section 5;
 - “**environmental health practitioner**” means a person who is an employee of Council and who is registered with the Health Professions Council of South Africa and is designated in terms of section 31 (1) of the National Health Act, 2003 (Act No 61 of 2003).
 - “**existing funeral undertaker’s premises**” means existing funeral undertakers’ premises, which are used as such, on the date of commencement of these bylaws;
 - “**funeral undertaker’s premises**” means premises that are or will be used for the preparation and or storage of corpses;
 - “**holder**” means the person in whose name a certificate of competence has been issued;
 - “**new funeral undertaker’s premises**” means undertaker’s premises that start operating as such after the date of commencement of these bylaws;
 - “**nuisance**” means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof .

“preparation” means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purpose, and “prepare” and any word derived there from shall have a corresponding meaning;

“pure water” means clean and clear water that contains no *Escherichia coli* organisms and is free from any substance in concentrations that are detrimental to human health;

“provisional certificate of competence” means a document as referred to in section 7.

“rodent – proof” means rodent-proofed as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966.

“thermometer” means an apparatus which can give the temperature readings referred to in the bylaws, the combined accuracy of such a thermometer and its temperature – sensitive sensor being approximately 0,5°C.

Corpses to be prepared only at funeral undertaker’s premises in respect of which a certificate of competence has been issued

2. Unless otherwise provided for in these bylaws, no person shall prepare and / or store any corpse except on funeral undertaker’s premises in respect of which a certificate of competence has been issued and is in effect.

Exemptions

3. (1) Council may in writing exempt any person from compliance with all or any of these bylaws where, in the opinion of Council, non-compliance does not or will not create a nuisance.
(2) Such exemption shall be subject to such conditions and valid for such a period as Council may stipulate in the certificate of exemption.

Application for the issue or transfer of a certificate of competence

4. (1) (a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker’s premises shall, not less than 21 days before submitting his application to Council, cause a notice of his intention to be published in a newspaper that circulates in the area in which such premises will be or is situated.
(b) Such notice shall contain information to the effect that an application for the issue of a certificate of competence in terms of these bylaws is to be submitted to Council and that any person who wishes to object to such use shall lodge his objection, together with substantiated representations, with Council in writing within 21 days of the date of publication of such notice.
(2) (a) An application for the issue of a certificate of competence shall be made in writing by the applicant or his authorized representative to Council, on the prescribed form.
(b) An application for the issue of a certificate of competence shall be accompanied by -
 - (i) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.
 - (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system;
 - (iii) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized;
 - (iv) particulars of any person other than the applicant or any of his employees who prepares or will prepare corpses on the premises.
 - (v) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown.
 - (vi) a cleansing and disinfection programme.
 - (vii) details of registered health care waste remover, transporter and disposer.
(3) Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.
(4) Council shall not issue / transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by a medical officer of health or an environmental health officer appointed by Council and his report on such inspection, including his recommendation on such issue or transfer, is in the possession of Council.

Issue or transfer of certificate of competence

5. When Council is satisfied that the premises concerned –
 - (1) complies with all requirements laid down in these bylaws and any other applicable legislation;
 - (2) are in all respect suitable for the preparation of corpses; and

- (3) will not be offensive to any occupants of premises in the immediate vicinity of such premises, it shall, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the applicant in such form as it may determine or shall by endorsement transfer an existing certificate of competence to a new holder, as the case may be.

Validity and transfer of certificate of competence

6. A certificate of competence, excluding a provisional certificate of competence, shall, on endorsement by Council, be transferable from one holder to a new holder and such certificate shall if so endorsed be valid from the date on which it was issued until it is revoked or suspended in terms of these bylaws.

Issue of provisional certificate of competence

7. (1) Notwithstanding the fact that Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, Council may in the case of existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises.
- (2) A certificate referred to in subsection (a) will only be issued if Council is satisfied that the use of such funeral undertaker's premises does not and will not create a nuisance, and will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of these bylaws.
- (3) If, after the period referred to in subsection (b), the premise does not comply with the provisions of these bylaws, Council may revoke the provisional certificate of competence.

Duties of holder

8. (1) The holder shall immediately inform Council in writing if there are any changes in the particulars or circumstances supplied to Council in the application for the certificate of competence.
- (2) A funeral undertaker shall not dispose of a body in any place or premises other than a cemetery or crematoria.
- (3) The holder shall comply with the provisions of these bylaws, applicable legislation and any conditions imposed by Council.

Suspension or revocation of a certificate of competence or provisional certificate of competence

9. (1) If Council is of the opinion, on the strength of an inspection report and/or recommendation by a medical officer of health or environmental health officer, that there are reasonable grounds to suspect that –
- (a) the funeral undertaker's premises concerned are being used in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned; or
- (b) the premises concerned are being used in contravention of the provisions of the National Health Act, 2003 (Act No 61 of 2003), these bylaws or other applicable legislation or any conditions imposed by the certificate of competence or provisional certificate of competence, Council may –
- (i) in relation to conditions referred to in section 9(1)(a) where in its opinion the health hazard in question is a real hazard revoke the certificate of competence or provisional certificate of competence concerned;
- (ii) in relation to an irregularity referred to in section 9(1)(b) suspend the certificate of competence or provisional certificate of competence concerned for such period as Council may determine, to enable the holder to comply with the applicable legislation and/or conditions imposed, if the holder fails to comply within the period stipulated in the notice of suspension Council may revoke the certificate without further notice.
- (2) A notice issued by Council in terms of section 9(1) shall be issued in writing, and then served on the holder.
- (3) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this bylaw shall have the effect that, from the date of the notice of suspension or revocation –
- (a) no preparation of any corpse shall be performed on the premises concerned;
- (b) no corpse shall be received for preparation on the premises concerned; and
- (c) no corpse shall be preserved on the premises concerned and every corpse shall immediately be removed to a mortuary under the control of the State, a provincial administration or Council or any other funeral undertaker's premises, provided that this bylaw shall not be applicable and the said notice shall not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.

- (4) Where Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this bylaw was corrected after such revocation, it shall, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

Requirements relating to funeral undertaker's premises

10. (1) Provision for the following shall be made on funeral undertaker's premises:
- (a) A preparation room for the preparation of corpses.
 - (b) Change-rooms, separate for each sex, for the use of the employees employed at such premises.
 - (c) Refrigeration facilities for the refrigeration of corpses.
 - (d) Facilities for the washing and cleansing of utensils and equipment inside the building.
 - (e) Facilities for the cleansing of vehicles on the premises.
 - (f) Facilities for the loading and unloading of corpses as contemplated in section 10 (6)
- (2) No room on a funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended.
- (3) The preparation room -
- (a) shall be so designed as to –
 - (i) be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom: Provided that, where a preparation room on existing funeral undertaker's premises so communicates, the entrance thereto shall be so concealed that the interior thereof is completely out of the sight of any person in such office or salesroom;
 - (ii) enable obnoxious odours and vapours to be adequately treated; and
 - (iii) be sufficiently ventilated and lighted;
 - (b) shall have a floor –
 - (i) covering an area of not less than 16m² for the first table of the kind referred to in section 10 (3) (e) and 8m² for each additional table;
 - (ii) constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by Council; and
 - (iii) which, if it is replaced or laid after the date of commencement of these bylaws, shall be provided with half round filling where it meets the walls;
 - (c) shall have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other suitable, smooth, waterproof, light -coloured and washable material.
 - (d) shall be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust proof and painted with a light coloured washable paint;
 - (e) shall contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
 - (f) shall contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;
 - (g) shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces;
 - (h) shall have door openings that are not less than 0,82m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.
- (4) Each change-room shall contain at least the following:
- (a) One hand-basin with hot and cold running water for every six employees or part thereof;
 - (b) disposable towels, soap, nailbrushes and disinfectant; and
 - (c) not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men or part thereof.
- (5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, shall be installed in or close proximity of such preparation room and -

- (a) where refrigerators are used, it shall be constructed of a material that does not absorb moisture, shall be provided with removable trays and shall be so designed as to drain into an approved drainage system and be easy to clean;
- (b) be of such a nature that the surface temperature of any corpse shall be no higher than 5 °C within 3 hours of its being received on the premises and no higher than 15 °C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.
- (c) in instances where cold chambers are used, it shall comply with section 10 (3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean.
- (d) corpses are not to be stored on top of each other and must be stored individually on the trays or shelves.
- (6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gully connected to a sewer system approved by Council.
- (7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in section 10 (6).
- (8) The funeral undertaker's premises shall be rodent-proof.

Hygiene

- 11. (1) All health care waste generated must be stored, removed, transported and disposed of in accordance with the South African National Standard, SANS
- (2) Every holder of a certificate of competence relating to funeral undertaker's premises shall -
 - (a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the preparation of corpses or post mortems, and each such employee or other person shall, at all times when so involved, wear such clothing;
 - (b) keep such premises free of pests and insects at all times.
 - (c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared;
 - (d) wash and disinfect all equipment used for the preparation of corpses immediately after use;
 - (e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis;
 - (f) keep such premises clean and tidy at all times;
 - (g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

Erecting of a tent or a marquee

- 12. (1) No one or a family of a deceased is allowed to close the street a day before the day of the funeral when erecting a tent or a marquee;
- (2) The street must only be closed on the day of the funeral and immediately be opened one (1) hour after having returned from the graveyard.

Penalties

- 13. Any person who -
 - (1) contravenes or fails to comply with any provisions of these bylaws;
 - (2) contravenes or fails to comply with any notice given or condition imposed in terms of these bylaws;
 - (3) for the purpose of these bylaws makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or officer; or
 - (4) threatens, resists, interferes with or obstructs an authorized officer or employee of Council in the performance of his powers, duties or functions under these bylaws,
 shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding twelve months or to both the fine and the imprisonment.

Repeal of By-Laws

- 14. Any by-laws relating to funeral undertakers adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short Title

- 15. This by-law is called the By-law relating to Funeral Undertakers, 2022.

GENERAL STREET BY-LAWS

SCHEDULE

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Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa: -
"animals" means any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches indigenous mammals and other wild animals;
"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer,
"Council" **Council** means the Dihlabeng Local Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;
"municipality" has a similar meaning to "Council".

"municipal area" means the area of jurisdiction of Dihlabeng Local Municipality as determined in terms of the Municipal Demarcation Act 1998;

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

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

(a) a trailer, and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-

(i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

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

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

(a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;

(b) at any time been dedicated to the public;

(c) been used by the public without interruption for a period of at least thirty years, or

(d) at any time been declared or rendered such by the municipality or other competent authority;

"public street" means-

(a) any street which has at any time been-

(i) dedicated to the public;

(ii) used without interruption by the public for a period of at least thirty years;

(iii) declared or rendered such by the municipality or other competent authority, or

(iv) constructed by a local authority, and

(b) any land, with or without buildings or structures thereon, which is shown as a street on-

(i) any plan of subdivision or diagram approved by the municipality or other

competent authority and acted upon, or

(ii) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office; unless such land is on such plan or diagram described as a private street;

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

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

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

(a) the verge of any such road, street or thoroughfare

(b) any footpath, sidewalk or similar pedestrian portion of a road reserve;

(c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;

(d) any other object belonging to such road, street or thoroughfare.

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

(a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;

(b) anything which is a permanent part of the structure of such vehicle;

(c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and

(d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of-

(i) fuel, and

(ii) anything attached to such vehicle which is not of the nature referred to in paragraph (b) or (c);

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

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

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

Streets, sidewalks and encroachments on streets

2. No person shall -
- (a) make, construct, reconstruct, or alter a street or sidewalk in a street -
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with the requirements prescribed by the municipality, or
 - (b) construct a veranda, stoep, steps or other projection or erect a post in a street except with the written permission of the municipality.

Advertisements visible from streets

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

Animals or objects causing an obstruction

4. No person shall -
- (a) deposit or leave any goods or articles in a street, other than for a reasonable period during the course of the loading, offloading or removal thereof, or
 - (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a perambulator or wheelchair which is being used for the conveyance of children or the disabled), or
 - (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street -
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with such conditions as may be determined by the municipality.

Trees in streets

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

Trees or growth causing an interference or obstruction

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

Refuse, motor vehicle wrecks, waste material, etc.

7. No person shall -
- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street or public place, or
 - (b) permit any such objects or substances to be dumped or placed in a street or public place from premises owned or occupied by him, except with the written permission of the municipality and otherwise than in accordance with such conditions as may be determined by the municipality.

Prohibition upon certain activities in connection with objects in streets

8. No person shall, in a street-
- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
 - (b) clean or wash a vehicle.

Prohibition upon games and other acts in streets

9. No person shall -

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

Use of explosives

- 10. No person shall in or upon a street use explosives or undertake blasting operations –
 - (a) except with the written permission of the municipality, and
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.

Conveyance of animal carcasses or other waste products through streets.

- 11. No person shall carry or convey through a street the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand -
 - (a) unless it is properly covered, and
 - (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street

Fences on street boundaries

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

Building materials in streets

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

Balconies and verandas

- 14. No person shall, except with the written permission of the municipality -
 - (a) use a balcony or veranda erected beyond the boundary line of a street for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
 - (b) enclose or partition a balcony or veranda erected beyond the boundary line of a street or portion thereof as a living or bedroom. .

Drying of washing on fences on boundaries of streets

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

Outspanning in streets

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

Protection of street surface

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

amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such street as a result of, or in connection with, the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.

- (5) After completion of such work, the municipality shall itself undertake the repair of any portion of such street as may have been damaged by such work and shall set off the cost of such repairs against such deposit. If such cost is less than the amount of the deposit, the municipality shall refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner shall be liable for the difference, which shall become payable on receipt of an account specifying the additional amount due.
- (6) No person other than an authorised official of the municipality in the performance of his or her duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a street

Damaging of notice-boards

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

Street and door-to-door collections

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

Excavations in streets

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

Poison in streets

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

Processions

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

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

Roller-skating and skating on skate -board-

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

Persons to be decently clad

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

Overflow of water into streets

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

Behaviour in streets

- 26. No person shall -
 - (a) cause a nuisance to other persons by loitering, standing, sitting or lying or begging;
 - (b) sleep, overnight or erect any shelter,
 - (c) wash or dry clothes, blankets or any other domestic articles;
 - (d) use abusive, insulting, obscene, threatening or blasphemous language;
 - (e) fight or act in a riotous manner;
 - (f) discharge a fire-arm, airgun or air-pistol;
 - (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
 - (h) defecate, urinate or wash himself;
 - (i) solicit or importune any person for the purpose of prostitution or immorality;
 - (j) engage in gambling;
 - (k) use intoxicating liquor or drugs;
 - (l) spit
 in a street.

Animals in a street

- 27. No owner or person-
 - (a) in charge of any wild or ferocious animal, monkey or horned cattle shall allow such animals at any time to be insufficiently attended or at large in any street or shall keep any such animal in such a manner as to be a danger or annoyance to the public; or
 - (b) shall, allow, permit or cause any animal to graze or stray in or about any street.

Display of street number of places

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

Bridges and crossings over gutters and sidewalks

- 29. No private crossing, pathway, bridge or culvert shall be made or built to or in front of any dwelling or other premises in any street or public place-

- (a) except with the written permission of the municipality, and
- (b) otherwise than in accordance with the requirements prescribed by the municipality.

Control of amusement shows and devices

- 30 (1) No person shall set up or use in any street or public place any circus, roundabout or other side-show or device for the amusement or recreation of the public -
- (a) except with the written permission of the municipality
 - (b) otherwise than in accordance with such conditions as may be determined by the municipality.
 - (c) unless suitable sanitary conveniences for both sexes of the staff have been provided .and
 - (d) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection, at all reasonable times have free access to such , circus, whirligig, roundabout or other sideshow or device.

Control of animal-drawn vehicles

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

Vehicles to be attended

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

Municipality may act and recover costs

- 33 (1) Notwithstanding any other provisions of this by-law, the municipality may -
- (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained, and
 - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) shall be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

Closure and diversion of streets

34. No person shall, without the approval of the municipality, close or barricade any street or restrict access thereto.

Closure and diversion of streets by municipality

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

Temporary closure of Public Street

36. The municipality may, without complying with the provisions of section 35(a) temporarily close a public street-
- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street
 - (c) if such street is, in the opinion of the municipality, in a state dangerous to traffic;
 - (d) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or

- (e) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
- (f) temporarily divert a public street which has been closed in terms of paragraph (a).

Construction, maintenance and naming of streets and public places

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

Declaration of public streets and public places

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

Parking of Heavy Vehicles and Caravans

- 39
- (1) No person shall park on a public road within the municipal area;
 - (a) a motor vehicle with a tare exceeding 3500 kg;
 - (b) a trailer;
 - (c) a semi-trailer, or
 - (d) a caravan,
 for an uninterrupted period exceeding two hours.
 - (2) Whenever a vehicle is parked in contravention of sub section (1), it shall be deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

Penalty

40. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to-
- (1) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
 - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
 - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

REPEAL OF BY-LAWS

41. Any by-laws relating to streets adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

SHORT TITLE

42. This by-law is called the General Street By-law , 2022.

[PROVINCIAL NOTICE NO. 54 OF 2022]

IMPOUNDMENT OF ANIMALS BY-LAWS

SCHEDULE

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Definitions

1. In this by-law, unless the context otherwise indicates -
"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;
"cattle" means bulls, cows, oxen, heifers, steers and calves;
"goat" means an adult male or female goat, a wether and a kid;
"horse" means a stallion, mare, gelding, colt, filly, donkey and mule;
"municipality" means the Local Municipality of Dihlabeng established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
"occupier" means any person in actual occupation of land or entitled as owner to occupy land;
"owner", in relation to an animal, includes any person having possession, charge, custody or control of such animal;
"pound" means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;
"pound master" means a person who may be -
 (a) a part-time or full-time employee of a municipality, or
 (b) appointed under a service delivery agreement to keep and operate a pound;
"proprietor" means any owner, lessee, or occupier of land;
"sheep" means a ram, an ewe, a wether and a lamb;
"stallion" means a male horse, donkey or mule not castrated or partially castrated; **"veterinary surgeon"** means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

Purpose of by-law

2. The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

Impoundment

3. Any person may impound an animal found abandoned upon his property or any street, road, road reserve or other public place.

Pound to which animals are to be sent

4. Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

Receiving of animals by pound master

5. (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

Receipt for impounded animals

6. A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

Number of enclosures

7. The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for-
- (a) ostriches and horses;
 - (b) cattle;
 - (c) sheep, goats and pigs;
 - (d) dogs; and
 - (e) cats,
- provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

Destruction of dangerous or contagious animals

8. (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

Notice of impounded animals

9. (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 6 of 2002, is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police Services office.

Keeping of pound register

10. (1) A pound master must keep a pound register with the following particulars:
- (a) the date when, and the cause for which, all animals received by him are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information, provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death of injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death of injury.

Inspection of and extracts from pound register

11. A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

Submission of pound register entries after pound sales

12. A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

Inspection of pound register at place of sale

13. Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

Pound master's fees

14. (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
(2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

Fees payable

15. (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
(2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.
(3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
(4) If the pound master is an official of the municipality, he must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
(5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

Notice of sale

16. (1) Every pound master must -
(a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
(b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
(c) post a copy of the notice at a conspicuous place at the pound, there to remain until the day of the sale; and
(d) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
(2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
(3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality shall make good the deficiency.

Auctioneer

17. (1) Every sale of impounded stock must -
(a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
(b) commence at the time and date mentioned in the notice in terms of section 16(a).

- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

Sale of animals

18. At every such sale-
- (a) no animal may be put up for sale unless impounded for at least two weeks;
 - (b) all animals, except sheep and goats must be sold individually;
 - (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
 - (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
 - (e) the municipality may fix a reserve price for any animal offered for sale; and
 - (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

Illegal impounding and penalties

19. Any person who illegally impounds any animal commits an offence.

Recovery of loss in respect of impoundment of animals from area of another municipality

20. Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

Use, detention and ill-treatment of animals

21. No person may furiously drive or ill-treat any animal found trespassing.

Appeal

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

Offences and penalties

23. Any person who -
- (a) contravenes or fails to comply with a provision of this by-law;
 - (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
 - (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to -
 - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
 - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

Repeal of by-laws

24. Any by-laws relating to impoundment of animals adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Short title

25. This by-law shall be known as the Impoundment of Animals By-law, 2022
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BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

INFORMAL SETTLEMENTS BY-LAWS

SCHEDULE

BY-LAWS RELATING TO THE MANAGEMENT AND CONTROL OF INFORMAL SETTLEMENTS

DEFINITIONS

1. In this By-law, unless the context otherwise indicates-
 - "authorized informal settlement"** means any informal settlement which is recognized by the Municipality as an authorized informal settlement and which is regarded as a transit camp to house landless people who will be ultimately relocated to a formally established township;
 - "consent"** means the express or implied consent of the owner or person in charge to the occupation of land by a resident of a shack irrespective of whether such consent was given in writing or otherwise;
 - "court"** means any division of the High Court or the Magistrate's Court in whose area of jurisdiction the land is situated;
 - "eviction"** means the permanent removal, in accordance with the provision of a court order, of a person and his or her property from occupation of a shack or the land on which the shack is constructed, and includes a demolition and removal from the land of any building materials used to construct the shack, and "evict" has a corresponding meaning;
 - "head of the household"** means-
 - (a) the father in a household, where the father and mother of the household are legally married;
 - (b) the single parent, where the household has only one parent with dependants living permanently with him or her in the household; or
 - (c) any person in the household who has legal capacity to act and is recognized by the majority of the other persons in the household as the person responsible for the maintenance of the welfare and discipline within the household;
 - "informal settlement"** means one shack or more constructed on land with or without the consent of the land owner or the person in charge of the land;
 - "land"** means any land within the area of jurisdiction of the Municipality;
 - "land invasion"** means the illegal occupation of land or any settlement or occupation of people on land without the express or tacit consent of the owner of the land or the person in charge of the land, or without any other right to settle on or occupy such land;
 - "Land Invasion Reaction Unit"** means a group of officers or workers which may consist of any combination of one or more of the following components:
 - (a) Members of the South African Police Services;
 - (b) members of the staff of the bailiff, sheriff or messenger of the court with jurisdiction in the area;
 - (c) members of a private security company contractually engaged by the Municipality to perform certain duties on its behalf; and
 - (d) employees of the Municipality designated by the Municipal Manager;
 - "Manager: Informal Settlements"** means the official referred to in section 2;
 - "Municipality"** means the Dhlalabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this By-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
 - "owner"** means the registered owner of land;
 - "person in charge"**, in relation to land, means a person who has the legal authority to give permission to another person to enter or reside on that land;
 - "shack"** means any temporary shelter, building, hut, tent, dwelling or similar structure which does not comply with the provisions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and the regulations promulgated under that Act and which is primarily used for residential purposes; and
 - "unauthorized informal settlement"** means any settlement which is not recognized by the Municipality as an authorized informal settlement.

APPOINTMENT OF MANAGER: INFORMAL SETTLEMENTS

2. (1) The Municipality may assign one of its officials as its Manager: Informal Settlements to manage and control all the informal settlements in accordance with the provisions of this By-law.
- (2) In the absence of a Manager: Informal Settlements, the powers and duties of the Manager: Informal Settlements in this By-law must be executed by the Municipal Manager.

DUTIES OF THE MANAGER: INFORMAL SETTLEMENTS

3. The Manager: Informal Settlements must ensure that all development is in accordance with the spatial development framework and integrated development plan, that the process of township establishment is followed in all cases and must and has the power to -
 - (1) determine whether an informal settlement is an authorised or unauthorised informal settlement
 - (2) conduct regular surveys to determine the location, origin and extent of and the conditions prevailing in each informal settlement;
 - (3) monitor and control all informal settlements and take the necessary steps to prevent land invasion within the area of jurisdiction of the Municipality;
 - (4) undertake and promote liaison and communication with local communities with a view to obtaining their understanding and cooperation regarding the prevention of land invasion in the area of jurisdiction of the Municipality;
 - (5) keep a register of all the residents who are entitled to reside in each authorized informal settlement, and in such register the following details must be entered in respect of each shack in each authorized informal settlement:
 - (a) an unique number allocated to the stand or site on which the shack is constructed;
 - (b) the names, and identity number of the head of the household who is entitled to occupy the shack;
 - (c) the names, identity numbers and relationships to the head of the household of each and every other person occupying the shack as a member of the household;
 - (d) the reference number of the file of the Manager: Informal Settlements that contains a copy of the contractual agreement in respect of the shack;
 - (e) the number of the shack's rental account;
 - (f) the number of the shack's municipal services account;
 - (g) the previous address of the household that is entitled to occupy the shack; and
 - (h) the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the household that is entitled to occupy the shack;
 - (6) ensure that all the residents living in an authorised informal settlement are registered in the Municipality's Housing Waiting List;
 - (7) submit written report on the control and management of any informal settlement, or the conditions prevailing in the informal settlement, if and when required to do so by the Municipality;
 - (8) for the purpose of informing residents of informal settlements and all other persons visiting informal settlements, ensure that-
 - (a) the contents of this By-law is communicated to all the residents of every informal settlement; and
 - (b) a copy of this By-law is posted and maintained in every informal settlement in a prominent place at the venue where the residents' committee contemplated in section 6 usually holds its meetings;
 - (9) allocate to each site or stand in an authorised informal settlement an individual number as the temporary address of the site or stand and must ensure that such number is legibly painted or inscribed in a prominent place on the site or stand;
 - (10) perform any other duty or function which may be necessary to ensure the properly management and control of an informal settlement.

CONSIDERATIONS REGARDING DETERMINATION OF STATUS OF INFORMAL SETTLEMENTS

4. The Manager: Informal Settlements must take into account the following before making any determination on whether an informal settlement is authorised or not:
 - (a) consider applicable legislation;
 - (b) obtain and consider representations of the owner of the relevant land, and
 - (c) obtain and consider representations of residents of the informal settlements.

INCIDENTS OF LAND INVASION

5. (1) The Manager: Informal Settlements must, within a period of 24 hours after he or she becomes aware of an incident of land invasion or the existence of a newly established informal settlement, irrespective of whether such informal settlement was established as a consequence of an incident of land invasion or not-
 - (a) commence with the process regarding the determination of the status of the informal settlement as an authorized or an unauthorized informal settlement, and
 - (b) Inform the residents of the informal settlement of the status of the informal settlement in accordance with section 6 or section 8, whichever is applicable in the circumstances.
- (2) In the event of the status of an informal settlement contemplated in subsection (1) being determined as an authorised informal settlement, the Manager: Informal Settlements must deal with the matter in accordance with the provisions of section 6.
- (3) In the event of the status of an unauthorised informal settlement, the Manager: Informal Settlements must deal with the matter in accordance with the provisions of section 8.

PROCEDURES RELATING TO THE MANAGEMENT AND CONTROL OF AUTHORISED INFORMAL SETTLEMENTS

6. (1) As soon as a determination of the status of an authorised informal settlement has been made, the Manager: Informal Settlements must, personally or through any other official designated by the Municipal Manager to assist him or her for that purpose, visit the informal settlement and notify the residents of the status of the authorized informal settlement in the manner contemplated in section 7(2) or by means of a letter delivered in the circumstances, whichever way would be more effective in the relevant circumstances.
- (2) The Manager: Informal Settlements must implement measures to manage, monitor and control the occupancy of residents in the authorized informal settlement in order to prevent the construction of unauthorised shacks in the authorised informal settlement and the taking up of residence by unauthorised residents in the informal settlement.
- (3) Any unauthorised occupancy in an authorised informal settlement contemplated in subsection (2) must be dealt with in accordance with the provisions of section 7.
- (4) In respect of an authorised informal settlement contemplated in subsection (1), the Manager: Informal Settlements must inform the Manager: Finance of the Municipality of such settlement and make information contemplated in section 3(5) available to that Manager.
- (5) The Manager: Finance of the Municipality must –
 - (a) institute, operate and maintain an appropriate account for services rendered by the Municipality to each registered shack in the authorised informal settlement and for any charges levied for the right of occupation of a particular site or stand in the authorised informal settlement, subject to relevant legislation; and
 - (b) ensure that such an account is supplied to the head of the household of each registered shack in the authorised informal settlement, subject to relevant legislation.

RESIDENTS' COMMITTEES

7. (1) A meeting of residents in each authorised informal settlement must be convened annually on a date and at a venue determined by the Manager: Informal Settlements to elect a residents' committee comprising a chairperson, deputy chairperson, secretary and six ordinary members to represent the views and interests of the residents of the authorised informal settlement in all consultative processes between the Municipality and the residents of the authorised informal settlement.
- (2) A residents' committee contemplated in subsection (1) and the Manager: Informal Settlements, or his or her designated representative, must meet on a regular monthly basis, and at such meetings the Municipality must consult the residents' committee on all matters relating to the authorised informal settlement and communicate matters of general concern to the residents of a collective basis.
- (3) After meetings contemplated in subsection (2), it is the responsibility of the residents' committee to inform the individual residents of matters discussed at the meetings.
- (4) Special meetings of residents may be convened from time to time by a residents' committee contemplated in subsection (1) to communicate with and inform the individual residents of matters relating to the authorised informal settlement.
- (5) A resident's committee contemplated in subsection (1) must give notice of a meeting of the residents of the authorised informal settlement by placing the notice prominently at a venue whose location has been

determined by the residents' committee and communicated to the residents at an official meeting of the residents.

PROCEDURES RELATING TO THE TERMINATION OF UNAUTHORISED INFORMAL SETTLEMENTS

8. (1) As soon as a determination of the status of an unauthorised informal settlement has been made, the Manager: Informal Settlements must, personally or through any official designated by the Municipal Manager to assist him or her for that purpose, visit the informal settlement and notify the residents of the status of the unauthorized informal settlement by means of a written notice hand-delivered to each shack in the informal settlement.
- (2) The written notice contemplated in subsection (1) must-
 - (a) notify the residents of a shack in the unauthorised informal settlements that their occupation of the shack and the site or stand on which it is situated is illegal; and
 - (b) request the residents of the shack to vacate the shack and remove any building materials and other personal property from the unauthorized informal settlement within a period of 24 hours after receipt of the written notice.
- (3) If the informal settlement is on land that does not belong to the Municipality, a copy of the notice contemplated in subsection (1) must also be delivered to such owner.
- (4) If the residents notified in terms of subsection (1) cooperate and vacate their shacks and remove their building materials and other personal property from the site or stand in the unauthorized informal settlement, the Manager: Informal Settlements must take such steps as he or she may deem appropriate to prevent a recurrence of any incident of land invasion or illegal land occupation on that site, stand or unauthorised informal settlement and must regularly monitor the situation to ensure the non-recurrence of such land invasion or illegal land occupation.
- (5) If the residents notified in terms of subsection (1) fail to cooperate and vacate their shacks and remove their building materials and other personal property from the site or stand in the unauthorized informal settlement, the Manager: Informal Settlements must immediately institute the necessary legal procedures to obtain an eviction order contemplated in subsection (6).
- (6) Within a period of 24 hours after the expiry of the period stipulated in the written notice contemplated in subsection (1), the Manager: Informal Settlements must commence the process to obtain an Eviction Order contemplated in the Prevention of all Illegal Eviction from and unlawful Occupation of Land Act, 1998 (Act 19 of 1998), against any person or persons jointly or severally, occupying or residing in a shack or on a site or stand in the unauthorised informal settlement.
- (7) The Manager, Informal Settlements must, within a period of 24 hours after obtaining the eviction order referred to in subsection (6), deploy the Land Invasion Reaction Unit to execute the eviction order and to terminate the unauthorized informal settlement by:
- (8) Any costs incurred by the Manager: Informal Settlements for the purposes of executing the provision of this By-law must be borne by the Municipality in accordance with its approved budget.

DISPOSAL OF BUILDING MATERIALS AND PERSONAL PROPERTY

9. (1) In the execution of the provisions of section 8(6), any building materials and other personal property belonging to a resident or occupier of a shack in an unauthorized informal settlement must be removed and stored in a safe place by the Manager: Informal Settlements.
- (2) If the building materials and other personal property contemplated in subsection (1) are not claimed by their owner within a period of three months after the date of the removal and storage, arrangements must be made to sell the building materials and personal property to the best advantage of the Municipality, subject to the Municipal Finance Management Act, 2003: Provided that, subject to the laws governing the administration and distribution of estate, nothing in this subsection contained may deprive the heir of any deceased person of his or her right to the balance of the proceeds of the property; and
- (3) The Manager: Informal Settlement must compile and maintain a register in which is recorded and appears -
 - (a) particulars of all building materials or other personal property removed and stored in terms of this By-law;
 - (b) the date of the removal and storage of building materials or to her personal property in terms of subsection (1) and the name and site or stand number of the owner of the building materials or personal property; and
 - (c)
 - (i) the signature or right thumb print of the person who is claiming ownership and to whom delivery of building materials or other personal property has been made; or
 - (ii) full details of the amount realized on the sale of the building materials or other personal property in terms of subsection (2) and the date of the sale; and

- (iii) if building materials or other personal property has been destroyed, abandoned, dumped or otherwise disposed of in terms of subsection (2), a certificate by the Manager: Informal Settlements to the effect that the building materials or personal property was valueless.
- (4) Neither the Municipality nor any of its officials acting within the reasonable scope of their authority are liable for any loss of or damage to property or injury to any resident or occupier of a shack in an unauthorized informal settlement or any other person for any reason whatsoever.

APPLICATION OF BY-LAWS

10. These by-laws apply to all informal settlements within the area of the Municipality.

SHORT TITLE

11. These by-laws shall be called the Municipal Informal Settlements By-law, 2022

[PROVINCIAL NOTICE NO. 56 OF 2022]

KEEPING OF ANIMALS BY-LAWS

SCHEDULE

BY-LAWS RELATING TO THE KEEPING OF ANIMALS, POULTRY AND BEES

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Definitions

1. In these by-laws, unless the context otherwise indicates –
- "adequate" means adequate in the opinion of the municipality;
- "animal" means any cattle, sheep, goat, horse, mule, donkey, pig, rabbit, cat, dog and ostrich or the hybrid of such animal; and
- "animals" will have a corresponding meaning
- "approved" means approved by the Municipal Manager after regard being had to the reasonable public health requirements of the particular case;
- "aviary" means an enclosure used for the keeping of birds, other than a portable cage;
- "bird" means a feathered vertebrate other than poultry;
- "cattery" means premises in or upon which boarding facilities for cats are provided or cats are kept and bred for commercial purposes;
- "dwelling" means any building or part thereof used for human habitation;
- "enclosure" means, in relation to animals, any kraal, pen, paddock or other such fenced or enclosed area used for accommodating, keeping or exercising animals;
- "kennels" means premises in or upon which –
- (a) boarding facilities for dogs are provided
- (b) dogs are bred for commercial purposes, kept for the purposes of being trained or hired out with or without handlers;
- "livestock" means horses, cattle, sheep goats, pigs, mules, donkeys, poultry and ostriches;
- "municipality" means the Dihlabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- "nuisance" means a nuisance as defined in the Health Act, 1977 (Act 63 of 1977),
- "permit holder" means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;
- "person in control" means the person managing or in control of a premises or a business;
- "pet" means any domesticated or other animal which may be lawfully kept as a pet and includes any bird and non-poisonous reptile;
- "pet salon" means any premises in or upon which beauty treatment is given to dogs or cats by washing, drying, brushing, clipping, trimming or by attending to their nails or teeth;
- "pet shop" means the business of keeping and selling pets on premises;
- "pigsty" means a building structure or enclosure in which pigs are kept,
- "poultry" means fowls, ducks, geese, turkeys and domestic guinea-fowls,
- "poultry house" means any roofed building or structure, other than one in which a battery system is operated, in which poultry is kept;
- "poultry run" means any unroofed wire mesh or other enclosure, whether or not an addition to a poultry house, in which poultry is kept,
- "premises" means any land, building or structure or any portion of land, building or structure on or in which any of the activities regulated by these by-laws are carried on;
- "public place" means any road, street, pavement, side-walk, park or other place to which the public has authorised and unimpeded access:
- "stable" means any building or structure or any part thereof used for accommodating or keeping any cattle, horses, mules or donkeys.

Application of By-laws

2. (1) The provisions of these by-laws shall not apply to –
- (a) any bona fide farm;
- (b) the keeping of cows for commercial milk production;
- (b) any agricultural show where animals, poultry or birds are kept on a temporary basis;
- (c) any laboratory where animals, poultry or birds are kept for research purposes;
- Provided that the Municipal Manager may, if he is satisfied that the application of one or more provisions of these by-laws is essential in the interest of public health, by notice to the person concerned require such provision be complied with.

- (2) The provisions of sections 4(a), 10(b) and 11(e) and (f) shall not apply to the temporary keeping of a goat on any land for the provision of milk for medical reasons, provided the prior approval of the Municipal Manager is obtained and no nuisance arises from the keeping of such goat.
- (3) The provisions of section 3, 4(a), 6, 8, 10, 12, 14, 16, 17 and 19 shall apply only to premises which are newly constructed, re-constructed or converted after the commencement of these by-laws: Provided that the Municipal Manager may, if he is satisfied that the application of any one or more of the said requirements is essential in the interests of public health, give notice in writing to the owner or person in control of such premises, to comply with such requirements as he may specify and within a reasonable period stated in the notice.
- (4) The provisions of sections 12(e)(iii), f(i) and (ii) and 13(e)(ii), (g) and (i) shall not apply to the keeping of poultry fewer than twenty (20) in number.

KEEPING OF LIVESTOCK AND KENNELS

Premises for the Keeping of Livestock and Kennels

3. A person shall not-

- (a) keep any livestock, other than poultry and birds, or maintain kennels within any area defined by the council as unsuitable for the keeping of livestock and the maintenance of kennels: Providing that this section shall not apply in respect of a veterinary clinic or veterinary hospital operating with the municipality's consent;
- (b) keep any livestock, other than poultry, on premises situated on land less than 1 ha in extent: Provided that in the case of a dealer or speculator in livestock the land shall not be less than 2,5 ha in extent, and
- (c) keep more than twenty head of poultry on any premises situated in a residential area.

Duties of Persons Responsible for the Keeping of Animals, Poultry, Birds and Bees

4. A person shall not –

- (a) keep any animal, poultry, birds or bees in or upon any premises
 - (1) which does not comply with the provisions of these by-laws;
 - (2) which are so constructed, maintained or situated that the keeping of animals, poultry or birds thereon is, in the opinion of the Municipal Manager, is likely to cause a nuisance or a threat to health.
- (b) keep any livestock, other than poultry and birds, or maintain kennels within any area defined by the council as unsuitable for the keeping of livestock and the maintenance of kennels: Providing that the foregoing shall not apply in respect of a veterinary clinic or veterinary hospital operating with the council's consent;
- (c) keep any livestock, other than poultry, on premises situated on land less than 1 ha in extent: Provided that in the case of a dealer or speculator in livestock the land shall not be less than 2,5 ha in extent.
- (d) keep more than twenty head of poultry on any premises situated in a proclaimed township.

Permits for Keeping of Cattle, Horses, Mules, Donkeys, Pigs, Goat or Sheep

5. (1) A person shall not-

- (a) keep any cattle, horses, mules, donkeys, pigs, goat or sheep unless he is the holder of a permit issued by the Municipal Manager in the form determined by the municipality : Provided that such a permit shall not be required for the keeping of rabbits in connection with the business of a pet shop.
- (b) keep any cattle, horses, mules, donkeys, pigs, goat or sheep in excess of the number specified in such permit: Provided that progeny of any mammal still suckling, must not be taken into account.
- (2) Application for such a permit must be made to the Municipal Manager in the form determined by the municipality,
- (3) A permit is not transferable and expires on the date on which the validity thereof is stopped or when the permit holder ceases to keep the cattle, horses, mules, donkeys, pigs or goat or sheep or the hybrid of such animal for which the permit was issued.
- (4) A permit holder must in writing notify the Municipal Manager if he ceases to keep the cattle, horses, mules, donkeys, pigs, goat or sheep in respect of which a permit was issued or of any increase in the number of pigs, goat or sheep kept in excess of the number specified in the permit concerned, within ten days of any such occurrence.
- (5) The Municipal Manager may after giving notice to a permit holder to give reasons why his permit must not be cancelled and consider those reasons, cancel a permit issued in terms of subsection (1)(a), if-

- (a) the construction or maintenance of the premises concerned at any time does not comply with any provision of these by-laws, or the permit holder contravenes, or fails to comply with any such provision, and the permit holder fails to comply with a written notice from the Municipal Manager requiring him to make such premises comply with the by-laws or to cease such contravention or failure within a period specified in such notice;
 - (b) any disease, which in the opinion of the Municipal Manager or a veterinarian, is of such a nature that it is likely to constitute a threat to the public health or to other animals or poultry, breaks out amongst the animals or poultry kept under such permit;
 - (c) the permit holder or person in control of the premises at the time, personally or through his employee obstructs the Municipal Manager in the execution of his duties under these by-laws;
 - (d) the permit holder has been found guilty in a competent court of a contravention of these by-laws;
 - (e) in the opinion of the Municipal Manager, a public nuisance exists due to the keeping of the animals.
- (6) The Municipal Manager as soon as a permit has been cancelled, must notify the permit holder thereof in writing.
- (7) The Municipal Manager may, subject to the provisions of this section, issue a new permit if he is satisfied that the reason for the cancellation no longer exists or that there is no reason why a new permit should not be issued.

KEEPING OF CATTLE, HORSES, MULES AND DONKEYS

Requirements for Premises

6. A stable or enclosure complying with the following requirements for the keeping of any cattle, horse, mule or donkey, must be provided:
- (a) All walls and partitions of the stable must be constructed of brick, stone, concrete or other durable material.
 - (b) The internal wall surfaces of the stable must be of smooth brick or other durable surface worked to a smooth finish.
 - (c) The height of the walls to the wall plates of the stable must be -
 - (i) 2,4m in the case of pitched roof;
 - (ii) 2,7m in the case of a flat roof;
 - (iii) a mean height of 3m with a minimum of 2,4 m on the one side, in the case of a lean-to roof;
 - (iv) not less than 2m in the case of a stable which has an opening along the entire length of one of its long sides;
 - (d) The stable must have a floor area of at least 9m² for each head of cattle, horse, mule or donkey to be accommodated therein.
 - (e)
 - (i) Except in the case of a stable open along the entire length of one of its long sides, lighting and ventilation must be provided by openings or glazed opening windows or louvres totalling at least 0.3 m² for each animal to be accommodated therein.
 - (ii) The lowest point of every such opening, window or louver must be at least 1,8 m above floor level.
 - (f) The floor of the stable must be constructed of concrete or other durable and impervious material worked to a smooth finish, graded to a channel and drained in terms of section 27.
 - (g) Any enclosure must have an area of at least 10 m² for each head of cattle, horse, mule or donkey to be accommodated therein and the fencing must be of such substantial material and constructed as preventing such animals from escaping.
 - (h) No enclosure must be situated within 100m and no stable must be situated less than 15 m of any boundary of any land, dwelling or other building or structure used for human habitation or within 50m of any well, water course or other source of water supply intended or used for human consumption, provided that the Municipal Manager, may allow a shorter distance.
 - (i) A potable water supply adequate for drinking and cleaning purposes, must be provided in or adjacent to every stable or enclosure.

Duties of Persons Responsible for the Keeping of Cattle, Horses, Mules and Donkeys

7. Every person keeping any cattle, horse, mule or donkey must -
- (a) ensure that any such animal is kept within a stable or enclosure;
 - (b) maintain the premises, any equipment, apparatus, container and receptacle used in connection with such keeping in a clean and sanitary condition and in good repair;
 - (c)
 - (i) provide portable manure storage receptacles of an impervious material and with close fitting lids;

- (ii) every such receptacle must be kept on a platform constructed of concrete or other durable and impervious material and situated adjacent to the stable or enclosure and so as to comply *mutatis mutandis* with the provisions of section 6(b).
- (iii) The floor must be of concrete worked to a smooth finish and graded and drained to a water channel at least 150mm in diameter along the full length of the open side, which channel must be kept filled with water;
- (e) remove all the manure from the stable and enclosure at least once every 24 hours and place it in manure storage receptacles pending removal from the premises.
- (f) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose thereof in a manner which will not create a nuisance;
- (g) remove all bedding from the stable at least once a week and store it in the manure receptacles pending removal from the premises;
- (h) store all saddles, bridles, harnesses and other equipment or articles used in the keeping of such animals, in a store-room or other storage facilities approved by the municipality;
- (i) provide a rodent proof store-room in which all feed must be stored and a number of rodent proof receptacles with close fitting lids in such storeroom in which all loose feed must be stored;
- j) take effective measures for the prevention of harbouring or breeding of, and for the destruction of, flies, cockroaches, rodents and other vermin.

KEEPING OF PIGS

Requirements for Premises

- 8 (1) A pigsty complying with the following requirements must be provided for the keeping of pigs:
- (a) Every wall must be constructed of brick, stone, concrete or other durable material not less than 1,5m in height and must have a smooth internal surface.
 - (b) The pigsty must have a floor area of at least 3m² for each pig to be accommodated therein, with an overall minimum floor area of 6m².
 - (c) A roof provided over any portion of a pigsty must be of a height of not less than 1,5m from ground level at its lowest point in the pigsty and, except in the case of a roofed structure having one of its long sides completely open, lighting and ventilation openings situated in opposite external walls of at least 0,15 m² for each pig accommodated or other adequate means of ventilation and lighting must be provided.
 - (d) The floor must be at least 150mm above the surrounding ground level, constructed of concrete or other durable and impervious material worked to a smooth finish, graded for the run-off of liquids into an open channel outside the pigsty, constructed of concrete, glazed earthenware, or other durable and impervious material, measuring not less than 100 mm in diameter and drained in terms of section 27.
 - (e) The pigsty must be constructed in such a manner as to prevent the pigs from escaping.
 - (f) A pigsty must not be situated within 100m of any dwelling or other building or structure used for human habitation or of the boundary of any land or of any well, water course or other source of water supply intended or used for human consumption.
- (2) (a) A roofed over concrete platform must be provided for the storage of all swill in containers and for the preparation of pig feed and it must be so situated as to comply *mutatis mutandis* with the provisions of subsection (1)(f).
- (b) Such platform must have a curbing of at least 100 mm high on all of its sides and the surface of the platform must be worked to a smooth impervious finish and graded to a channel drained in terms of section 27.
- (3) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the pigsty.

Duties of Persons Responsible for the Keeping of Pigs

9. Every person keeping pigs must;
- (a) ensure that every pig is kept within a pigsty;
 - (b) maintain the premises and any equipment, apparatus, container and receptacle used in connection with such keeping, in a clean and sanitary condition and in good repair;
 - (c) (i) provide portable manure storage receptacles of impervious material and with close fitting lids;
 - (ii) every such receptacle must be kept on a platform constructed of concrete or other durable and impervious material adjacent to the pigsty and so as to comply *mutatis mutandis* with the provisions of section 8(1)(f);
 - (d) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;

- (e) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose thereof in a manner which will not create a nuisance;
- (f) provide a rodent proof store-room in which all feed, other than swill, must be stored and a number of rodent proof receptacles with close fitting lids in such store-room in which all loose feed must be stored;
- (g) take effective measures, for the prevention of harbouring or breeding of, and for the destruction of, flies, cockroaches, rodents and other vermin.

KEEPING OF GOAT, SHEEP OR OSTRICH

Requirements for Premises

10. Premises complying with the following requirements must be provided for the keeping of any goat, sheep or ostrich, :
 - (a) An enclosure with an area of at least 1,5m² for every goat, sheep or ostrich to be accommodated therein with an overall minimum floor area of 30m².
 - (b) If a building or shed is provided for such keeping, it must comply with the following requirements:
 - (i) Every wall thereof must be constructed of brick, stone, concrete or other durable material not less than 2m in height and must have a smooth internal finish.
 - (ii) The floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel drained in terms of section 27.
 - (iii) The floor area must be at least 1,5 m² for every goat or sheep to be accommodated therein with an overall minimum floor area of 6 m².
 - (iv) Lighting and ventilation openings totalling at least 0,15 m² per goat, sheep or ostrich to be kept in the building or shed.
 - (c) A building or shed must not be situated within 15 m and no enclosure within 100 m of any boundary of any land, dwelling or any other building or structure used for human habitation or within 50 m of any well, water course or other source of water supply intended or used for human consumption, provided that the Municipal Manager may allow a shorter distance.
 - (d) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to every stable or enclosure.

Duties of Persons Responsible for the Keeping of Goats, Sheep or Ostrich

11. Every person keeping any goat, sheep or ostrich must -
 - (a) ensure that every such animal is kept within an enclosure, building or shed;
 - (b) maintain the premises and any equipment, apparatus, container and receptacle used in connection with such keeping in a clean and sanitary condition and in good repair;
 - (c) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (d) remove all manure from the enclosure, building or shed at least once every 7 days and place it in the manure storage receptacles;
 - (e) remove the contents of the manure storage receptacles from the premises at least once every 7 days and dispose thereof in a manner which will not create a nuisance;
 - (f) provide a rodent proof store-room in which all feed must be stored and a number of rodent proof receptacles, with close fitting lids in such storeroom in which all loose feed must be stored;
 - (g) take effective measures for the prevention of harbouring and breeding of, and for the destruction of, flies, cockroaches, rodents and other vermin.

KEEPING OF POULTRY

Requirements for Premises

12. Premises complying with the following requirements must be provided for the keeping of poultry:
 - (a) A poultry house complying with the following requirements:
 - (i) Every wall thereof must be constructed of brick, stone, concrete or other durable material and must have a smooth internal surface.
 - (ii) The floor must be constructed of concrete or other durable and impervious material brought to a smooth finish.
 - (iii) The upper floors of the structure of two or more tiers must be of an impervious and easily cleaned material.
 - (iv) It must have an area of 0,20 m² for each grown fowl, duck, or guinea fowl, 0,5 m² for each grown goose, turkey, peacock to be accommodated therein, with a minimum aggregate area of 4 m².
 - (b) A poultry run, if provided, must be enclosed with wire mesh or other durable material.
 - (c) If a battery system is to be operated, a building or structure in which such system must be housed, constructed and equipped according to with the following requirements, must be provided:

- (i) Every wall, if provided, must be at least 2,4 m high, and must be constructed of concrete, stone, brick or other durable material and must have a smooth internal surface.
- (ii) If walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificially lighting or by obtaining natural ventilation and light through openings or opening windows of an area equal to not less than 15% of the floor area of the building.
- (iii) The floor must be constructed of concrete or other durable and impervious material worked to a smooth finish, and if required by the Municipal Manager , the floor surface must be graded and drained by means of a channel drained in terms of section 27.
- (iv) If no walls are provided, or the walls are of metal, the floor must be provided with a curb at least 150 mm high around it's extremities.
- (v) The cages of the battery system must be constructed of an impervious material.
- (vi) If required by the Municipal Manager, a tray of an impervious material and design must be fitted under every cage.
- (vii) A wash hand basin with a constant supply of water laid on must be provided and drained in terms of section 27.
- (d) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the battery system building or structure or poultry house.
- (e) There must be at least 3 m of clear unobstructed space between a poultry house, poultry run or building or structure housing a battery system and the nearest point of any dwelling, outside buildings or other building or structure used for human habitation or any boundary of the stand, and 9 m from any door or window of any dwelling or living room or other place where food for human consumption is prepared or stored: Provided that if such poultry house, poultry run or battery system is entirely roofed and so situated and constructed that rainwater must be prevented from falling therein, it may be situated not less than 4 m from any such door or window.
- (f)
 - (i) A rodent proof store-room must be provided for the storage of feed, the floor area of which must not be less than 7 m², the width not less than 2,2 m and the height not less than 2,4 m.
 - (ii) If the Municipal Manager is satisfied that, having regard to the number of poultry being kept, a store-room of dimensions less than the minimum dimensions required in terms of subsection (i) or that other storage facilities are suitable, he may permit such smaller store-room or other storage facilities.
 - (iii) A curbed concrete washing platform or stainless steel trough with draining board and with a constant supply of water laid on, must be provided within or adjacent to such building or structure for the cleaning and disinfection of cages if so required by the Municipal Manager . The washing platform and trough must be drained in terms of section 27.
- (g)
 - (i) If required by the Municipal Manager , with due regard to the quantity of manure to be stored pending removal from the premises, a storage area comprising of roofed over platform constructed of concrete or other durable and impervious material, with a curb at least 100 mm high around it's extremities and graded and drained in terms of section 27 must be provided.
 - (ii) The roof over such platform must extend 1 m beyond the extremities of the platform.

Duties of Persons Responsible for the Keeping of Poultry

13. Any person keeping poultry must -

- (a) ensure that all poultry is kept within the poultry house, poultry run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, container and receptacle used in connection with such keeping in a clean, sanitary condition and in good repair;
- (c) maintain the premises free from offensive odours and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from vermin;
- (d) ensure that such poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- (e)
 - (i) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (ii) keep such receptacle on a platform constructed of concrete or other durable and impervious material adjacent to the poultry house, poultry run or building or structure housing a battery system so as to comply *mutatis mutandis* with the provisions of section 12(e);
- (f)
 - (i) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every 4 days or at such longer intervals approved by the Municipal Manager from a building or structure housing a battery system, regard being had to the prevention of a public health nuisance caused by offensive smell; and
 - (ii) place the manure and other waste matter in the manure storage receptacles;

- (g) remove the contents of the manure storage receptacles from the premises at least once every 7 days and dispose thereof in a manner which will not create a nuisance;
- (h) not store any material or article in any poultry house, poultry run or building or structure housing a battery system, except material or an article which is required for use in such house, run, building or structure;
- (i) provide within the store-room required in terms of section 12(f), a number of rodent proof receptacles with close fitting lids in which all loose feed must be stored;
- (ii) take effective measures for the prevention of harbouring and breeding, and for the destruction of flies, cockroaches, rodents and other vermin and for the prevention of offensive odours arising from the keeping of poultry on the premises.

KEEPING OF BIRDS

Requirements for Premises

14. Premises complying with the following requirements must be provided for the keeping of birds in an aviary:
- (a) The aviary must be properly constructed of durable materials, rodent proof and provided with access thereto adequate for cleaning purposes.
 - (b) If the aviary is constructed above ground level, the base thereof must be constructed of an impervious and durable material and must not be less than 300 mm above ground level.
 - (c) An aviary must not be situated within 3 m of any building or structure, boundary fence or boundary wall.
 - (d) A potable supply of water must be provided adequate for drinking and cleaning purposes.

Duties of Persons Responsible for the Keeping of Birds

15. Every person who keeps birds in an aviary must -
- (a) ensure that the aviary and the premises are kept in a clean condition and free from vermin;
 - (b) provide rodent proof facilities for the storage of bird food and keep such food therein;
 - (c) take effective measures for the prevention of harbouring and breeding and for the destruction of flies, cockroaches, rodents and other vermin;
 - (d) ensure that such birds do not disturb or hinder the comfort, convenience, peace or quiet of the public.

DEALER IN LIVESTOCK AND OTHER BUSINESSES INVOLVING THE KEEPING OF ANIMALS OR POULTRY

Requirements for Conducting Business

- 16 (1) Every person conducting the business of a dealer or speculator in livestock or other business involving the keeping of animals or poultry and birds, other than a pet shop, must comply with the requirements of subsections (2) and (3).
- (2)
- (a) The requirements of sections 2 to 15 inclusive, must be complied with in so far as those provisions are applicable to the animals or poultry kept.
 - (b) An enclosure with an area of at least 10 m² per head of cattle, horse, mule or donkey and 1,5 m² per goat or sheep to be accommodated therein at any time with an overall minimum area of 50 m² must be provided.
 - (c)
 - (i) A separate change room, clearly designated, must be provided for every sex if more than three non-resident persons of the same sex are employed in the keeping of animals or poultry.
 - (ii) Each change room must have a floor area of at least 0,5 m² per employee, subject to an overall minimum area of 6,5 m² and a minimum width of 2,1 m.
 - (iii) Each change room must be equipped with a metal clothes locker for the keeping of personal clothing of each employee.
 - (iv) For each employee for whom no change room is required in terms of subsection (i), a metal clothes locker must be provided.
 - (d)
 - (i) One wash hand basin and one shower-bath must be provided for every 15 persons, or part of that number, employed.
 - (ii) Every wash hand basin and shower-bath must be located within or adjacent to the change rooms, must have a constant supply of hot and cold running water laid on and be drained in terms of section 25.
 - (e) Soap and towelling must be provided at the wash hand basin and shower-bath.
 - (f) Overalls or other protective clothing and, if required by the Municipal Manager, protective footwear must be provided for the use of persons employed in the keeping of animals or poultry.
- (3) In respect of employees resident on or at the premises -
- (a) sleeping accommodation equipped with a bed for each such employee must be provided,

- (b) (i) ablution facilities comprising one wash hand basin and one shower-bath or bath, separate for the sexes and clearly designated, must be provided for every 10 persons or part of that number of a particular sex employed;
- (b) (ii) every wash hand basin, shower-bath or bath must have a constant supply of hot and cold running water laid on and be drained in terms of section 27.
- (c) (i) cooking facilities and a scullery for the cleaning of cooking and eating utensils must be provided;
- (c) (ii) the scullery must be fitted with a double bowled sink of stainless steel with a constant supply of hot and cold running water laid on and drained in terms of section 27.
- (c) (iii) every bowl of the sink must have a minimum capacity of 55 l be fitted with a 150 mm high splash screen on the side nearest the wall and be positioned at least 100 mm away from any wall surface;
- (d) laundry facilities consisting of a stainless steel laundry trough with a constant supply of hot and cold running water laid on and drained in terms of section 27 must be provided;
- (e) a refuse receptacle must be provided in the scullery;
- (f) a locker or other approved facilities must be provided in the room where the cooking facilities are situated for the storage of non-perishable food of each employee.

DOG KENNELS AND CATTERIES

Requirements for Premises

- 17 (1) A person shall not maintain kennels or a cattery, unless the requirements of subsections (2) to (12), are complied with.
- (2) A dog or cat must be kept in an enclosure complying with the following requirements:
- (a) It must be constructed of durable materials and must have access thereto adequate for cleaning purposes.
 - (b) The floor must be constructed of concrete or other durable and impervious material worked to a smooth finish and graded to a channel 100 mm wide, extending the full width of the floor and situated within the enclosure, which channel must be graded and drained into a gully connected to the council's sewer by means of an earthenware pipe 100 mm in diameter.
 - (c) A curb 150 mm high must be provided along the entire length of the channel referred to in section (b) and on the side thereof adjacent to the surrounding outside area to prevent storm water from such area from entering the channel.
- (3) Every enclosure referred to in subsection (2), must contain a roofed shelter for the accommodation of dogs or cats complying with the following requirements:
- (a) Every wall must be constructed of brick, stone, concrete or other durable material and must have a smooth internal surface without cracks or open joints.
 - (b) The floor must be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints.
 - (c) Every shelter must have adequate access thereto for cleaning and de-verminising.
- (4) In the case of dogs, a dog kennel of moulded asbestos or other similar material, which is movable, and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in subsection (2) and if the base of such kennel is not rendered water-proof, a sleeping board which will enable the dog to keep dry, must be provided in every such kennel.
- (5) A concrete apron extending at least 1m wide around the extremities of the enclosure must be provided, which apron must be graded and drained for the draining of storm water away from the enclosure.
- (6) A potable water supply must be provided in or adjacent to the enclosure adequate for drinking and cleaning purposes.
- (7) (a) If required by the Municipal Manager, a separate room or roofed area with a floor area of not less than 6,5 m², a width of not less than 2.1 m and a height of not less than 2.4 m must be provided for the preparation of food.
- (b) The floor of the room or roofed area must be of concrete or other durable and impervious material brought to a smooth finish.
 - (c) The internal wall surfaces of the room or roofed area must be smooth plastered and painted with a light coloured washable paint.
 - (d) The room or roofed area must be equipped with preparation tables of metal manufacture and a double bowled stainless steel sink with a constant supply of hot and cold water laid on and drained in terms of section 27.

- (e) Every bowl of the sink must have a minimum depth of 225 mm and a minimum capacity of 55 l.
- (8) A rodent proof store-room must be provided for the storage of food, the floor area of which must not be less than 6,5 m² and the width not less than 2.1 m: Provided that if the Municipal Manager is satisfied that, having regard to the number of dogs or cats being kept on the premises, a store-room of smaller dimensions than the minimum dimensions required or other storage facilities would be adequate, he may permit a smaller store-room or other storage facilities as he deems fit.
- (9) At least 5 m of clear unobstructed space must be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or place where food is stored or prepared for human consumption, or the boundary of any land.
- (10) Isolation facilities must be provided for sick dogs or cats.
- (11) If washing, clipping or grooming of pets is done, the following facilities must be provided:
 - (a) A bathroom with a minimum floor area of 9 m², a width of not less than 2,1 m fitted with a bath or similar approved fitting and wash hand basin with a constant supply of hot and cold running water laid on.
 - (b) A clipping and grooming room with a minimum floor area of 10 m², a width of not less than 2,1 m and fitted with approved impervious topped tables and an adequate number of portable storage receptacle of an impervious durable material with close fitting lids for the storage of cut hair pending removal.
 - (c) The rooms referred to in sections (a) and (b) must be laid out in such a manner so as to provide an unobstructed floor area of at least 30 %.
 - (d) The floors of the rooms referred to in sections (a) and (b) must be constructed of concrete or other durable and impervious material, brought to a smooth finish, graded to a channel drained in terms of section 27.
 - (e) Every junction between the floor and walls of such room must be coved and the coving must have a minimum radius of 75 mm.
 - (f) Every internal wall surface must be smooth plastered and painted in a light coloured washable paint.
- (12) If cages are provided for the keeping of cats, such cages must be of durable impervious material and constructed so as to be easily cleaned.

Duties of Persons Responsible for the Control of Kennels or Catteries

- 18. Any person in control of kennels or a cattery must -
 - (a) maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
 - (b)
 - (i) provide portable storage receptacles of an impervious material with close fitting lids for the storage of dog and cat faeces;
 - (ii) every such receptacle must be kept on a platform constructed of concrete or other durable and impervious material adjacent to the enclosures;
 - (c) remove all faeces and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in section (b);
 - (d) remove the contents of the storage receptacles from the premises at least twice every 7 days and dispose thereof in a manner which will not create a nuisance;
 - (e) store all loose food in receptacles with close fitting lids within the food store;
 - (f) provide refrigeration facilities in which all perishable food must be stores at a temperature not higher than 10°C;
 - (g) take effective measures for the prevention of harbouring or breeding and for the destruction of flies, cockroaches, rodents and other vermin and for the prevention of offensive odours arising from the keeping of dogs or cats;
 - (h) provide refuse receptacles with close fitting lids in the food preparation room or roofed area required in terms of section 17(7);
 - (i) keep any sick dog or cat in the isolation facilities required in terms of section 17(10), whilst on the premises;
 - (j) ensure that dogs and cats kept on the premises do not disturb or hinder the comfort, convenience, peace or quiet of the public.

PET SHOPS AND PET SALONS

Requirements for Premises

- 19. A person shall not conduct a business of a pet shop or pet salon in or upon any premises -

- (a) in which there is direct internal access with any room or place used for human habitation or in which clothing is store or sold or food for human consumption is prepared, stores, sold or consumed;
- (b) unless the premises are constructed and equipped in accordance with the following requirements:
 - (i) Every wall including any partition of any building must be constructed of brick, concrete or other durable material, must have a smooth internal surface and painted with a light coloured washable paint or given some other approved finish.
 - (ii) The ceiling of any building must be constructed of durable material, have a smooth finish, be dust proof and painted with a light coloured washable paint.
 - (iii) One wash hand basin with a constant supply of hot and cold running water laid on, must be provided for every 15 or part of that number of persons employed on the premises which must be drained in terms of section 27.
 - (iv)
 - (aa) A rodent proof store-room, with a floor area of not less than 10 m² must be provided.
 - (bb) If the Municipal Manager is satisfied that, having regard to the extent of the business and the quantity of goods and equipment and pets food to be stored on the premises, a store-room of smaller dimensions than the minimum dimensions in terms of subsection (aa) is adequate, he may permit a smaller store-room.
 - (v) Facilities for the washing of cages, trays and other equipment must be provided in the form of either -
 - (aa) a curbed and roofed over platform with a surface of at least 1,5 m² raised at least 100 mm above the floor and constructed of concrete or other durable and impervious material brought to a smooth finish, which platform must be provided with a constant supply of water laid on; or
 - (bb) a stainless steel sink or trough not less than 304 mm deep with a drainage board and with a constant supply of water laid on;
 - (vi) The platform, sink or trough referred to in subsection (v) must be drained in terms of section 25 and any wall surface within 0,5 m of such platform, sink or trough must be permanently covered with durable waterproof material to a height of at least 1,4 m above the floor.
 - (vii)
 - (aa) If required by the Municipal Manager , a separate change room, clearly designated, must be provided for any sex if more than two persons are employed on the premises.
 - (bb) A change room must have a floor area of at least 0,5 m² for each employee with a minimum overall floor area of 6,5 m² and a minimum width of 2,1 m and must be equipped with a separate metal clothes locker for the keeping of personal clothing of each employee.
 - (cc) For each employee for which no change room is required in terms of subsection (aa), a metal clothes locker must be provided.
 - (viii) No door, window or other opening in any wall of a building on the premises must be within 2 m of any door, window or opening to any building in which food is prepared, stored or sold for human consumption or consumed by humans.
 - (ix) If the washing, clipping or grooming of pets is done on the premises the requirements of section 17(11) must be complied with.

Duties of Trader

20. A person who conducts the business of a pet shop must -

- (a) provide cages for housing animals, poultry or birds, and the following requirements must be complied with:
 - (i) The cages must be constructed entirely of metal or other durable impervious material and must be fitted with a removable metal tray below the floor thereof to facilitate cleaning.
 - (ii) A cage must be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith must have it's interior cavity sealed.
 - (iii) A cage must be of such size and mass and so plated that it can be readily moved.
 - (iv) If rabbits are kept in a cage, the metal tray referred to in subsection (i) must be drained to a removable receptacle.
 - (v) A cage must be fitted with a drinking vessel filled with water and accessible to the pets kept in the cage.
 - (vi) The distance from any cage to the nearest wall must at all times be not less than 150 mm.
 - (vii) The cages must be kept not less than 450 mm above floor level and the space beneath the cages must be unobstructed.
- (b) provide rodent proof receptacles of an impervious material with close fitting lids in the store-room in which all loose pet food must be stored:

- (c) provide refrigeration facilities in which all perishable pet food kept on the premises must be stored at a temperature not higher than 10°C;
- (d) maintain in every room in which pets are kept, an unobstructed floor space of not less than 30% of the floor area of such room and a distance of not less than 800 mm between rows of cages;
- (e) maintain the premises and a cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop, in a clean, sanitary condition, free from vermin and in good repair;
- (f) take effective measures for the prevention of harbouring or breeding and for the destruction of flies, cockroaches, rodents and other vermin and for the prevention of offensive odours arising from the keeping of pets on the premises;
- (g) provide overalls or other protective clothing for the use of persons employed in connection with the pet shop and ensure that such apparel is worn by the employee when on duty;
- (h) not keep any pet in the yard or other open space on the premises. unless otherwise approved by the Municipal Manager ;
- (i) provide isolation facilities, in which every pet which is or appears to be sick must be kept whilst on the premises;
- (j) ensure that there is a constant and potable water supply for drinking and cleaning purposes;
- (k) ensure that the premises are at all times so ventilated so as to ensure sufficient movement of air for the comfort and survival of the pets;
- (1) ensure that the number of pets per cage are not such that the free movement of such pets is impeded.

BEES

Keeping of bees

21. (1) A person shall not keep bees unless he is the holder of a permit issued by the Municipal Manager in the form determined by the municipality.
- (2) A permit is not transferable and expires on the date on which the permit holder ceases to keep bees or the period of three years for which a permit was issued.
- (3) A fee is not payable if the bees are kept in observation beehives for experimental or educational purposes only.

Duration of permit

- 22 (1) A permit issued under subsection 19(1) is valid up to the first ensuing 30th of June following the date of its issue.
- (2) A permit holder may, at least one month before the expiry of the permit, apply in writing to the Municipal Manager for the renewal of the permit.
- (3) The Municipal Manager must renew the permit on a form determined by the municipality if he is satisfied that the permit holder complies with section 21(1).
- (4) (a) The Municipal Manager may at any time by notice served on a permit holder rescind the permit if there is convincing evidence, which on request has not been rebutted by the permit holder, that the permit holder does not comply with a provision of section 21(1) or that the keeping of the bees constitute a public nuisance or a threat to human or animal life.
- (b) A permit holder is not on account of the rescission of the permit under section (a) entitled to a refund of any part of the fee paid in terms of section 19(3).

Conditions of permit

- 23 (1) A permit to keep bees is subject to the conditions -
- (a) that the bees must be kept in a bee-hive made of solid and weatherproof material and built in such a manner that honeycombs may be formed in frames that can be separated and removed from the bee-hive;
 - (b) that the bee-hive must be kept at least 100 metres from any residence, business premises or place where animals or birds are kept; and
 - (c) that the bee-hive must be surrounded by a wire fence, hedge or wall of at least 1,5 metres high and which is at least 5 metres from any part of the bee-hive.
- (2) The Municipal Manager may at any time, after reasonable notice to a permit holder, inspect the premises concerned to ascertain whether the conditions of the permit are complied with.

Removal or destruction of bees

- 24 (1) If a person keeps bees on premises without a permit or contrary to a condition contemplated in section 19(1), the Municipal Manager may serve a notice on the owner or occupant of the premises, to the effect that the bees must within the period stated in the notice be destroyed or removed to premises where

- they may be kept legally, otherwise they will be destroyed or removed by the Municipal Manager and the costs related thereto will be recovered from such owner or occupant.
- (2) If the owner or occupant fails to comply with a notice contemplated in subsection (1), the Municipal Manager may destroy or remove the bees and recover the costs related thereto from the owner or occupant concerned.
 - (3) If the keeping of bees on premises constitute a threat to human life, the Municipal Manager may, on the authority of a warrant, destroy or remove the bees, without prior notice to the owner or occupant concerned, and recover the costs related thereto from such owner or occupant.
 - (4) For the purposes of this section the owner or occupant of premises is also deemed to keep bees that have naturally settled on the premises concerned.

Service of notices

25. A notice contemplated in section 20(4)(a) or 22(1) is regarded to have been duly served if it has been handed over by the Municipal Manager to the permit holder or the owner or occupant concerned or to a member of his or her household, or to a person at his or her residence or place of employment, who is ostensibly over the age of 16 years.

HAWKING

Prohibition on Hawking

26. A person shall not hawk livestock or any other animal.

MISCELLANEOUS

Draining

27. All sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, including channels and washing platforms, required to be drained in terms of these by-laws, must be drained to an eternal gully, connected to the council's sewer or, where so sewer is available or readily accessible, to other means of drainage approved by the municipality.

Discharge of Taps

28. The taps at all water supply points required in terms of these by-laws, other than those within a building or structure the floors of which are graded and drained, must be placed so as to discharge directly over and into a dished top fitted to an external gully connected to the municipality's sewer or, where no sewer is available or readily accessible, to other means of drainage approved by the municipality.

Nuisance

29. A person shall not-
- (a) keep any animal or pet in such a manner as to cause a nuisance;
 - (b) fail to remove faeces deposited by a dog in a public place whilst under his control or supervision and dispose of such faeces in a refuse receptacle;
 - (c) fail to duly dispose of dead animals in such a manner as prescribed by the Municipal Manager .

Stray animals and pets

30. (1) The municipality may seize animals or pets found on any premises, land or a public road and which are not under supervision or control of any person and which are causing a nuisance or danger to the safety and health of persons.
- (2) Animals or pets seized in terms of sub-section (1) may be destroyed or caused to be destroyed by the municipality with such instruments or appliances and with such precautions and in such a manner as to inflict as little suffering as possible.

Illness Attributable to Animals

31. The illness of any person which is attributable to the keeping of any animal, poultry, bird or pet as contemplated in these by-laws, must be reported to the Municipal Manager within 24 hours of diagnosis by the person making the diagnosis.

Inspection

32. The Municipal Manager and any officer authorized thereto by the municipality may, in order to satisfy himself that the provisions of these by-laws are being complied with -
- (a) enter any premises on which animals, poultry, birds or pets are kept or on which kennels or a cattery is conducted or the business of a dealer or speculator in livestock or a pet shop, a hawker of poultry or

- rabbits is being conducted or on which he reasonably suspects animals, poultry, birds or pets are kept or such business is being conducted, at all reasonable times;
- (b) inspect such premises or any vehicle used or reasonably suspected by him to be used for such business and anything thereon or therein; and
- (c) question any person on such premises or in such vehicle or who has recently been on such premises or in such vehicle.

Offences

- 33 (1) Any person -
- (a) who contravenes or fails to comply with any provisions of these by-laws; or
 - (b) who keeps animals, birds, poultry or bees or who is the person in control of or who conducts the business of a denier or speculates in livestock, a pet shop, dog kennels or cattery or a hawker of poultry on any premises fails to ensure that all the provisions of these by-laws applicable to such premises or business are complied with;
 - (c) who fails or refuses to give access to premises to the Municipal Manager or any officer when requested to give such access;
 - (d) who obstructs or hinders the Municipal Manager or other duly authorised officer;
 - (e) fails or refuses to give information to the Municipal Manager or such other officer which is lawfully required, or knowingly furnishes false or misleading information;
 - (f) fails or refuses to comply with a notice in terms of these by-laws,
- is guilty of an offence.
- (2) It shall be a competent defence if a person referred to subsection (1)(b) proves that he did not know of, could not reasonably have foreseen and could not have prevented the commission of the offence contemplated in subsection (1).

Penalty

34. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to; -
- (1) a fine 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 and,
 - (2) 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
 - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality result of such contravention or failure.

Repeal of by-laws

35. Any by-laws relating to the keeping of animals adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

Short Title

36. These by-laws shall be called the Keeping of Animals By -law, 2022

[PROVINCIAL NOTICE NO.57 OF 2022]

LIBRARIES BY-LAWS

SCHEDULE

Definitions

1. In these by-laws, unless the context otherwise indicates -
- "charges"** means any fine or miscellaneous charges in respect of the library as determined from time to time by the municipality;
- "municipality"** means -
- (a) the Dhlabeng municipality established in terms of the local government municipal structures Act, 1998, (act 117 of 1998) as amended, exercising its legislative and executive authority through its municipal municipality; or its succession in title; or
 - (b) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws, has been delegated or sub-delegated or an instruction given as contemplated in, section 59 of the local government: municipal system act, 2000 (act no. 32 of 2000);
- "lending period"** means the period which the municipality determines for the lending out of different types of library material;

"librarian" means the officer (or his/her representative) appointed by the municipality to exercise control over and to manage the library;

"library material" means any material of whatever nature or form which is kept in a library and made available to the public; "member" means any person or organisation registered as a member of the library,

Use of the library

2. Any person admitted to the library by the municipality may use the library facilities during official hours of opening. However, if a person wishes to borrow library material, he/she shall first register as a member of the library.

Membership

3. (1) (a) Subject to the provisions of paragraph (b) and subsection (2), the municipality may grant to any person residing or employed within the area of jurisdiction of the municipality or who is a taxpayer of the municipality, membership of the library, subject to the provisions determined by the municipality and provided such person undertakes to subject himself to the provisions of these by-laws and the rules for conducting the business of the library, adopted by the municipality.
- (b) the municipality may, subject to the conditions it may determine, grant membership of the library to a pre-school or school-going child, should its parent or guardian consent, in writing, thereto and undertake to stand surety for the observance by such child of the provisions of these by-laws and the rules for conducting the business of the library adopted by the municipality.
- (c) application for membership shall be made on a form prescribed by the Free State provincial library service and the municipality.
- (d) the municipality shall issue a computerized membership card to a member authorizing him to borrow from the library such quantity of library material as may be determined by the municipality from time to time.
- (e) a computerized membership card shall be valid from the date of issue thereof for a period as determined by the municipality from time to time. The membership of a person to whom such a membership card has been issued, shall lapse after such period, unless it be renewed. '
- (f) to register as a member patrons shall produce a letter of approval from their respective councillors, an identification book and / or birth certificate / proof of municipal services accounts.
- (g) the users shall produce entrance cards when entering libraries from time to time.
- (2) the municipality may grant membership of the library to a person residing outside its area of jurisdiction on conditions determined by the municipality from time to time.
- (3) a member desirous of terminating his membership of the library, shall return his certificate of membership to the librarian without delay, failing which he/she may be held responsible in terms of section 7 of all library material borrowed against such membership card.
- (4) when a member changes his address, he/she shall notify the librarian, in writing, within seven days of such change of address.
- (5) (a) when a member's membership card gets lost, he/she shall forthwith notify the librarian, in writing, and the librarian may, on payment of the prescribed charges, issue a duplicate of such membership card.
- (b) should a lost membership card be found, the duplicate membership card issued in place thereof, shall forthwith be returned to the librarian: provided that any charges paid for such duplicate shall not be refunded to the member.
- (c) if a member gives notice in terms of paragraph (a), such member shall, notwithstanding the provisions of section 8 (1), not be liable in terms of the said section in respect of any library material borrowed against the lost membership card after the date of such notice.
- (6) a person residing for a period of less than three months in the area of jurisdiction of the municipality, may register as a visitor if-
 - (a) he/she applies for such registration on the form prescribed by the municipality: Provided that the required proof of identification and particulars as determined by the municipality, are submitted;
 - (b) he/she deposits with the librarian the prescribed deposit; and
 - (c) the municipality approves such application.
- (7) the deposit contemplated by subsection (6) (b) shall be refunded to a member on application by him/her provided that if any member does, not renew his/her membership card as contemplated by subsection (1) (d) within a period of three months after the expiry of the period of validity, such deposit shall be

forfeited to the municipality: provided further that upon any such refunding or forfeiture, the registration of the member shall be cancelled.

- (8) any person may, on behalf of any organisation or similar body, if duly authorised thereto by such organisation or body, apply on the form prescribed by the municipality for registration of such organisation or body as a member of the library.

Loan of library material

4. (1) Library material shall be deemed to be on loan from the library to the member against whose membership card it was lent
- (2) No person shall be in possession of any library material not lent against a membership card.
- (3) Library material bearing the mark of the library or the free state provincial library service, and on which there is no official indication that it has been withdrawn, written off or sold, shall be the property of the municipality or the Free State provincial library service.
- (4) (a) a member borrowing library material from the library shall ascertain whether such material is damaged and, if damaged, he/she shall draw the librarian's attention to the fact
- (b) the librarian shall not make damaged library material available for borrowing purposes: provided that where such damaged library material is nevertheless made available for borrowing purposes, particulars of such damage shall be affixed thereto.

Return of library material

5. A member shall return the library material borrowed by him/her to the librarian not later than the last day of the borrowing period: provided that-
- (a) the municipality may extend the borrowing period of any library material not in demand by any other member after consideration of an application to that effect by the member who borrowed the library material, for not more than two further borrowing periods;
- (b) a member shall be responsible for the return of library material borrowed by him, and should such member find it impossible to personally return such library material, he/she may return it in any other way;
- (c) a member who has borrowed library material shall not keep it for more than three days after receipt of a written notice from the librarian that such library material is to be returned.

Overdue library material

6. (1) Should a member not return library material borrowed against his/her membership card within the period stated in section 5 (a) or any period determined by the municipality in terms of the proviso to that section, as the case may be, such member shall be liable for payment to the municipality of the prescribed fine for every week or portion thereof during which such member fails to return such library material.
- (2) the municipality may exempt any person from the payment of such fine if he/she is satisfied that failure to return library material is due to circumstances beyond the borrower's control.
- (3) in order to obtain overdue library material, a municipality may determine a fine free period for a time in which such library material may be returned.
- (4) the municipality may add the current replacement cost of any outstanding library material to the monthly services account of the member or his/her legal guardian should all other efforts in terms of these by-laws fail to effect return of the library material.

Reservation of library material

7. A member is allowed to reserve library material.

Lost and damaged library material

8. (1) Should library material be lost or become damaged or deemed to be lost in terms of subsection (2), the member against whose membership card such library material was borrowed shall, in addition to any fine or other charges for which he/she shall be liable in respect of the said library material, be liable for payment to the Municipality of the purchase price thereof or an amount to make good the damage as may be determined by the Municipality, unless he/she replaces it with a copy of equal value or a copy acceptable to the Municipality.
- (2) Library material retained by a borrower for more than three months calculated from the expiry date allocated to such material at the time of issuing or after granting any extension of the borrowing period, on receipt of a request to do so by registered post, fails to return library material within seven days, shall be deemed to be lost.

- (3) Lost or damaged library material shall remain the property of the Municipality or the Free State Provincial Library Service.
- (4) No further library material shall be lent to a member who, in terms of subsection (1), is responsible for the loss of library material.

Handling of library material

- 9. No person having library material in his/her possession, shall either wilfully or negligently-
 - (a) fail to keep such material in a clean condition;
 - (b) expose or permit such material to be exposed to or be damaged by water, heat, fire, animals or any other thing;
 - (c) mutilate, deface, mark, crease or in any way damage such material or permit such material to be mutilated, defaced, marked, creased or damaged;
 - (d) remove or damage or permit to be removed or damaged any protective coverings of such material; or
 - (e) lend any such material to any unauthorised person.

Exposure of library material to contagious diseases

- 10. (1) No person suffering from a contagious disease shall borrow or handle any library material from the library and no person shall allow another person suffering from a contagious disease, to handle such library material lent to him/her.
- (2) Any person being in possession of such library material from the library which was exposed to a contagious disease, shall immediately advise the librarian that such library material was so exposed.
- (3) The Municipality shall at least once a year fumigate the library and all associated buildings to prevent damage to books and furniture and the possible spreading of any contagious disease.

Library material for special purposes

- 11. Library material of a specialised nature, shall only be used in such parts of the library as are set aside by the Municipality for special purposes and shall not be removed from the library or to any other part of the library without the permission of the librarian.

Use of the group activities hall

- 12. (1) Approval for the use of the group activities hall shall vest in the Municipality subject to any conditions laid down by the Municipality.
- (2) Any person who wishes to make use of the Activities Hall shall pay to the Municipality the prescribed fee as may be determined by the Municipality from time to time.

Library hours

- 13. A notice by the Municipality, setting forth the days and hours during which the library shall be open to the public, shall be displayed in a prominent place at or near the entrance thereto.

Posting of by-laws in the library

- 14. The librarian shall place a copy of these by-laws in a prominent place in the library and direct the attention of a user of the library thereto.

Offences

- 15. No person shall -
 - (a) smoke in the library or any of its associate buildings;
 - (b) make use of a cell phone in a library to conduct a conversation or for any other reason, or shall fail to switch off any cell phone in his/her possession upon entering the library;
 - (c) conduct or participate in a conversation, read aloud, sing or whistle in the library in a manner which is disturbing to other persons present in the library building;
 - (d) impede, obstruct, disturb or in any other way annoy any other person in the legitimate use of the library;
 - (e) refuse to deliver any library material to the librarian within a reasonable time after being requested thereto verbally or telephonically;
 - (f) allow any child under his supervision to create a disturbance in the library;
 - (i) act in an uncouth or disorderly fashion;
 - (ii) use unseemly, abusive or blasphemous language; or
 - (iii) lay a bet or gamble in any part of the library;
 - (f) recline, sleep, loiter or partake of refreshments in the library;

- (g) cause or permit any animal under his supervision to enter or remain in the library; (h) while using the library, refuse to comply with any lawful request of the librarian;
- (i) bring any vehicle, carrier or container into the library without the permission of the librarian;
- (j) distribute or deposit in the library for distribution, material for advertisement, publicity or any other purpose without the permission of the librarian;
- (k) damage or deface any part of the library or any fitting, furniture equipment or contents thereof,
- (l) supply a false name and address for the purpose of entering any part of the library or to benefit from any service rendered by the library;
- (m) enter or remain in any part of the library if he is –
 - (i) unclean on body or dress,
 - (ii) suffering from a contagious or infectious disease notifiable in terms of any law, or
 - (iii) under the influence of intoxicating liquor or drugs;
- (n) enter or remain in any part of the library during the hours that such a library or part thereof is not officially open for service to the public;
- (o) enter or leave the library by an entrance or exit not officially provided for the use of the public;
- (p) enter or remain in any part of the library which is reserved for the use of the library staff,
- (q) obstruct or block any entrance to or exit from the library;
- (r) remove from the library or be in the possession of library material the loan whereof has not been registered by the librarian in terms of these by-laws;
- (s) retain in his possession any library material for more than 24 hours after the delivery to his registered address of a written demand from the librarian for the return of such material.or
- (t) bring his/her bags, food and refreshments in the library.

Penalties

- 16. (1) Any person not bona fide using the library for the purpose for which it is intended or is guilty of misbehaviour in the library, may be removed from the library by the librarian or by a person called upon thereto by the librarian.
- (2) Any person contravening any of the provisions of these by-laws, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding R500 or, in default of payment, to imprisonment for a period not exceeding 6 months.

Library advisory committee

- 17. The Municipal libraries shall appoint the functional Library Advisory Committee constituted by the community residing in the jurisdiction of the Municipality.

Repeal

- 18. Any by -laws relating to Libraries adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

Short title

- 19. These by -laws are called the Libraries By -law, 2022.

[PROVINCIAL NOTICE NO. 58 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

NUMBERING OF BUILDINGS BY-LAWS

SCHEDULE

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- 7. Repeal
- 8. Short title

Definitions

1. (1) In these by-laws, unless the context otherwise indicates –
- "building"** means, in addition to its ordinary grammatical meaning, any portion of a building which has a street entrance and is not interleading with any other portion of the building, having a separate pedestrian street entrance and forming a self-contained unit for purposes of its intended use, whether or not a registered sectional title scheme in respect of the building exists;
- "Council"** means the municipal council of the Dihlabeng Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;
- "display"** means as a verb, to affix surely to, or unless otherwise authorised by the General Manager in terms of section 2, to paint on a building, boundary wall, gate or other place authorised by the General Manager in such a manner as to be clearly visible from the street bordered by such building, boundary wall, gate or other authorised place, and has a corresponding meaning as a noun;
- "flat building"** means a building in which several residential apartments are situated and such buildings usually consists of more than one level and for purposes of these by-laws may also refer to any sectional title complex;
- "General Manager"** means the General Manager Planning of the Council or a person acting on the authority of that person;
- "metal"** means, any plastic material or any other durable material approved by the General Manager;
- "Municipality"** means the Dihlabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- "occupier"** means, a person who actually occupies a property or any part thereof, irrespective of the title by virtue of which he occupies it and, in the case of a property which have been subdivided and are being let to various lodgers or various tenants, the person or persons entitled to the rental and, if the property form part of a scheme as referred to in the Sectional Titles Act, 1986 (Act No 95 of 1986), the body corporate referred to in that act shall be deemed to be the occupier of the property;
- "property"** means any land, building, room or structure, regardless of whether anything has been erected thereon.
- (2) In these by-laws, unless the context otherwise indicates, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

Allocation of street numbers

2. (1) Street numbers are allocated or reallocated from time to time by the Council to properties within the municipality.
- (2) After service on him of a notice in writing by the General Manager requiring him to do so, the owner or occupier of any such property shall, within the time specified in such notice, display on such property the number allocated or reallocated thereto, in terms of this or any previous by-law by means of a metal number or metal plate bearing such number, or by means of paint if so authorised by the General Manager: Provided that such number or plate shall be affixed in the position indicated in such notice or, if no such position is so indicated, then in a position where it is legible from the street on which such property fronts, and its dimensions shall not be less than the minimum specified in section 5 : Provided further that the General Manager may prescribe the colour and finish of the digits or the type of paint that may be used, in such notice.
- (3) The provisions of subsection (2) shall apply, mutatis mutandis, to any property where such number or plate has become detached, illegible, obliterated or defaced, or does not meet the provisions of section 5, or is for any reason no longer legible from the street on which such property fronts.

Allocation and display of names on flat buildings

3. (1) After service on the owner of a notice in writing by the General Manager requiring him to do so, the owner of any flat building shall, within the time specified in such notice, display, by means of a metal sign on such building, the name that has been assigned to it, or by means of paint if so authorised by the General Manager: Provided that such sign shall be affixed in the position indicated in such notice or, if no such position is indicated, then in a position where it is legible from the street on which such building fronts and its dimensions shall not be less than the minimum specified in section 5: Provided further that the General Manager may prescribe the colour and finish of the letters or the type of paint that may be used in connection with such name in such notice.

- (2) The provisions of section 3 shall apply, mutatis mutandis, to any flat building where such sign has become detached, illegible, obliterated or defaced, or does not meet the provisions of section 5, or is for any reason no longer legible from the street on which such flat building fronts.

Allocation of numbers and letters to Flat Buildings

4. (1) After service on the owner of a notice in writing by the General Manager requiring him to do so, subject to the provisions of section 2, the owner of any flat building shall, within the time specified in such notice -
- (a) affix a metal number, or a metal plate, bearing a number, over the entrance to each separate flat;
 - (b) where there is more than one block of flats, or more than one main entrance to each block, affix at each main entrance to each block a metal letter or metal plate bearing a letter in either case of dimensions not less than the minimum specified in section 5;
 - (c) provide and maintain continuously in efficient working order, means of illumination, by which the sign referred to in section 3 and the metal letter or plates referred to in subsection (1) (b) hereof are made legible during the hours of darkness.
- (2) The numbers referred to in subsection (1)(a) shall run from 1 upwards on the ground floor, from 101 upwards on the first floor, and so on.
- (3) The letters referred to in subsection (1)(b) shall run from A onwards and each block or main entrance shall be assigned a different letter.
- (4) The provisions of subsection (1) shall apply, mutatis mutandis, in respect of any metal number, metal plate or metal letter that has become detached, or is for any reason no longer legible.

Minimum dimensions of numbers and letters

5. (1) The minimum height of every number and letter with regard to a property within the municipality is, in respect of -
- (a) flat buildings, office- or business buildings and shopping centers, 150 millimeter, and
 - (b) any other property, 75 millimeter:
- Provided that the distance between the lines which represent the actual number or letter should not be less than 10 millimeter.

Offences and penalties

6. (1) A person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall upon conviction by a court be liable to a fine or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
- (2) Any expense incurred by the Council 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 Council from the person who committed the contravention or who failed to do such thing.

Repeal

7. Any by-laws relating to the Numbering of Buildings adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title and commencement

8. These by-laws are called the by-laws relating to the Numbering of Buildings, 2022.

[PROVINCIAL NOTICE NO.59 OF 2022]

BY-LAWS FOR DIHLABENG LOCAL MUNICIPALITY PARKING OF VEHICLES ON PUBLIC ROADS BYLAW

Dihlabeng Local Municipality hereby publishes the Parking of Vehicles on Public Roads By-Laws set out in the Schedule hereto.

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CHAPTER 4

MISCELLANEOUS PROVISIONS

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1. Definitions

The words and expressions used in this bylaw shall have the meaning assigned thereto in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), unless inconsistent with the context:-

"after hours" means from 18:00 till 06:00.

"approved" means approved by the Municipality, and **"approval"** has a corresponding meaning;

"authorized officer" means an inspector of licenses, examiner of vehicles, examiner for driving licenses, traffic warden or a traffic officer, police officers and includes any other person appointed as an inspector of licenses, examiner of vehicles, examiner for driving licenses, traffic warden or a traffic officer in terms of section 3A of the National Road Traffic Act, 1996 (Act No. 93 of 1996), and includes any person nominated by any organization and authorized by the Municipality;

"authorized official" means any employee of the Municipality who is responsible for the performance of any function or the exercise of any power in terms of this by-law or any employee of the Municipality assigned or delegated to perform any function or exercise any power in the implementation of this by-law;

"business hours" means from 06:00 till 18:00

"Chief Traffic Officer" means the Chief Traffic Officer of the Municipality to whom any function, or duty has been delegated, and includes any other officer under his or her control. Official appointed by Council in terms of National Road Traffic Act, Section

"council" means the council of the municipality;

"driver" means any person who drives or attempt to drive any vehicle or who rides or attempts to ride any pedal cycle and drive or any like word has corresponding meaning;

"heavy motor vehicle" means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

"light vehicle" means any type of self-propelled vehicle with a gross vehicle mass of 3,500 kg and less.

"municipality" means the Dihlabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councilor, duly authorized agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee or an instruction given as contemplated in, Section 59 of the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000);

"Prohibited vehicle" means any vehicle with gross vehicle mass of 3 500 kg or more; any trailer; boat, whether on a trailer or not; any container of any description, whether on a trailer or not, and includes any caravan, implement or animal-drawn wagon or cart.

"Public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

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

"residential area" means those areas in Bethlehem, Bohlakong, Bakenpark, Mashaeng, Fouriesburg, Paul Roux, Fateng Tse Ntsho, Rosendal, Mautse, Clarens, Kgubetswana used exclusively for residential purposes;

"road reserve" means the portion of the road, street or thoroughfare that does not include the roadway; and

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular and pedestrian traffic and includes the shoulder of the road, any kerbs, verges or sidewalks.

"side walk" In terms of National Road Traffic Act 93/1996, definition of a side walk means that portion of verge intended for the **exclusive** use of pedestrians.

2. Purpose

The purpose of this By-law is to control parking within the area of jurisdiction of Dihlabeng Local Municipality in order to provide a safe environment.

Chapter 1

General provisions relating to parking

Part 1 – General provision

3. Control of parking

- (1) Whenever the public or a number of persons are entitled or allowed to use, as a parking place, an area of land, including land which is not part of a public road or a public place, an authorized officer may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.
- (2) The Municipality may manage parking and collect any fees related to parking or appoint a service provider to manage parking and to collect any fees related to parking.
- (3) No person may without the prior written approval of the municipality erect or place any sign or notice in any position or place indicating that parking in any parking bay is either reserved for a person or a class of persons.
- (4) The municipality may operate a parking management system in areas and during times determined by the municipality from time to time.
- (5) A person who disregards an instruction of an authorized officer in terms of subsection (1) or who erects or places a sign or notice in contravention of subsection (3) or who contravenes subsection (4) commits an offence.

4. Parking in a loading zone

- (1) No person who operates or who is in charge of a vehicle on a public road may allow, subject to subsections (2) and (3), the vehicle to remain stationary in a loading zone—
- (2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone for more than five minutes continuously, except while actually loading or off-loading persons or goods and while a licensed driver is in attendance at the vehicle.
- (3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone continuously, except while the vehicle is being actually loaded or off-loaded.
- (4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorized officer, even if the vehicle has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.

- (5) A person who contravenes a provision of this section commits an offence.
- 5. Restriction on parking in public roads and selling on the Pavement**
- (1) No person who operates or who is in charge of a vehicle on a public road may park any prohibited vehicle within the municipal area for a period that is indicated on a road traffic sign relevant to the specific area in a public road or within a residential area between the hours of 18:00 and 06h00-
 - (a) Except with the written permission of the Chief Traffic Officer, and
 - (b) Otherwise than in accordance with such conditions as may be determined by the council.
- (2) No person shall park a vehicle with gross vehicle mass exceeding 3 500 kg, or any trailer with gross mass exceeding 1 000kg, on a public road for a period in excess of one hour during business hours, namely from 06:00 till 18:00, except with the written permission of the Chief Traffic Officer.

In terms of Regulation 322 (b) NRTA except in such circumstances and in accordance with such requirements as may be prescribed, or determined by by-law, no person shall sell, display, offer for sale or deliver pursuant to a sale, any goods. (i) On or alongside a public road inside an urban area, except prior approval by council.

- (3) No Person is allowed to
- (3) Any person who is granted permission in terms of subsection (1) or (2), shall display such permission on the prohibited vehicle in accordance with the conditions as determined by the council.
- 6. Restriction on parking in road reserves**
- (1) No person may park any light vehicle or prohibited vehicle in a road reserve except-
 - (a) Where parking is allowed by means of a traffic sign erected by the Chief Traffic Officer;
 - (b) With the written permission of the Chief Traffic Officer, and
 - (c) Otherwise than in accordance with such conditions as may be determined by the council.
- (2) Any person who is granted permission in terms of subsection (1), shall display such permission on the light vehicle or prohibited vehicle in accordance with the conditions determined by the council.
- 7. Parking by a dealer or seller of a vehicle**
- (1) No dealer or seller of a vehicle may park or allow to be parked on the verge of a public road within the municipal area a vehicle which is for sale or for rental, whether advertised as such or not.
- (2) A dealer or seller who contravenes subsection (1) commits an offence.
- 8. Parking of a vehicle under repair**
- (1) No person responsible for the control of a business of recovering or repairing vehicle may park, cause or permit to be parked, in any public road or public space within the municipal area any vehicle that is in a state of disrepair, which has been placed in his or her charge in the course of the business of recovering or repairing.
- (2) A person who contravenes subsection (1) commits an offence.
- 9. Parking of heavy vehicles and caravans and taxi's**
- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area –
 - (a) A motor vehicle with a tare exceeding 3,500kg;
 - (b) A trailer not attached to a vehicle;
 - (c) A semi-trailer, or
 - (d) A caravan not attached to a vehicle.
 - (e) Mini-bus and busses
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that the owner thereof has parked such vehicle illegally unless the contrary is proved.
 - (a) No person shall park a vehicle with gross vehicle mass exceeding 9 000 kg, or any trailer with gross mass exceeding 1 000 kg, on a public road for a period in excess of two hours.
 - (b) No person shall park a caravan on a public road for period in excess of 24 hours.
 - (c) No person may cause, allow, permit or suffer any vehicle to be parked in a parking bay, except permitted by the provisions of this By-law.
- (3)(i) Where any vehicle is found to have been parked in contravention of this by-law, it is deemed to have been parked, or cost to be parked, or allowed to have been parked by the person in who's name the vehicle is registered unless and until he/she are adduces evidence to the contrary.
- (4) The Municipality shall/
 - (a) attached a wheel clamp to any unlawfully parked vehicle;
 - (b) or cause an unlawfully parked vehicle to be removed to a place designated by the Municipality; and
 - (c) charge a fee for the removal of the wheel clamp attached in terms of subsection (3)(a) on the release of vehicle which was removed in terms of subsection (3)(b), which fees will be payable upon removal of such wheel clamp or release of such vehicle.

- (5) **A person who contravenes subsection (1) commits an offence and will be liable to a penalty not exceeding R2500.00.**

10. Outspanning in public roads

- (1) No person may outspan or allow to be outspanned in any public road or public place any vehicle drawn by animals, or detach or leave in any public road or public place any trailer, caravan or vehicle which is not self-propelled, however, this provision unlawful parking and clamping or removal of unlawfully parked vehicles.

Part 2 – Parking Permits

11. Resident parking permit

- (1) Subject to any conditions the Municipality may impose a resident parking permit may be granted to persons-
- (a) Who reside in a residence –
 - (i) Situated on a section of road in circumstances where parking immediately adjacent to the residence is regulated by time.
 - (ii) In circumstances where not more than one person who resides in the residence is the holder of a current permit; and
 - (iii) Situated on a section of road in circumstances where the issue of the permit would not unduly impede the flow of traffic either on the road or in the area; and
 - (b) Whose residence does not have and cannot reasonably provide off-street parking.
 - (c) Who reside in a residence that is situated in an area that is in the vicinity of a sports stadium, field or facility, or any field or facility where an event is hosted; and
 - (d) In circumstances where such an area is cordoned off or declared zone.
- (2) A person who parks a vehicle in contravention of subsection (1) commits an offence.

12. Temporary parking permit

- (1) Subject to any conditions the Municipality may issue, a temporary parking permit may be granted to allow the holder of the permit to park one or more vehicles in a designated parking space for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space.
- (2) A temporary parking permit may only be granted if the Municipality is satisfied that—
- (a) The applicant is engaged in some temporary activity affecting premises immediately adjacent to the designated parking space to which the application relates; and
 - (b) It is not reasonably practical for the applicant to carry out that activity unless the designated parking space to which the application relates are allocated to the exclusive use of the applicant for the duration of the activity.
- (3) A person who parks a vehicle in contravention of subsection (1) commits an offence.

13. Work zone permit

- (1) Subject to any conditions the Municipality may impose a work zone parking permit may be granted for driving, parking or building or construction purposes in a parking bay or parking ground or on the verge of a road or elsewhere on a public road if the Municipality is satisfied that—
- (a) The part of the road or other area referred in subsection (1) to which the application relates is adjacent to or at the site of proposed building, construction or other work; and
 - (b) The carrying out of the building, construction or other work is lawful; and
 - (c) Having regard to the nature of the building, construction or other work and the characteristics of the site of the work, it is not reasonably practical for all work activity involving the vehicle, including loading and off-loading and associated vehicle movements, to be confined within the site, or to areas within close proximity where parking is permitted.
- (2) Holders of work zone permits may only use such permits for the parking of any vehicle in the execution of their duties.
- (3) A person who parks a vehicle in contravention of subsection (1) or who uses a work zone permit whilst not executing his or her duties commits an offence.

14. Municipal works parking permit

- (1) Subject to any conditions the Municipality may impose a municipal works parking permit may be granted to allow a person to park one or more vehicles in a designated parking space, and for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space if the person is—
- (a) An employee, contractor or agent of the Municipality; and
 - (b) Parking the vehicle or vehicles in the space—

- (i) For the purpose of carrying out work for or on behalf of the Municipality; and
 - (ii) In the course of carrying out his or her duties for or on behalf of the Municipality.
- 15. Conditions and originality of parking permits**
 - (1)
 - (a) The holder of a parking permit must affix the original permit on the windshield of the vehicle identified in the permit facing outwards, and as near as practicable to the registration label for the vehicle.
 - (b) The Municipality may only issue a replacement permit after the permit holder has declared the facts and circumstances of a loss, destruction or damage of the original permit to the satisfaction of the Municipality.
 - (2)
 - (a) A resident parking permit must be used only in respect of the parking of a vehicle at the location identified in the permit which must be—
 - (i) The road adjacent to the place of residence identified in the permit; or
 - (ii) The one or more segments of road in close proximity to the place of residence identified in the permit; and
 - (b) The holder of a resident parking permit must only use the permit whilst the holder remains a resident at the place of residence identified in the permit.
 - (c) A resident parking permit is not specific to any particular vehicle.
 - (d) The Municipality may only issue a maximum of one parking space per residence.
 - (3)
 - (a) A work zone permit must specify the part of the road to which the permit relates.
 - (b) The holder of a work zone permit must pay the prescribed fee, as determined by the Municipality, for the installation of official traffic signs, or other signs and markings to identify the boundaries of the work zone identified in the permit.
 - (c) No person may be stack, place or otherwise leave materials of any kind on the road or footpath within or outside of a work zone.
 - (d) No person may park, and load or off-load a vehicle or carry out any other operation in a manner which obstructs pedestrian movement along a footpath within or adjacent to a work zone.
 - (e) The holder of a work zone permit must keep the permit on site and produce upon request by an authorized officer.
 - (4) No person to whom a permit has been granted may stop, park or leave a vehicle at any time in a designated parking space unless the vehicle displays an original parking permit.
 - (5) Any person who contravenes any provision of this section, or who displays a copy of a parking permit commits an offence.
- 16. Reserved parking for the disabled, South African Police Services and other identified groups**
 - (1) The Municipality may reserve parking areas for the disabled, diplomatic corps, South African Police Services and any other groups identified by the Municipality, and may designate such areas by notice or road signage and may impose conditions appertaining to the issue of special parking facility permits.
 - (2) No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit.
 - (3) Any person who contravenes subsection (2) commits an offence.

Chapter 2 Unlawful parking

- 17. Unlawful parking and clamping or removal of unlawfully parked vehicles**
 - (1)
 - (a) No person may cause, allow, permit or any vehicle to be parked in a parking bay, except as permitted by the provisions of this By-law.
 - (b) No person shall turn with any vehicle that draws a semi-trailer, trailer or combination of vehicles at any crossing for the purpose of driving in the opposite's direction.
 - (2) Where any vehicle is found to have been parked in contravention of this By-law, it is deemed to have been parked, or caused to be parked, or allowed to have been parked by the person in whose name the vehicle is registered unless and until he or she adduces evidence to the contrary.
 - (3) **The Municipality shall;**
 - (a) **Attach a wheel clamp to any unlawfully parked vehicle;**
 - (b) **Or cause an unlawfully parked vehicle to be removed to a place designated/identified by the Municipality; and**
 - (c) **Charge a fee for the removal of a wheel clamp attached in terms of subsection (3)(a) or the release of a vehicle which was removed in terms of subsection (3)(b), which fees will be payable upon removal of such wheel clamp or release of such vehicle.**
 - (4) **A person who contravenes subsection (1) commits an offence.**
- 18. Exemptions**
 - (1) Notwithstanding any other provision in this By-law, the driver or person in charge of the following vehicles may, subject to the provisions of this section, park in any area without being charged:

- (a) A vehicle used as an ambulance and being at the time used to attend to a life threatening situation;
- (b) A vehicle used by a fire brigade for attendance at fires and being at the time used by the brigade in attending to a fire; and
- (c) A vehicle used by a member of the South African Police Service, the Law Enforcement division(traffic) of the Municipality and being at the time used in connection with a crime that is either in progress or in connection with the collection or protection of evidence in the aftermath of a crime
- (d) **he/she shall park the vehicle concerned with due regard to the safety of other traffic.**

Chapter 3
Parking Ground
Part 1 – General provision

19. The Municipality not liable for loss or damage

- (1). The Municipality is not liable for the loss of or damage howsoever caused, to any vehicle or person or any accessories or contents of a vehicle which has been parked in a parking ground.

20. Interference with authorized officials, authorized officers and parking marshals

- (1) No person may obstruct, hinder or in any manner interfere with an authorized official, authorized officer or a parking marshal in the performance of his or her duties under this By-law.
- (2) A person who contravenes subsection (1) commits an offence.

21. Payment of prescribed fee

- (1) A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee in any way or format prescribed by the Municipality. Either payment at the municipal office or at the bank identified by the municipality.
- (2) The Municipality may in respect of a parking ground controlled by the issue of payment slip which will have all the details of vehicle to be released,
- (3) A person who contravenes subsection (1) commits an offence.

22. Observance of signs

- (1) A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.
- (2) A person who contravenes subsection (1) commits an offence.

23. Abandoned vehicle

- (1) The Municipality may remove to the pound, a vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days or when a vehicle is obstructing traffic.
- (2) The Municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection (1), and if the owner of the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle has been removed, the Municipality may, subject to Regulation 320 subsection (3)(b) after a lapse of 1 month from the date of removal contemplated in sub regulation(2), the owner cannot be traced, such vehicle or anything contained therein may be sold in the manner prescribed by the law governing the sale of moveable property by such authority and, whenever possible, the authority which register such vehicle shall be advised of such sale.
- (3) The Municipality must, 14 days before the auction contemplated in subsection (2), publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction, however, if the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction, and the person must pay to the Municipality all prescribed fees payable in terms of this By-law and the applicable costs in terms of subsection (4).
- (4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and thereafter to defray the following:
 - (a) The costs incurred in endeavoring to trace the owner in terms of subsection (2);
 - (b) The costs of removing the vehicle;
 - (c) The costs of publishing the notice of the auction;
 - (d) The costs of effecting the sale of the vehicle;
 - (e) The costs, calculated at a rate determined by the Municipality, of keeping the vehicle in the pound;
 - (f) The parking fees applicable for having left the vehicle in the parking ground as contemplated in subsection (1); and
 - (g) Any unpaid parking fees or unpaid traffic fines in respect of such vehicle and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he or she can prove his or her right to the vehicle.
- (5) If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection (4) is forfeited to the Municipality.

- (6) No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days, and a person who does so commits an offence.

24. Damage to notices

- (1) No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the Municipality on a parking ground/pound.
(2) A person who contravenes subsection (1) commits an offence.

25. Negligent and dangerous driving and speed restriction

- (1) No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.
(2) The municipality may by sign indicate the maximum speed that may be travelled in a parking ground.
(3) A person who contravenes subsection (1) and a person who exceeds the maximum speed prescribed in terms of subsection (2), commits an offence.

26. Entering or remaining in parking ground/pound

- (1) No person may enter, remain or be on a parking ground otherwise than for the purpose of parking on the parking ground a vehicle, or lawfully removing from the parking ground a vehicle, in respect of which he or she has paid the prescribed parking fee, however this section does not apply to—
(a) A person in the company of a person who is parking or removing a vehicle;
(b) Officials of the Municipality engaged in official activities or on instruction from the Municipality; and
(c) A person employed by an appointed parking management service provider engaged in the execution of his or her duties.
(2) A person who contravenes subsection (1) commits an offence.

27. Tampering with vehicle

- (1) No person may, on a parking ground/pound, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle, or set the machinery of the vehicle in motion.
(2) A person who contravenes subsection (1) commits an offence.

28. Defacing municipal payment slip

- (1) No person may, in a parking ground with intent to defraud the Municipality, forge, imitate, deface, mutilate, alter or make a mark upon a parking payment slip issued in terms of this By-law.
(2) A person who contravenes subsection (1) commits an offence.

29. Cleaning of vehicle

- (1) No person may, without the prior approval of the Municipality, clean or wash a vehicle in a parking ground/pound
(2) A person who contravenes subsection (1) commits an offence.

30. Parking hours and classes of vehicles

- (1) The Municipality may, subject to the provisions of this By-law, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.
(2) The Municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.
(3) The Municipality may, notwithstanding a notice posted in terms of subsection (2), by notice exhibited on a parking ground, close the parking ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.
(4) No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection (3), or at any time other than during the hours for the parking of vehicles on the parking ground as determined by the Municipality from time to time.
(5) No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.
(6) No person may, unless he or she is the holder of a parking coupon issued in terms of this By-law authorizing him or her to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.
(7) A person who contravenes subsection (4), (5) or (6) commits an offence.

CHAPTER 4

Miscellaneous provisions

31. Obeying and interfering with an authorized officer

- (1) An authorized officer may direct all traffic by means of visible or audible signals, and no person may disobey such signals.

- (2) No person may obstruct, hinder, abuse or interfere with any authorized officer in the exercise of the power referred to in subsection (1).
- (3) A person who contravenes a provision of this section commits an offence.

32. Appeal

- (1) A person whose rights are affected by a decision made under this By-law and in the event of the power or duty to make that decision is delegated or sub-delegated to the decision-maker, 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 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.
- (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; or
 - (b) The Municipal Manager, the Executive Committee of the 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.

33. Sale of impounded vehicles

- (1) The Municipality must—
 - (a) Within 14 days of the impounding of a vehicle, apply to the Court for authority to sell the vehicle; and
 - (b) In the application contemplated in paragraph (a), provide the Court with proof that he or she has lodged a statement as contemplated in subsection (2) with the owner.
- (2) The statement contemplated in subsection (1)(b) must include the fees and costs due in terms of this By-law.

34. Procedure to be followed in application to Court

An application to Court for the sale of an impounded vehicle in terms of this By-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court, made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

35. Compliance notices and the recovery of costs

- (1) Notwithstanding any other provision of this By-law, the Municipality may—
 - (a) Where the permission of the Municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
 - (b) Where any provision of this By-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance,
 serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) commits an offence, and the Municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

36. Presumptions

- (1) For the purpose of this By-law, the person in whose name a vehicle is licensed and which is parked in a parking ground, is deemed to be the person having control or charge of the vehicle, unless and until he or she adduces evidence to the contrary.
- (2) A motor vehicle that is found on a taxi facility or bus stop or that has stopped at a taxi facility or bus stop is presumed to be playing for hire, unless the contrary is proved.
- (3) (a) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of this By-law it is necessary to prove who was the driver of such vehicle, it is presumed, in the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.
 - (b) Whenever a vehicle is parked in contravention of any provision of this By-law, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.
 - (c) For the purposes of this By-law it is presumed, in the absence of evidence to the contrary, that where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant, or in furthering, or endeavoring to further the interests of the corporate body.
- (4) In any prosecution in terms of this By-law, the fact that any person purports to act or has purported to act as a traffic officer or peace officer is prima facie proof of his or her appointment and authority so to act, however, this section does not apply to a prosecution on a charge for impersonation.

- (5) Any person, who, by means of any motor vehicle, conveys passengers will be presumed to have conveyed such passengers for hire or reward, and such vehicle shall be presumed to be a taxi unless the contrary is proved.
- (6) A document which purports to be a receipt of prepaid registered post, a telefax transmission report or a signed acknowledgement of hand delivery, will on submission by a person being prosecuted under this By-law, be admissible in evidence and prima facie proof that it is such receipt, transmission report or acknowledgement.

37. Offences and Penalties

A person who has committed an offence in terms of this By-law is, on conviction, and subject to penalties prescribed in any other law, liable to—

- (a) A fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment; and
- (b) In the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

38. Repeal of by-law

The by-laws listed in the Schedule hereto and any by-law previously promulgated by the Municipality is amended.

39. Date of commencement

These by-laws commence on the date of publication in the Provincial Gazette.

40. Short title

This By-law is called Dihlabeng Local Municipality: Parking By-law, 2022

[PROVINCIAL NOTICE NO.60 OF 2022]

PUBLIC SWIMMING POOLS BY-LAWS

SCHEDULE

Definitions

1. In this by-law, words used in the masculine gender include the feminine; the singular includes the plural and vice versa; and unless the context otherwise indicates:-
- "manager"** means the employee of the municipality who is in charge of the swimming pools and who has been appointed by the municipality to give effect to this by-law;
- "municipality"** means the Local Municipality of Dihlabeng established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office-bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or subdelegated to such political structure, political office-bearer, councillor, agent or employee;
- "notice"** means a clear and legible official notice displayed at every entrance to or at a conspicuous place at a swimming pool and in which the municipality shall make known provisions and directions adopted by it in terms of this by-law;
- "premises"** means swimming pools owned by or under the management or control of the municipality and available for the use of the public and includes all dressing-rooms and other facilities used in connection therewith and the grounds on which it is erected; and
- "swimming pool"** means the swimming pool situated on the premises.

Admission to swimming pool

2. (a) No person shall enter the premises, nor shall any person swim in the swimming pool except on such days and at such times and on such conditions as shall be laid down by the municipality from time to time.
- (b) The municipality shall post a notice setting forth the days and hours during which the swimming pool shall normally be open to the public in a prominent place at or near the entrance to the premises.
- (c) Notwithstanding the fixing by the municipality of the days and hours of normal opening as provided in subsection (a), the municipality may close the swimming pool or part thereof to the public for a specified time and purpose during the open hours; provided that a notice to that effect shall be posted at the same place as the notice referred to in subsection (b). When the swimming pool is closed to the public to allow a swimming gala to be held or for the special purposes of a swimming club or other organisation or school, as the case may be, the public may be admitted as spectators or swimmers on such conditions and terms of admission as shall be determined by the organisers of such swimming gala, swimming club or other organisation or school with the approval of the municipality.

- (d) No club, school or other organization or person shall use the swimming pool for any gala, meeting, practice or training unless written application is made beforehand to the municipality and only on such conditions as the municipality may determine.

Admission

- 3. (a) No person other than a person who is the holder of an admission ticket shall be permitted admission to the premises. Any such person to whom a ticket, as aforesaid, has been issued shall at any time while visiting the premises produce such ticket to the manager when requested by him to do so.
- (b) No child under the age of seven years shall be permitted admission to the premises unless accompanied by a parent or other responsible person.
- (c) No person who is in a state of intoxication or under the influence of drugs or whom the manager upon reasonable grounds believes to be in such a state shall be admitted to the premises. Where such person has been inadvertently admitted, he shall vacate the premises without delay on being ordered to do so by the manager.
- (d) No pets shall be allowed on the premises.
- (e) The manager shall have the right to refuse admission to any person who in terms of this by-law is manifestly not entitled to obtain admission, and in the event of any such person having already obtained admission, to order him to leave the premises forthwith.
- (f) Any person who has been refused admission to the premises or who, having gained admission, is ordered by the manager to leave the premises shall have the right to appeal to the municipality against the decision of the manager.
- (g) No person who has paid for admission and who is subsequently ordered to leave the premises shall be entitled to a refund of his admission fee.
- (h) No firearms, catapults, air-guns, traditional weapons, fireworks or crackers or any dangerous weapon may be brought into the swimming pool area.

Use of dressing rooms

- 4. (a) The municipality shall provide on the premises such dressing rooms as it may deem necessary in which persons visiting the swimming pool for the purpose of swimming shall change from their ordinary clothes into pooling costumes and vice versa as well as such sanitary conveniences and other facilities as it may deem necessary.
- (b) Separate dressing rooms and sanitary and other conveniences shall be provided for both sexes and notices shall be erected stating the sex which shall be entitled to use the respective dressing room and sanitary or other conveniences. No person shall enter any such dressing room or other accommodation which has been appropriated or set apart for the use of the opposite sex.

General prohibitions

- 5. No person shall-
 - (a) dress or undress in any place, except in the dressing room or other places provided for such purpose;
 - (b) after having entered the swimming pool, use therein any soap or other substance or preparation for any purpose whatsoever;
 - (c) by any disorderly or improper conduct disturb, injure or molest any other person or obstruct the manager or his authorised official in the performance of his duties, and no person shall use any indecent, offensive or profane language or behave in an indecent or offensive manner;
 - (d) bring any glass bottle or any glassware onto the premises;
 - (e) remove, take away, throw down, damage or destroy any furniture, fitting, tool, machinery or other article or thing pertaining to or used on the premises which is the property of the municipality;
 - (f) at any time enter the swimming pool while knowingly suffering from a contagious disease or from an open wound or sore;
 - (g) introduce into or consume or smoke on the premises any intoxicating liquor or drugs;
 - (h) swim in the swimming pool unless clothed in a proper and adequate pooling costume, nor appear anywhere on the premises unless he is wearing a pooling costume or is otherwise properly dressed;
 - (i) spit or expectorate on the premises or defecate in the swimming pool or some other place, or leave or deposit any paper, fruit peels or other litter anywhere except in the refuse bins provided for the purpose;
 - (j) use any shower or sanitary convenience in an improper or offensive manner;
 - (k) damage, or by writing, drawing or scribbling thereon or by any other means or in any other manner deface or defile any wall, seat or door, or damage or unlawfully interfere with any facility or appurtenance or any part of the swimming pool;
 - (l) gamble on the premises;

- (m) play water polo in the swimming pool except at such times and on such conditions as shall be fixed by the municipality, nor shall any person play, with or without a ball or other object, any other game likely to cause injury or discomfort to swimmers or spectators;
- (n) bring or use a surfboard, canoe, boat, punt, raft or other thing which may cause injury on the premises or in the swimming pool;
- (o) wash any garment or other matter in the swimming pool;
- (p) discharge any fireworks on the premises;
- (q) play any musical instrument or make noises thereon whilst utilising the conveniences on the premises, except with the prior written consent of the municipality;
- (r) deliver, utter or read aloud any public speech, prayer, book or address, or sing any song out loud, or hold or take part in any public meeting or assemblage on the premises, except with the prior written consent of the municipality;
- (s) refuse to give his or her name and address when requested to do so by the manager;
- (t) enter the swimming pool with clothing other than normal swimwear;
- (u) enter the swimming pool area with a bicycle, motorcar, motorbike or any other self-propelled means of transport;
- (v) interfere with or molest any animal or bird kept on the premises on which a swimming pool is situated, nor shall any person interfere with any plant or pick any flower, slip or cutting;
- (w) organise a function, sale, performance, march or any other gathering on the parking area or in the swimming pool area without the written consent of the manager.

Responsibility of municipality

6. The municipality shall not be responsible-
- (a) for the loss or theft of clothing or effects of any description whatsoever left by any person in the dressing rooms or lockers or elsewhere on the premises;
 - (b) for any injuries sustained or illness contracted or alleged to have been sustained or contracted, as the case may be, by any person on the premises or in the swimming pool;
 - (c) for death as a result of drowning or any other cause.

Admission charges

7. The municipality shall from time to time fix the charges for admission to the premises, and such charges shall be prominently displayed at the office where the admission charges are paid.

Ejection

8. Any person contravening any provision of this by-law and any person whom the manager reasonably suspects of having committed any other offence on the premises shall immediately leave the premises when ordered to do so by the manager.

Penalty

9. Any person who contravenes any provision of this by-law shall be guilty of an offence and liable upon conviction to-
- (a) a fine or imprisonment, or either such fine or imprisonment 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 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;
 - (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

10. Any by-laws relating to public swimming pools adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

11. This by-law is called the Public Swimming Pool By-law, 2022

[PROVINCIAL NOTICE NO. 61 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

REFUSE REMOVAL BY-LAWS

SCHEDULE

To provide for a refuse removal service in the municipality; and for matters connected therewith.

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Definitions

1. In this By law, unless the context otherwise indicates —
 - "bin"** means a standard type of refuse bin with a capacity of 0,1 cubic meters or 85 litres as approved by the Municipality and which can be supplied by the Municipality. The bin may be constructed of galvanised iron, rubber or polythene;
 - "bin liner"** means a plastic bag approved by the Municipality which is placed inside a bin with a maximum capacity of 0,1 cubic meters. These bags must be of a dark colour, 950 mm x 750 mm in size, of low density minimum 40 micrometer diameter or 20micrometer diameter high density;
 - "building and demolition waste"** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;
 - "bulky garden refuse"** means refuse such as tree stumps, branches of trees, hedge stumps and branches of hedges and any other grade refuse of quantities more than 2 cubic meters;
 - "bulky refuse"** means refuse which emanates from any premises, excluding industrial refuse, and which cannot by virtue of its mass, shape, size or quantity be conveniently accumulated or removed in a refuse bin with a bin liner;
 - "business waste"** means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes;
 - "domestic waste"** means waste, excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreation purposes;
 - "garden refuse"** means refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants and flowers;
 - "Municipality"** means the Dhlabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
 - "occupier"** means any person who occupies any premises or part thereof, without regard to the title under which he or she occupies;
 - "owner"** means -
 - (a) the person in whom from time to time is vested the legal title to the 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 and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, manager, liquidator or other legal representative;

- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
 - (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
 - (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 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 that Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
 - (f) any legal person including, but not limited to -
 - (i) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), a trust *inter vivos*, a trust *mortis causa*, a close corporation registered in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any municipality or board established in terms of any legislation applicable in the Republic of South Africa;
 - (iv) any embassy or other foreign entity;
- "public place"** means any road, street, square, park, recreation ground, sport ground, sanitary lane or open space which has —
- (a) in connection with any subdivision or layout of land into erven, lots of plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (b) at any time been dedicated to the public;
 - (c) been used without interruption by the public for a period of at least 30 years expiring after 31 December 1959; or
 - (d) at any time been declared or rendered as such by the Municipality or other competent authority;
- "special industrial refuse"** means refuse, consisting of a liquid or sludge, resulting from a process or the pre-treatment for disposal purposes of any industrial liquid waste, which in terms of the Municipality's By-laws may not be discharged into a drain or sewer; and
- "tariff"** means the tariff of charges as determined from time to time by the Municipality.

Removal of refuse

2.
 - (1) The Municipality shall provide a service for the collection and removal of business and domestic refuse from premises at the tariff determined by the Municipality.
 - (2) The occupier of the premises on which business or domestic refuse is generated, shall avail himself or herself of the Municipality's service for the collection and removal of such refuse, except where special exemption is granted by the Municipality.
 - (3) The owner of the premises on which business or domestic refuse is generated, shall be liable to the Municipality for all charges in respect of the collection and removal of refuse from such premises.

Notice to the Municipality

3. The occupier of the premises, or in the case of premises being occupied by more than one person, the owner of such premises on which business refuse or domestic refuse is generated, shall within seven days after the commencement of the generation of such refuse notify the Municipality-
 - (a) that the premises is being occupied;
 - (b) whether business refuse or domestic refuse is being generated on the premises.

Provision of refuse bins or container units

4.
 - (1) The Municipality shall determine the type and number of containers required on a premises.
 - (2) If a container is supplied by the Municipality, such container shall be supplied free of charge, or at the ruling prices, or at a hiring tariff, as the Municipality may determine;
 - (3) If required by the Municipality, the owner of a premise shall be responsible for the supply of a pre-determined number and type of containers.
 - (4) The Municipality may supply container units to a premises if, having regard to the quantity of business refuse generated on the premises concerned, the suitability of such refuse for storage in refuse bins, and the accessibility of the space provided by the owner of the premises in terms of section 5 to the Municipality's refuse collection vehicles, if it considers container units more appropriate for the storage of the refuse than refuse bins: Provided that container units shall not be supplied to the premises unless the space provided by the owner of the premises in terms of section 5 is accessible to the Municipality's refuse collection vehicles for container units.

Positioning of refuse bins, container units, etc.

5. (1) The owner of the premises shall provide adequate space on the premises for the storage of the refuse bins supplied by the Municipality in terms of section 4 or for the equipment and containers mentioned in section 7(1).
- (2) The space provided in terms of subsection (1) shall -
- (a) be in such a position on the premises as will allow the storage of refuse bins without the bins being visible from a street or other public place;
 - (b) where domestic refuse is generated on the premises —
 - (i) be in such a position as will allow the collection and removal of refuse by the Municipality's employees without hindrance;
 - (ii) be not more than 20 m from the entrance to the premises, used by the Municipality's employees;
 - (c) if required by the Municipality, be so located as to permit convenient access to and egress from such space for the Municipality's refuse collection vehicles;
 - (d) be sufficient to house any receptacle used in the sorting and storage of the refuse contemplated in subsections 6(1)(a)(i) and 7(9), as well as any such refuse not being stored in a receptacle: Provided that this requirement shall not apply in the case of buildings erected, or the building plans whereof have been approved, prior to the coming into operation of this By-law.
- (3) The occupier of the premises, or in the case of premises being occupied by more than one person, the owner of such premises shall place the refuse bins supplied in terms of section 4, in the space provided in terms of subsection (1) and shall at all times keep them there.
- (4) Notwithstanding anything to the contrary in subsection (3) contained-
- (a) in the case of buildings erected, or of which the building plans have been approved prior to the coming into operation of this By-law; and
 - (b) in the event of the Municipality, in its opinion being unable to collect and remove business refuse from the space provided in terms of subsection (1), the Municipality may, having regard to the avoidance of nuisance and the convenience of collection of refuse, indicate a position within or outside the premises where the refuse bins shall be placed for the collection and removal of such refuse and such refuse bins shall then be placed in such position at such times and for such periods as the Municipality may determine.

Use and care of containers and bin liners

6. (1) Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises shall ensure that-
- (a) all the domestic or business refuse generated on the premises is placed and kept in bin liners for removal by the Municipality: Provided that the provisions of this subsection shall not prevent any occupier or owner, as the case may be —
 - (i) who has obtained the Municipality's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption;
 - (ii) from utilising such domestic refuse as may be suitable for making compost;
 - (b) no hot ash, unwrapped glass or other business or domestic refuse which may cause damage to bin liners or which may cause injury to the Municipality's employees while carrying out their duties in terms of this By-law, is placed in bin liners before he or she has taken such steps as may be necessary to avoid such damage or injury;
 - (c) no material, including any liquid which, by reason of its mass or other characteristics, is likely to render such bin liners unreasonably difficult for the Municipality's employees to handle or carry, is placed in such bin liners;
 - (d) every container on the premises is covered, save when refuse is being deposited therein or discharged there from, and that every container is kept in a clean and hygienic condition;
 - (e) no person deposits refuse in any other place than in the containers provided for that purpose.
- (2) No container may be used for any purpose other than the storage of business, domestic or garden refuse and no fire shall be lit in such container.
- (3) In the event of a container having been delivered to premises in terms of subsection 4(4), the occupier of such premises shall, 24 hours before the container is likely to be filled to capacity, inform the Municipality thereof.

- (4) The owner of premises to which bins or container units have been supplied in terms of section 4 or 11, shall be liable to the Municipality for the loss thereof and for any damage caused thereto, except for such loss or damage as may be caused by the employees of the Municipality.
- (5) Plastic bin liners with domestic or garden refuse, or both, shall be properly closed and be placed outside the property next to the fence and near the entrance or access road before 07:00 on the day determined by the Municipality for removal of refuse.

Compaction of refuse

- 7. (1) Should the quantity of domestic or business refuse generated on premises be such that, in the opinion of the Municipality, the major portion of such refuse is compactable, or should the owner or occupier of premises wish to compact such refuse, such owner or occupier, as the case may be, shall increase the density of that portion of such refuse as is compactable by means of approved equipment designed to shred or compact refuse and shall put the refuse so treated into an approved plastic, paper or other disposable container or into a compaction unit container, and the provisions of section 4 shall not apply to such compactable refuse.
- (2) The capacity of the plastic, paper or other disposable container referred to in subsection (1) shall not exceed 0,1 cubic meters.
- (3) After the refuse, treated as contemplated in subsection (1), has been put into a plastic paper or other disposable container, such container shall be placed in a container or container unit.
- (4) Insofar as the provisions of subsection (1) make the compaction of domestic or business refuse compulsory, such provisions shall not apply until a period of 6 months has elapsed from the date of the serving of a notice to this effect by the Municipality.
- (5) "Approved" for the purpose of subsection (1), shall mean approved by the Municipality, regard being had to the suitability of the equipment or container for the purpose for which it is to be used, as well as the reasonable requirements of the particular case from a public health, storage and refuse collection and removal point of view.
- (6) The containers mentioned in subsection (1) shall be supplied by the owner or the occupier, as the case may be.
- (7) If the container referred to in subsection (1) is made of steel, such container shall, after the collection thereof and after it has been emptied by the Municipality, be returned to the premises.
- (8) The Municipality shall remove and empty the containers referred to in subsection (1) at such intervals as the Municipality may deem necessary in the circumstances.
- (9) The provisions of this section shall not prevent any owner or occupier of premises, as the case may be, after having obtained the Municipality's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption.

Removal and disposal of garden refuse, bulky garden refuse and other bulky refuse

- 8. (1) The occupier, or in the case of premises occupied by more than one person, the owner of premises on which garden refuse, bulky garden refuse or other bulky refuse is generated, shall ensure that such refuse be disposed of in terms of this By-law a reasonable time after the generation thereof.
- (2) Any person may remove and dispose of garden refuse, bulky garden refuse or other bulky refuse.
- (3) Garden refuse, bulky garden refuse or other bulky refuse removed from the premises on which it was generated, shall be disposed of on a site designated by the Municipality as a disposal site for such refuse.

The Municipality's special service

- 9. At the request of the owner or any occupier of any premises, the Municipality shall remove bulky garden refuse and other refuse from premises, if the Municipality is able to do so with its refuse removal equipment. All such refuse shall be placed within 3 m of the boundary loading point, but not on the sidewalk.

Responsibility for builders refuse

- 10. (1) The owner of premises on which builders refuse is generated and the person engaged in the activity, which causes such refuse to be generated, shall ensure that —
 - (a) such refuse be disposed of on the terms of section 12 within a reasonable time after the generation thereof;
 - (b) until such time as builders refuse is disposed of, such refuse, together with the containers used for the storing or removal thereof, be kept on the premises on which it was generated.
- (2) Any person may operate a builders refuse removal service. Should the Municipality provide such a service, it shall be done at the prescribed tariff.

Containers

11. (1) If containers or other receptacles used for the removal of builders refuse, bulky refuse or other waste material from premises can, in the opinion of the Municipality, not be kept on the premises, such containers or other receptacles may, with the written consent of the Municipality, be placed in the roadway for the period of such consent.
- (2) Any consent given in terms of subsection (1), shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality shall have regard to the convenience and safety of the public.
- (3) Every container or other receptacle used for the removal of builders refuse shall -
- (a) have clearly marked on it the name and address or telephone number of the person in control of such container or other receptacle;
 - (b) be fitted with reflecting chevrons or reflectors, which shall completely outline the front and the back thereof; and
 - (c) be covered at all times, other than when actually receiving or being emptied of such refuse, so that no displacement of its contents or dust nuisance may occur.

Disposal of builders refuse

12. (1) Subject to the provisions of subsection (2), all builders refuse shall be deposited at the Municipality's refuse disposal sites, after the person depositing the refuse has paid the tariff charge therefor.
- (2) For the purpose of reclamation of land, builders refuse may, with the written consent of the Municipality, be deposited at a place other than the Municipality's refuse disposal sites.
- (3) Any consent given in terms of subsection (2), shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality shall have regard to —
- (a) the safety of the public;
 - (b) the environment of the proposed disposal site;
 - (c) the suitability of the area, including the drainage thereof;
 - (d) the expected manner and times of depositing of refuse at the site;
 - (e) the levelling of the site;
 - (f) the control of dust; and
 - (g) any other relevant factors.

Notification of generation of special industrial refuse

13. (1) The person engaged in the activity, which causes special industrial refuse to be generated, shall inform the Municipality of the composition thereof, the quantity generated, how it is stored and how and when it will be removed.
- (2) If so required by the Municipality, the notification referred to in subsection (1), shall be substantiated by an analysis certified by a qualified industrial chemist.
- (3) Subject to the provisions of this By-law, any person duly authorised by the Municipality, may enter premises at any reasonable time to ascertain whether special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.
- (4) The person mentioned in subsection (1), shall notify the Municipality of any changes in the composition and quantity of the special industrial refuse that may occur from time to time.

Storing of special industrial refuse

14. (1) The person referred to in section 13(1), shall ensure that the special industrial refuse generated on the premises is kept and stored thereon in terms of subsection (2), until it is removed from the premises in terms of section 15.
- (2) Special industrial refuse stored on premises, shall be stored in such a manner that it does not become a nuisance or pollute the environment.
- (3) If special industrial refuse is not stored in terms of subsection (2) on the premises on which it is generated, the Municipality may order the owner of the premises and the person referred to in subsection 13(1), to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Municipality may remove it at the owner's expense.

Removal of special industrial refuse

15. (1) No person shall remove special industrial refuse from the premises on which it was generated without or otherwise than in terms of the written consent of the Municipality.

- (2) The Municipality may give its consent in terms of subsection (1), subject to such conditions as it may deem fit. In laying down conditions, the Municipality shall have regard to —
 - (a) the composition of the special industrial refuse;
 - (b) the suitability of the vehicle and container to be used;
 - (c) the place where the refuse shall be dumped; and
 - (d) proof to the Municipality of such dumping.
- (3) The Municipality shall not give its consent in terms of subsection (1), unless it is satisfied that the person applying for such consent is competent and has the equipment to remove the special industrial refuse and complies with the conditions laid down by the Municipality.
- (4) The person referred to in subsection 13(1), shall inform the Municipality, at such intervals as the Municipality may stipulate, having regard to the information to be given to the Municipality in terms of subsection 13(1), of the removal of special industrial refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial refuse removed.
- (5) Should any person be caught in the act of contravening the provisions of this section, such person shall dispose of the refuse removed by him or her as directed by the Municipality.

Conduct at disposal sites

- 16. (1) Any person who, for the purpose of disposing of refuse, enters a refuse disposal site controlled by the Municipality shall -
 - (a) enter the disposal site only at an authorised access point;
 - (b) give the Municipality all the particulars required in regard to the composition of the refuse; and
 - (c) follow all instructions given to him or her in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited.
- (2) No person shall bring intoxicating liquor onto a disposal site controlled by the Municipality.
- (3) No person shall enter a disposal site controlled by the Municipality for any purpose other than the disposal of refuse in terms of this By-law and then only at such times as the Municipality may from time to time determine.

Ownership of refuse

- 17. (1) All refuse removed by the Municipality and all refuse at disposal sites controlled by the Municipality shall be the property of the Municipality and no person who is not authorised by the Municipality to do so, may remove or interfere therewith.
- (2) Only refuse which is generated on premises within the Municipality's area of jurisdiction may be disposed of on the Municipality's refuse disposal sites.

Littering and dumping

- 18. No person shall -
 - (a) throw, discard, deposit or spill any refuse of any nature into or onto any public place, vacant stand, vacant erf, stream or watercourse;
 - (b) sweep any refuse into a gutter on a public place; or
 - (c) allow any persons under his or her control to do any of the acts referred to in paragraphs (a) and (b).

Abandoned things

- 19. (1) Anything, other than a vehicle, left in a public place, and which may, having regard to —
 - (a) the place where it was left;
 - (b) the period that it was left; and
 - (c) its nature and condition,
 be regarded as abandoned, may be removed and disposed of by the Municipality.
- (2) If the identity of the owner of the abandoned thing is known to the Municipality, the Municipality may recover the costs concerning the removal and disposal of such thing, if any, from the owner.
- (3) For the purpose of subsection (1), a shop trolley shall be deemed not to be a vehicle.

Access to premises

- 20. (1) Where the Municipality provides a refuse collection service, the occupier of premises shall grant the Municipality access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Municipality in the carrying out of its service.
- (2) Where, in the opinion of the Municipality, the collection or removal of refuse from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the refuse collectors or any other person, it may, as a condition for the provision of a refuse collection service to the premises,

require the owner or occupier to indemnify it, in writing, in respect of any such damage or injury or any claims arising out of either.

Accumulation of refuse

21. If any category of refuse defined in this By-law accumulates on premises so as to constitute or so as to render it likely that a nuisance will be created thereby, the Municipality may make a special removal of such refuse and the owner shall be liable in respect of such special removal to pay the tariff charge therefore.

Charges

22. (1) Save where otherwise provided in this By-law, the person to whom any service mentioned in this By-law has been rendered by the Municipality, shall be liable to the Municipality for the tariff charge in respect thereof.
- (2) Services rendered by the Municipality in respect of which a monthly tariff charge is prescribed, shall only be discontinued by the Municipality after receipt of a written notification from the owner or occupier of the premises to which the services are rendered, that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.
- (3) Monthly tariff charges shall be payable until receipt by the Municipality of the notice mentioned in subsection (2), or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.

Penalty clause

23. Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment not exceeding 6 months, or to both a fine and such imprisonment.

Repeal of laws and savings

24. (1) Any by-laws relating to Refuse Removal adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.
- (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 this By-law, as the case maybe.

Short title

25. This By-law shall be called the Refuse Removal By-law, 2022,

[PROVINCIAL NOTICE NO. 62 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

SPORTING FACILITIES BY-LAWS

SCHEDULE

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Definitions

1. In this by-law, unless the context otherwise indicates -
- "accessories"** means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;
- "appurtenance"** means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;
- "equipment"** means gear used by a person in a sporting activity;
- "facility"** means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;
- "municipality"** means the Local Municipality of Dihlabeng established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- "organised sporting activity"** means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;
- "organisation"** means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;
- "sporting facility"** means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

Application of By-laws

2. This by-law apply to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.

Administration, control over and maintenance of sporting facilities

3. (1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.
- (2) All sporting facilities must be administered by the municipality in accordance with this By-law.
- (3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.
- (4) A person or organisation who uses or hires sporting facilities does so subject to the provisions of this by-law and in terms of conditions as may be determined by the municipality.
- (5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (6) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person -
- (a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;
- (b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.
- (7) If the municipality permits the sale or consumption of alcohol on or in a facility by an organization or body, the sale or consumption is subject to the following conditions:
- (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
- (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
- (c) the organization or body must maintain good order within the sporting facility.
- (8) The municipality may close a facility when:
- (a) The facility is substantially unusable due to -
- (i) destruction;
- (ii) severe damage; or
- (iii) the absence of municipal services;
- (b) the facility constitutes a danger to human life or property;
- (c) an emergency has arisen which requires such closure.
- (9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.

- (10) A person who or organization that contravenes subsection (6) or (7) commits an offence.

Access to sporting facilities and storage facilities

4. (1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.
- (2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this bylaw to leave the facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed.
- (3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

Admission fees and other fees

5. The municipality may prescribe fees to be charged for admission to or the hire or use of a sporting facility or equipment.

Prohibited behaviour in or on sporting facility or its premises

6. (1) No person may -
- (a) enter any part of a facility otherwise than by an entrance designated for that purpose;
 - (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of the public, or when access to the facility has been denied;
 - (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
 - (d) wear footwear that may damage the surface of a facility;
 - (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
 - (f) relieve him or herself in any part of the sporting facility other than in the ablution facilities;
 - (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
 - (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
 - (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
 - (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behaviour towards other persons;
 - (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
 - (l) discard rubbish other than in a container provided for that purpose;
 - (m) in any manner, interfere with the substance covering the surface of a sporting facility;
 - (n) light any fire;
 - (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
 - (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of bicycles;
 - (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;
 - (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
 - (s) tamper or interfere with an appurtenance in or on the premises of a sporting facility;
 - (t) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged involves the use of animals;
 - (u) bring into or keep on a facility a weapon or any other dangerous object.
 - (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
 - (w) behave or conduct himself or herself in a manner which may prejudice good order;

- (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
- (y) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
- (z) fail to comply with a lawful instruction given by an official. (2) A person who contravenes any of the provisions of this section commits an offence.

Organised sporting activities

7. (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons such as, but not limited to free lance instructors.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members use the facility, and should it be impossible for the organisation to use the facilities at those times, the organization must notify the official in charge of the sporting facility beforehand, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

Reservation and hiring of sporting facilities

8. (1) The municipality may set aside or hire out a sporting facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire a sporting facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
 - (a) The principles and objectives of this by-law;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (c) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (d) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (4) The municipality may approve the use of a sporting facility subject to any condition it may impose, or it may refuse consent.
- (5) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and -
 - (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the sporting facility is subject.
- (6) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (7) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality -
 - (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and
 - (b) public liability insurance. (8) An organization which supplies false information in an application form or with respect to the requirements in subsection (7), or which contravenes subsection (6) commits an offence.

Cancellation, postponement or extension of reservation

9. (1) An organisation who has applied for the reservation of a sporting facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.
- (2) (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.
- (b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.
- (c) Postponement may be refused if the facility has been reserved.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and -
 - (a) the application must be in writing and lodged at the Municipal Manager's offices; and
 - (b) the facility must be available for such use.

- (4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 4(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation; or
- (5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section (4)(8), the notice is deemed to be effective from the date on which the destruction or damage took place.
- (6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

Termination of hire

- 10. (1) On termination of the hire an organisation and an official must inspect the facilities for the purpose of assessing the conditions of the facilities.
- (2) The organisation must -
 - (a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;
 - (b) repair any damage or breakages;
 - (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
 - (d) vacate the sporting facility within the period stated in the application; and should the organisation fail to comply with -
 - (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
 - (ii) subsection (2)(d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

Duties of organisation

- 11. (1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.
- (2) The organisation must comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7.

Enforcement

- 12. (1) An official of the municipality may search any person, vehicle or container in, entering into or being brought onto a facility.
- (2) An official of the municipality may confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility, or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person that which was confiscated when he or she leaves the sporting facility.
- (3) If the official of the municipality finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.

Indemnity

- 13. Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

Appeal

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

Penalty

- 15. A person who or organisation which has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

Repeal of by-laws

16. Any by-laws relating to sporting facilities adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

17. This by-law is called the Sporting Facilities By-law, 2022

[PROVINCIAL NOTICE NO. 63 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

STORM WATER BY-LAWS

SCHEDULE

Definitions

1. In this by-law, unless inconsistent with the context:-

"Council" means:-

- a) the Local Municipality of Dihlabeng established in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) as amended, exercising its legislative and executive authority through its Municipal Council; 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); or
- d) except for the purposes of Chapters 6 and 8, a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law; as the case may be;

"engineer" means the person appointed by the municipality to act as engineer for the purpose of administering this by-law

"flood level" means that level reached by flood waters resulting from a storm designated in terms of recognised engineering criteria as being of a frequency to be expected once in every 50 years;

"flood plain" means the area subject to inundation by the flood level;

"municipality" means the Municipality of Dihlabeng

"private storm water system" means a storm water system owned, operated or maintained by a person other than the Council;

"storm water" means water resulting from natural precipitation or accumulation and includes rainwater, groundwater and spring water;

"storm water system" means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of storm water;

"water pollution incident" means an incident or occurrence whereby a substance or matter, other than storm water, is discharged directly or indirectly into the storm water system and which may be a danger to health or may adversely affect the general quality of water in the storm water system to such an extent that public health or the health of natural ecosystems may be threatened, and

"watercourse" means:-

- (a) a river, stream, channel or canal in which water flows regularly or intermittently, and
- (b) a vlei, wetland, dam or lake into which or from which water flows, and includes, where relevant, the bed and the banks of such watercourse.

Prohibited discharges

2. No person may, except with the written consent of the engineer and subject to any conditions the engineer may impose, discharge, permit to enter or place anything other than storm water into the storm water system.

Protection of storm water system

3. No person may, except with the written consent of the engineer and subject to any conditions the engineer may impose-
- (a) damage, endanger, destroy or undertake any action likely to damage, endanger or destroy, the storm water system or the operation thereof;

- (b) discharge from any place, or place onto any surface, any substance other than storm water, where that substance could reasonably be expected to find its way into the storm water system;
- (c) discharge, permit to enter or place anything likely to damage the storm water system or interfere with the operation thereof or contaminate or pollute the water therein;
- (d) construct or erect any structure or thing over or in such a position or in such a manner so as to interfere with or endanger the storm water system or the operation thereof;
- (e) make an opening into a storm water pipe, canal or culvert;
- (f) drain, abstract or divert any water directly from the storm water system, or
- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.

Prevention of flood risk

4. No person may, except with the written consent of the engineer and subject to any conditions the engineer may impose-
 - (a) obstruct or reduce the capacity of the storm water system;
 - (b) change the design or the use of, or otherwise modify any aspect of the storm water system which, alone or in combination with other existing or future uses, may cause an increase in flood levels or create a potential flood risk, or
 - (c) undertake any activity which, alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.

Studies and assessments

5. (1) The conditions which the engineer may impose in terms of Sections 2, 3, and 4, may include, but are not limited to-
 - (a) the establishment of flood lines;
 - (b) the undertaking of impact assessments, and
 - (c) environmental impact studies or investigations which may be required by any applicable environmental legislation.
- (2) The costs of any study undertaken in terms of the provisions of subsection (1), is for the account of the applicant.

Water pollution incidents

6. (1) Whenever a water pollution incident takes place on any property or premises-
 - (a) the owner of the property or premises on which the incident took place, or is still in the process of taking place, or
 - (b) the person responsible for the incident, if the incident is not the result of natural causes, must immediately report the incident to the municipality, and at own cost, take all reasonable measures which will contain and minimise the effects of the pollution.
- (2) If the owner or person responsible for the pollution incident fail to introduce measures to contain and minimise the effects of the pollution or have introduced insufficient measures, the engineer may at the cost of such owner or person-
 - (a) undertake cleaning up procedures;
 - (b) rehabilitate the environment;
 - (c) take any other reasonable measures to neutralise the effect of the pollution incident.

Storm water systems on private land

7. (1) An owner of property on which a private storm water system is located-
 - (a) may not carry out any activity which will or which, in the opinion of the engineer, will adversely affect the functioning of such storm water system;
 - (b) must keep such storm water system functioning effectively; and
 - (c) must undertake the refurbishment and reconstruction thereof if, in the opinion of the engineer, it should be reconstructed or refurbished.
- (2) In cases where the flow of storm water in a private storm water system has been increased as a result of new building developments or changes to the storm water system by the council, the council may, either on request of the owner or on own volition, decide to take over the responsibility for the private storm water system.
- (3) The provisions of sub-section (1) do not apply to the extent that the council has accepted responsibility for any of the duties contained therein, either in a formal maintenance agreement or in terms of a condition of a servitude.

Provision of Infrastructure

8. The Council has the power to-
- (a) construct, expand, alter, maintain or lay any drains, pipes or other structures related to the storm water system on or under any immovable property, and ownership of these drains, pipes or structures shall vest in the municipality;
 - (b) drain storm water or discharge water from any municipal service works into any natural watercourse, and
 - (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraph (a).

Miscellaneous powers of the engineer

9. (1) The engineer may-
- (a) demolish, alter or otherwise deal with any building, structure or other thing constructed, erected or laid in contravention with the provisions of this by-law;
 - (b) fill in, remove and make good any ground excavated, removed or placed in contravention with the provisions of this by-law;
 - (c) repair and make good any damage done in contravention with the provisions of this by-law or resulting from a contravention;
 - (d) remove anything discharged, permitted to enter into the storm water system or natural watercourse in contravention of the provisions of this by-law;
 - (e) remove anything damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the storm water system;
 - (f) seal off or block any point of discharge from any premises if such discharge point is in contravention with the provisions of this by-law, irrespective of whether the point is used for lawful purposes;
 - (g) cancel any permission granted in terms of this by-law if the conditions under which the permission was granted are not complied with;
 - (h) by written notice, direct any owner of property to allow the owner of a higher lying property to lay a storm water drain pipe or gutter over his or her property for the draining of concentrated storm water;
 - (i) by written notice, direct any owner of property to retain storm water on such property or, at the cost of such owner, to lay a storm water drain pipe or gutter to a suitable place indicated by the Council, irrespective of whether the course of the pipe or gutter will run over private property or not. and
 - (j) discharge storm water into any watercourse, whether on private land or not.
- (2) The engineer may, in any case where it seems that any action or neglect by any person or owner of property may lead to a contravention of the provisions of this by-law, give notice in writing to such person or owner of property to comply to such requirements as the engineer may deem necessary to prevent the occurrence of such contravention.
- (3) The engineer may recover all reasonable costs incurred as a result of action taken in terms of subsection (1) from a person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred.

Offences and penalties.

10. Any person who-
- (a) contravenes any provision of this by-law;
 - (b) fails to comply with the terms of any notice issued in terms of this by-law;
 - (c) threatens, resists, hinders or obstructs a councillor or an employee or contractor of the municipality in the exercise of any powers or performance of any duties or function in terms of this by-law, is guilty of an offence and, on conviction, liable to the payment of a fine.

Repeal of by-laws

11. Any by-laws relating to storm water adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

12. These By-laws are called the Storm Water By-laws, 2022,
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BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

STREET TRADING BY-LAW

SCHEDULE

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Definitions

1. In these by-laws;
 - (a) words used in the masculine gender include the feminine;
 - (b) the singular includes the plural and vice versa;
 - (c) any word or expression has the meaning assigned to it in the Municipal Structures Act 1998;
 - (d) a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder;
 - (e) any words or expressions to which a meaning has been assigned in the Businesses Act, 1991 (Act No. 71 of 1991), shall have a corresponding meaning;and, unless the context otherwise indicates:-

"administrative unit" means a former municipality as contemplated in Section 14(3) of the Municipal Structures Act, 1998;

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

"authorised official" means-

 - (a) an official who has been authorised 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 services" means any system conducted by or on behalf of a municipality for the collection, conveyance, treatment or disposal of refuse, sewage, or storm water, or for the generation, impounding, storage, purification or supply of water, gas or electricity, or municipal services;

"council" means the Council of the Municipality referred to in Section 18(1) of the Municipal Structures Act, 1998 and includes any duly authorised political structure, political office bearer, councillor and official thereof;

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

"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 any part or ingredient of any such article or substance or 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 to which the public has a right of access;

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

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"litter" includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;

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

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

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

"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 in which he trades;

"public building" means a building belonging to or occupied solely by the State or the Council and includes municipal service works;

"public monument" means any one of the "public monuments and memorials" as defined in the National Heritage Resources Act, 1999 (Act No. 25 of 1999) or any similar legislation;

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

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

"sell" includes -

- (a) barter, exchange or hire out;
- (b) display, expose, offer or prepare for sale;
- (c) store on a public road or public place with a view to sell; or
- (d) provide a service for reward;

and **"sale" or "selling"** has a corresponding meaning;

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

"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 thereunder; and

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

Single act constitutes street trading

2. 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 shall constitute street trading.

Assigning powers of a Council employee to employee of a service provider, where a service provider has been appointed

3. If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council, 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 such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

Prohibited conduct

4. (1) No person shall carry on the business of a street trader:-
 - (a) at a place or in an area declared by the Council 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 contiguous to -
 - (i) a building belonging to, or occupied solely by, the State or the Council;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a Public monument;
 - (iv) an autoteller bank machine;
 - (d) at a place where it causes an obstruction in front of -
 - (i) a fire hydrant;

- (ii) an entrance to or exit from a building;
 - (e) at a place where it could obstruct vehicular traffic;
 - (f) at a place where it could substantially obstruct a pedestrian in his use of the sidewalk;
 - (g) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control, or any occupier of that building objects thereto and such objection is made known to the street trader by an authorised official;
 - (h) on a stand, or in any area demarcated by Council in terms of section 6A(3)(b) of the Act, if he is not in possession of a written proof that he has hired such stand or area from the Council, or that such stand has otherwise been allocated to him;
 - (i) within 5 (five) metres of any intersection;; and
 - (j) on a sidewalk contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold without the prior consent of such person and an authorised official has informed the street trader that such consent does not exist.
- (2) A person who has hired a stand from, or been allocated a stand by the Council in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.

Restricted conduct

5. A person carrying on the business of a street trader -
- (a) may not sleep overnight at the place of such business;
 - (b) may not erect any structure for the purpose of providing shelter, other than a device approved by the Council;
 - (c) may not place his property on a public road or public place, with the exception of his 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) must ensure that his property or area of activity does not cover an area of a public road or public place which is greater in extent than six square metres (with a maximum length of three metres) or unless otherwise approved by the Council, and which on any sidewalk leaves an unobstructed space for pedestrian traffic, the length of the property or area of activity, and not less than 1,5 metres wide, measured from any contiguous building to the obstructed area, and an unobstructed space, the length of the property or area of activity, and not less than 0,5 metres wide, measured from the kerb of the roadway;
 - (e) may not trade on a sidewalk where the width of such sidewalk is less than three metres;
 - (f) may not place or stack his 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;
 - (g) may not display his 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;
 - (h) must, upon request by an authorised official of the Council, or supplier of telecommunication or electricity or other council 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;
 - (i) may not attach any of his 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;
 - (j) may not carry on such 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.
 - (k) may not make an open fire on a public road or public place;
 - (l) may not 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.
 - (m) may not obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
 - (n) may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
 - (o) may not 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;

- (p) may not 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 Council for the purposes of these by-laws;
- (q) may not, other than in a refuse receptacle approved or supplied by the Council, 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;
- (r) may not place on a public road or public place his 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;
- (s) must on concluding business for the day remove his property, except any structure permitted by the Council, to a place which is not part of a public road or public place;
- (t) may not store his property in a manhole, storm water drain, public toilet, and bus shelter or in a tree;
- (u) may not handle any foodstuffs including meat in a manner contrary to applicable law;
- (v) may not 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.

Cleanliness

6. 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 Council for the public or at a dumping site of the Council;
- (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 or her for the purposes of trade is free of litter;
- (f) Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into a storm water drain, of any fat, oil or grease;
- (g) Ensure that no smoke, fumes or other substance, odours, or noise emanating from his or her activities causes pollution of any kind;
- (h) On request by an authorised official of the Council, move his or her property so as to permit the cleansing of the space of the area or site where he or she is trading, or the effecting of council services.

Signs indicating restricted and prohibited areas

- 7. (a) The Council 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-
 - (i) specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - (ii) the locations of boundaries of restricted or prohibited areas;
 - (iii) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - (iv) the fact that any such stand or area has been let or otherwise allocated; and
 - (v) any restriction or prohibition against street trading in terms of these by-laws;
- (b) The Council may display any such sign, 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;
- (c) Any sign erected in terms of these by-laws or any other law, shall serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and
- (d) Any sign may be amended from time to time and displayed by the Council for the purpose of these by-laws, and any such sign shall have the same effect as a road sign in terms of the National Road Traffic Act 1996.

Provision of and lease of stands or area for the purpose of street trading

- 8. (1) The Council may, by resolution in terms of Section 6A (3)(a) to (c) of the Act-
 - (a) lease any municipal land to the owner or occupier of contiguous land on condition that such owner or occupier shall 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) extend, reduce or disestablish any stand or area referred to in the previous subsections.

- (2) Any land leased by or allocated by the Council aforesaid for informal trading shall be so let on an economic rental basis.
- (3) These by-laws shall apply to any informal trading area established by the Council in terms of this section.
- (4) The Council 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, shelter and devices for the conduct of the business of informal trading

Removal and impoundment

- 9. (1) An authorised official may remove and impound any property, except perishable foodstuffs, of a street trader-
 - (a) which he reasonably suspects is being used or which intended to be used or has been used in or in connection with street trading; and
 - (b) which he finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.
- (2) Any authorised official acting in terms of subsection 1 above 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 -
 - (i) itemise the property to be removed and impounded;
 - (ii) provide the address where the impounded property will be kept, and the period thereof;
 - (iii) state the conditions for the release of the impounded property;
 - (iv) state the terms and conditions relating to the sale of unclaimed property by public auction; and
 - (v) provide the name and address of a council official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.
- (3) 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 authorised official of the Council may order such person to remove the property, and if such person refuses or fails to comply, he shall be guilty of an offence,
- (4) When any person fails to comply with an order to remove the property referred to in subsection (3), any authorised official of the Council may take such steps as may be necessary to remove such property.
- (5) Perishable foodstuffs shall be retained by the street trader who shall immediately remove such foodstuffs from the prohibited trading area.
- (6) The Council shall provide sufficient and adequate storage facilities for the storage of any property impounded in terms of this section.

Vicarious responsibility of persons carrying on business

- 10. (1) When an employee or agent of a street trader contravenes a provision of these by-laws, the street trader shall be deemed to have committed such contravention himself unless he satisfies the court that he took reasonable steps to prevent such contravention.
- (2) The fact that a street trader issued instructions to the employee or agent prohibiting such contravention, shall not, in itself, constitute sufficient proof of such reasonable steps.

Offences and Penalties

- 11. (1) Any person who -
 - (a) contravenes or fails to comply with any provision of these by-laws;
 - (b) fails to comply with any notice issued in terms of these by-laws; or
 - (c) fails to comply with any lawful instruction given in terms of these bylaws; or
 - (d) fails to comply with any condition imposed by the Council in any authorisation or permit granted under these by-laws; or
 - (e) who obstructs or hinders any authorised official of the Council in the execution of his duties under these by-laws -
 is guilty of an offence and liable on conviction to a fine or in default of payment, to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence,

- (2) A court sentencing a street trader who is found guilty of a contravention of these by-laws may also order such street trader to pay to the municipality such reasonable costs it may have incurred in impounding and storing any goods impounded under these by-laws.

Repeal of By-laws

12. Any by-laws relating to Street- or Informal Trading adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

13. These by -laws are called the by -laws relating to Street Trading, 2008

[PROVINCIAL NOTICE NO.65 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

UNSIGHTLY AND NEGLECTED BUILDINGS BY-LAWS

SCHEDULE

Definitions

1. In this by-law, unless the context proves otherwise means-

"building" has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes fencing;

"Council" the Dhlabeng Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"municipal area" the area under the jurisdiction and control of the Council;

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

Unsightly buildings

2. Where any premises, in the opinion of the Council -
- (a) have a building thereon which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;
 - (b) are neglected and over-grown;
 - (c) have an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste material thereon, and
 - (d) have an accumulation of motor wrecks or used motor parts thereon which -
 - (i) detracts from the appearance of surrounding properties, or
 - (ii) is offensive to the owners or occupiers of adjacent premises,
- the Council shall give notice in writing to the owner or occupier of such premises requiring him to improve such building or the condition of such premises within a period of thirty days (30) so that the appearance or condition of such building or premises will comply with the standards required by the Council.

Offences and penalties

3. (1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner shall be guilty of an offence and, on conviction, be liable to a fine not exceeding R 3,000.00 or imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment, and in the case of a continuing offence, to an additional fine not exceeding R 1,000 or an additional period of imprisonment not exceeding 30 days or to both such additional fine and additional imprisonment for each day during which such failure or offence continues.
- (2) The Council may, instead of instituting a prosecution and unless written objection from such owner has been received before the expiry date of the period specified on the notice served on him, assume that such owner has no objection and tacitly agrees that the Council may, without further notice, enter upon such premises and through its officials or a contractor whose tender the Council has accepted, and at the cost of such owner execute the work necessary to comply with the requirements of the said notice.

Repeal

4. Any by-laws relating to Unsightly and Neglected Buildings adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

5. These by-laws are called the Unsightly and Neglected Buildings By-law, 2008
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[PROVINCIAL NOTICE NO. 66 OF 2022]

BY-LAWS FOR THE DIHLABENG LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAWS

SCHEDULE

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CHAPTER 1 INTERPRETATION, PRINCIPLES AND OBJECTS

Definitions and interpretation

1. (1) In these By-laws, unless the context otherwise indicates-

“approved”, in relation to bins, bin liners, containers, receptacles and wrappers means approved by the Council for the collection and storage of waste;

“authorised official” means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws;

“bin” means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the Council to premises in terms of these By-laws;

“bin liner” means an approved loose plastic or other suitable material liner for use in the interior of a bin;

“building and demolition waste” means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;

“bulky waste” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door municipal service provided by the Council;

“business waste” means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes;

“commercial service” means any service, excluding the municipal service, relating or connected with accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

“container” means a disposable or re-usable vessel in which waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing

“Council” means -

a) the Local Municipality of Dihlabeng established in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) as amended, exercising its legislative and executive authority through its Municipal Council; 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); or

d) except for the purposes of Chapters 6 and 8, a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law; as the case may be;

"pollution" means any change in the environment caused by- (i) substances; (ii) radio-active or other waves; or (iii) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

"dailies" means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

"domestic waste" means waste, excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreation purposes;

"disposal" means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into, or onto, any land;

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

(a) the land, water and atmosphere of the earth,

(b) micro-organisms, plant and animal life,

(c) any part or combination of (a) and (b) and the interrelationships among and between them, and

(d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental emergency" means any unexpected or sudden occurrence resulting from any act or omission relating to waste which may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"garden service" means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, in respect of any domestic, business, commercial or industrial premises;

"garden waste" means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities;

"garden waste handling facility" means a waste handling facility in or on which garden waste or any other recyclable waste is received and temporarily stored ;

"hazardous waste" means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;

"health care risk waste" means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

"industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"land reclamation" means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

"level of service" means the frequency of the municipal service and the type of service point;

"licensee" means any person who has obtained a licence in terms of Chapter 6;

"litter" means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

"local community" in relation to the Council means that body of persons comprising-

(a) the residents in the municipal area,

(b) the ratepayers of the Council,

(c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the municipal area, and

(d) visitors and other people residing outside of the municipal area who, because of their presence in that area, make use of services or facilities provided by the Council;

"municipal manager" means the municipal manager appointed in terms of section 82(1)(a) of the Structures Act;

"municipal service" means the municipal service relating to the collection of waste, including domestic waste, business waste and dairies, provided exclusively by the Council in accordance with Chapter 3 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

"nuisance" means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste, or by littering;

"occupier" includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises let, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner" includes any person who has the title to land or premises or any person receiving the rent or profits of land or premises, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein and in relation to premises on a sectional title register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), means the body corporate as defined in that Act;

"pollution" means any change in the environment caused by –

(a) any substance; or

(b) noise, odour, dust or heat, emitted from any activity, including the storage or treatment of any waste or substance, construction and the provision of any service, whether engaged in by any person or an organ of state;

if that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material useful to people, or will have such an effect in the future;

"premises" means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial, agricultural or residential purposes;

"prescribed fee" means a fee determined by the Council by resolution in terms any applicable legislation;

"public place" includes any public building, public road, overhead bridge, subway, pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, vested in the Council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

"public road" means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –

(a) the verge of any such road, street or thoroughfare;

(b) any bridge or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"radioactive material" means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

"radioactive waste" means any radioactive material which is, or is intended to be, disposed of as waste;

"recyclable waste" means waste which has been separated from the waste stream, and set aside for purposes of recycling;

"recycle" means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material;

"resident", in relation to the municipal area, means a person who is ordinarily resident within that area;

"SANS Codes" means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act No. 29 of 1993);

"special industrial waste" means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste;

"storage" means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“target” means any desired air quality, water quality or waste standard contained in any legislation;

“verge” means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“waste” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

(a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;

(b) which the generator has no further use of for (he purposes of production;

(c) that must be treated or disposed of; or

(d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sector, but—

(i) a by-product is not considered waste; and

(ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste;

“waste disposal facility” means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premise

“waste generator” means any person who generates or produces waste;

“waste handling facility” means any facility on or in which waste is accepted, accumulated, handled, recycled, sorted, stored or treated prior to its transfer for treatment by way of incineration or for final disposal;

“waste stream” means a type of waste, including building waste; business waste; bulky waste; dailies; domestic waste; garden waste; hazardous waste; health care risk waste; industrial waste; recyclable waste and special industrial waste;

“workplace” means any place within the municipal area on or in which or in connection with which, a person undertakes the municipal service or a commercial service;

“wrapper” means a plastic or other approved material covering that totally encloses bales or slugs of compacted waste.

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Systems Act, or any other law, been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

Principles

2. (1) The Council has the responsibility to ensure that all waste generated within the municipal area is—
- (a) collected, disposed of or recycled in accordance with these By-laws; and
 - (b) that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection (2).
- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- (a) Avoidance, waste minimisation and waste reduction;
 - (b) re-use;
 - (c) recycling, reprocessing and treatment; and
 - (d) disposal.
- (3) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in subsection (2).

Main objectives

3. (1) The main objects of these By-laws are—
- (a) the regulation of the collection, disposal, treatment and recycling of waste;
 - (b) the regulation of the provision of the municipal service by a service provider and commercial services by licensees; and
 - (c) enhancing sustainable development.
- (2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1)(c), the Council must-
- (a) endeavour to minimise the consumption of natural resources;
 - (b) promote the re-use and recycling of waste;
 - (c) encourage waste separation to facilitate re-use and recycling;
 - (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
 - (e) endeavour to achieve integrated waste planning and services on a local basis;
 - (f) promote and ensure an environmentally responsible municipal service and commercial service; and
 - (g) endeavour to ensure compliance with the provisions of these By-laws.

CHAPTER 2

WASTE MANAGEMENT INFORMATION SYSTEM

Establishment of an information system

4. (1) The Council must establish and maintain a waste management information system which records how waste is managed within the municipal area.
- (2) The information system may include any information relating to or connected with the management of waste within the municipal area.

Purpose of the information system

5 Objectives of national waste information system

- (1) The objective of the national waste information system is to —
- a) store, verify, analyse, evaluate and provide data and information for the protection of the environment and management of waste;
- b) provide information for the development and implementation of any integrated waste management plan required in terms of this Act; and
- c) provide information to organs of state and the public —
- (i) for education, awareness raising, research and development purposes;
 - (ii) for planning, including the prioritisation of regulatory, waste
 - (iii) minimisation and other initiatives;
 - (iv) for obligations to report in terms of any legislation
 - (v) for public safety management;
 - (vi) on the status of the generation, collection, reduction, re-use, recycling
 - (vii) and recovery, transportation, treatment and disposal of waste; and
 - (viii) the impact of waste on health and the environment.

Provision of information

6. (1) The Council may, subject to the provisions of any other law including the common law, require any waste generator, licensee, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern—
- (a) significant sources of waste generation and the identification of the generators of waste;
 - (b) quantities and classes of waste generated;
 - (c) management of waste by waste generators;
 - (d) waste handling, waste treatment and waste disposal facilities;
 - (e) population and development profiles;
 - (f) reports on progress in achieving waste management targets;
 - (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with section 27(2)(d);
 - (i) markets for waste by class of waste or category; and
 - (j) any other information required by legislation, regulations or guidelines.
- (2) The Council may determine when and how often information must be furnished.

CHAPTER 3

MUNICIPAL SERVICE

Part 1: Providing access to municipal services

Duty to provide access to municipal service

7. (1) The Council has a duty to the local community progressively to ensure efficient, affordable, economical and sustainable access to the municipal service.
- (2) The duty referred to in subsection (1) is subject to —
- (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The Council must take the following factors into account in ensuring access to the municipal service:
- (a) The waste management hierarchy set out in section 2(2);

- (b) the need to use resources efficiently;
- (c) the need for affordability;
- (d) the requirements of operational efficiency;
- (e) the requirements of equity; and
- (f) the need to protect human health and the environment.

The provision of the municipal service

8. (1) The Council must as far as reasonably possible and subject to the provisions of these By-laws, provide for the collection of domestic waste, business waste and dailies on a regular basis and at a cost to end users determined in accordance with the prescribed fee.
- (2) In relation to the municipal service, the Council may determine-
 - (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
 - (d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws.
- (3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection or the Council may provide such receptacle which remains the property of the Council.
- (4) In providing the municipal service, the Council may determine or designate-
 - (a) collection schedules;
 - (b) locations for placing approved receptacles for collection;
 - (c) which types of waste generated by the occupier of any premises are separable for the purposes of recycling and the conditions for their separation, storage or collection; and
 - (d) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.
- (5) The Council may require a generator of dailies or business waste to compact that portion of the waste that is compactable, if the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- (6) An occupier of premises may elect to compact any volume of waste referred to in subsection (5), and place it into an approved receptacle or wrapper, provided-
 - (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and
 - (b) after the waste has been compacted and put into the wrapper, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- (7) Any approved receptacle used in terms of subsection (6) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
- (8) The Council may at any time review any decision taken by it in terms of subsection (4).
- (9) The Council must in writing notify every generator of domestic waste, business waste and dailies of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
- (10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

Part 2: Using municipal service

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9. (1) Any person generating domestic waste, business waste and dailies, other than waste which has been designated by the Council as recyclable as contemplated in section 8(4)(c), must place such waste, in an approved receptacle.
- (2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that -
 - (a) no hot ash, unwrapped glass or other domestic waste, business waste or dailies which may cause damage to approved receptacles or which may cause injury to the Council's employees

- while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;
- (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
 - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such receptacle;
 - (e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
 - (f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
 - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.
- (4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4), must -
- (a) be in a position on the premises which will allow the storage of any approved receptacle without it being visible from a public road or public place;
 - (b) if dailies are generated on premises -
 - (i) be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and
 - (ii) not be more than 20 metres from the entrance to the premises used for the collection of waste by the Council;
 - (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
 - (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and
 - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- (7) Notwithstanding the provisions of subsection (6)-
- (a) in the case of a building erected, or a building, the building plans of which have been approved, prior to the commencement of these By-laws; or
 - (b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4),
- the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

Liability to pay for municipal service

10. (1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
- (2) (a) A prescribed fee becomes due and payable on the due date for payment stipulated in the account.
- (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

CHAPTER 4 COMMERCIAL SERVICES

Part 1: Provision of commercial services by licensees and flow control

Provision of commercial services by licensees

11. (1) Except in the case of garden waste, only a licensee may provide a commercial service.
(2) Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated.

Provision for Council co-ordination of waste disposal

12. (1) The Council may by a notice published in the Free State Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
(2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of these By-laws.

Part 2: Business, industrial and recyclable waste

Storage of business, industrial and recyclable waste

13. (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated-
- (a) the waste is stored in a bulk container or other approved receptacle; and
 - (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

Collection and disposal of industrial, business and recyclable waste

14. (1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-
- (a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
 - (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
 - (c) that the service rendered by the licensee is only in respect of that portion of the business, industrial or recyclable waste authorised in the licence concerned.
- (2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 12(2) and 23.

Part 3: Garden waste and bulky waste

Storage, collection and disposal of garden waste and bulky waste

15. (1) The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
(2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
(3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 23.
(4) (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
(b) The provisions of section 9, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
(5) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

Part 4: Building waste

Generation of building waste

16. (1) The owner or occupier of premises on which building waste is generated, must ensure that –
- (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated, does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises, is promptly retrieved; and
 - (d) pursuant to any instruction from the Council, any structure necessary to contain the building waste is constructed.

Storage of building waste

17. (1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- (2) Every receptacle used for the storage and removal of building waste must –
- (a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving, or being emptied of, waste so that no displacement of its contents can occur.

Collection and disposal of building waste

18. (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 12, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

Part 5: Special industrial, hazardous or health care risk waste

Generation of special industrial, hazardous or health care risk waste

19. (1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these By-laws.
- (2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.

Storage of special industrial, hazardous or health care risk waste

20. (1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Environmental Affairs, Gauteng provincial government or Council, before collection.

Collection and disposal of special industrial, hazardous or health care risk waste

21. (1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 6 as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the licence issued under Chapter 6, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 23.

CHAPTER 5 TRANSPORTATION AND DISPOSAL OF WASTE

Transportation of waste

22. (1) No person may-
- (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
 - (d) cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.
- (2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Disposal of waste

23. (1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
- (b) In disposing of waste, a licensee must comply with the provisions of section 12(2) and with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Free State provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- (4) Notwithstanding the provisions of subsection (1), a person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section 12 at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tonne or less.
- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Department of Water Affairs and Forestry, subject to such conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.
- (6) Every person who enters a waste disposal facility must -
- (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
 - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of; and
 - (c) comply with any instruction by the person in charge of a waste disposal facility in regard to access to, the actual place where, and the manner in which, waste must be deposited.
- (7) No person may-

- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
 - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
 - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
 - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes subsection (7)(c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
 - (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
 - (10) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
 - (11) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by a member of the Local Municipality of Dihlabeng
 - (12) No person may store waste for more than 90 consecutive days, unless the person has a permit in respect of the premises concerned for a waste disposal facility from the Department of Water and Environmental Affairs in terms of section 20(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

CHAPTER 6 LICENSEES

Licence requirements

- 24. (1) Subject to the provisions of section 32, no person may collect or transport any of the following waste streams listed in subsection (2) without having obtained from the Council, and being in possession of a licence authorising such collection and transportation:
 - (a) business (bulk containerised) waste;
 - (b) industrial waste;
 - (c) special industrial waste;
 - (d) hazardous waste;
 - (e) recyclable waste
 - (f) health care risk waste; and
 - (g) building waste.
- (2) A licence issued under this Chapter -
 - (a) is incapable of cession or assignment without the prior written consent of the Council;
 - (b) is valid only for the category of waste specified therein; and
 - (c) expires one year after the date of issue subject to the provisions of sections 28(4) and 32(2).

Licence applications

- 25. (1) An application for a licence to provide a commercial service must be
 - (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
 - (b) accompanied by the prescribed fee.
- (2) The Council must consider each application, having regard to the following:
 - (a) The applicant's compliance, where relevant, with the National Road Traffic Act, 1996, and with these By-laws;
 - (b) the environmental, health and safety record of the applicant; and
 - (c) the nature of the commercial service to be provided.
- (3) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of subsection (2), the Council must either—
 - (a) approve the application by issuing a licence subject to any condition it may impose; or

- (b) reject the application.
- (5) If the Council fails to consider and grant or reject a licence application within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

Suspension and revocation of licences

- 26. (1) A licence issued under this Chapter may be suspended or revoked by the Council on the grounds that the licence holder—
 - (a) has failed to comply with any provision of these By-laws;
 - (b) has failed to comply with any provision of any national or Free State provincial legislation which regulates the collection, transportation or disposal of waste;
 - (c) has failed to comply with any licence condition contemplated in section 25(4)(a); or
 - (d) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.
- (2) A licence may only be suspended or revoked after -
 - (a) the licence holder has been given written notice that the Council is considering the suspension or revocation of the licence; and
 - (b) after the licence holder has been given a period of 30 days after service of the notice to make representations to the Council as to why the licence should not be suspended or revoked.
- (3) The Council must –
 - (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 days after the licence holder informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2)(b); and
 - (b) inform the licence holder of its decision in writing within seven days of making it.
- (4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a Council official requiring such information to perform his functions for the purposes of these By-laws.

Licence terms and conditions

- 27 (1) When issuing a licence under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering national, Free State provincial or Council, waste management policy.
- (2) Any licence issued under this Chapter must—
 - (a) specify the licence period contemplated in section 24(2)(c) and the procedure for renewal of the licence;
 - (b) specify every category of waste which the licence holder may collect and transport;
 - (c) contain a requirement that the licence holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and Free State provincial legislation; and
 - (d) require the licence holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste collected and transported during the licence period.

Renewal of licences

- 28. (1) A licence holder who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expiry of the existing licence.
- (2) The Council must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 25(3) and in accordance with section 25(4).
- (3) If the Council fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A licence in respect of which application for renewal has been made in terms of subsection(1), remains valid until a final decision has been made in respect of that application.

Display of licences

- 29. (1) Upon issuing a licence under this Chapter, the Council must issue to the licence holder a numbered sticker for each vehicle to be used for the purpose concerned confirming that the licence holder is authorised to collect and transport the category of waste specified on the sticker.
- (2) The stickers must vary in colour for each category of waste.

- (3) The licence holder must affix such sticker to each vehicle to be utilised to provide the service and display the sticker at all times.
- (4) Waste for processing or disposal at a waste disposal facility will be only be received at such facility from a contractor who is licensed and on whose vehicle a sticker required in terms of subsection (3), is displayed.

Prohibited conduct

- 30. No licence holder may -
 - (a) intentionally or negligently operate in contravention of any condition of the licence concerned;
 - (b) intentionally or negligently fail or refuse to give information, when required to do so in terms of these By-laws, or give false or misleading information;
 - (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, by any act or an omission of his or her employee acting in the course and scope of his or her duties, or
 - (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 24(1), to be collected or transported, as specified in the National Road Traffic Act, 1996.

Exemptions

- 31. The Council may, having regard to the main objects of these By-laws contemplated in section 3(1), and its local waste plan, by notice in the Free State Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

Transitional provisions

- 32. (1) Any person who is at the commencement of these By-laws lawfully providing a commercial service for which a licence is required under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 25, failing which such person's right to provide such service lapses.
- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

CHAPTER 7

ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES

Accumulating waste

- 33. Every owner and occupier of premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

Duty to provide facilities for litter

- 34. (1) The Council, or owner in the case of privately owned land, must take reasonable steps to ensure that a sufficient number of approved receptacles are provided for the discarding of litter by the public, on any premises to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that every receptacle provided in terms of subsection (1), is –
 - (a) maintained in good condition;
 - (b) suitably weighted or anchored so that it cannot be inadvertently overturned;
 - (c) constructed in such a manner as to ensure that it is weatherproof and animal proof;
 - (d) of a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;
 - (e) placed in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
 - (f) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance.

Prohibition of littering

- 35. (1) No person may -
 - (a) cause litter;
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;

- (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause any of the contents of the receptacle to spill from it; or
 - (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).
- (2) Notwithstanding the provisions of subsection (1), the Council, or the owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed from the premises concerned to prevent the litter from becoming a nuisance.

Prohibition of dumping and abandoning articles

36. (1) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he is the owner or occupier except if such deposit is made in accordance with the provisions of these By-laws.
- (2) Subject to any provision to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, made under the National Road Traffic Act, 1996, which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (6), disposed of by the Council as it deems fit.
- (5) The Council may remove and, subject to the provisions of subsection (6), dispose of any article which is chained or fastened to any pole, parking meter or any other property of the Council as it deems fit.
- (6) If an article contemplated in subsection (4) or (5), is, in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within 30 days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.

CHAPTER 8 AUTHORISED OFFICIALS

Identification documents

37. (1) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and powers and function of that official, and include a photograph of the official.
- (2) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (1) on demand by a member of the local community.

Powers of authorised officials

38. (1) In addition to the powers, functions and duties an authorised official or designated officer has by virtue of his appointment as such, an authorised official, may with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place other than on premises not belonging to the Council.
- (2) If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).
- (3) (a) If, in the opinion of an authorised official, any search of a vehicle or other mode of conveyance, in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official or officer, are necessary to mitigate harm to human health or damage to the environment.

- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official concerned may report the matter to the Local Municipality of Dihlabeng with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Powers to question

39. (1) For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official may require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of a witnesses, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

CHAPTER 9 MISCELLANEOUS

Ownership

44. (1) The person holding a permit to operate a waste disposal facility becomes the owner of all waste upon disposal thereof at that facility.
- (2) A person who generates domestic waste is the owner thereof until it is collected by the Council which then becomes the owner thereof.
- (3) A person who abandons any article, is liable for any damage which that article may cause as well as for the cost of removing that article, notwithstanding the fact that such person may no longer be the owner thereof.

Serving of documents

45. A notice, instruction, order or other document which has to be served for the purposes of these By-laws, is regarded to have been properly served or delivered if -
- (a) it has been served on or delivered to the person concerned personally;
- (b) it has been sent by registered post or speed post to the person concerned at his or her last known address;
- (c) it has been 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.

Offences and penalties

46. Any person, who –
- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws, or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of a continuing offence, to a further fine not exceeding R50 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Repeal of by-laws

47. Any by-laws relating to waste management adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

48. These By-laws are called the Waste Management By-laws, 2022,
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[PROVINCIAL NOTICE NO. 67 OF 2022]

WATER SERVICES BY-LAWS

The Municipal Manager of Dihlabeng Local Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), Publishes the Water Services By-laws for the Municipality, as
WATER SERVICES BY-LAWS

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CHAPTER 1

GENERAL PROVISIONS

1. Definitions and interpretation

(1) in these By-laws and the Schedules thereto, unless the context otherwise indicates -

"Accommodation unit" in relation to any premises, means a building or section of a building Occupied or used or intended for residential occupation or use by any person;

"Affected person" means a person who has been served with a designated notice;

"Act" means the Water Services Act No, 1997 (Act No. 108 of 1997);

"air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from which any pipe, valve or tap, supplies water to a tank or fitting or other device, and the overflow level thereof;

"Approved" means approved by the Council;

"Authorised official" means any official of the Council who has been authorized by it to administer, implement and enforce the provisions of these By-laws;

"Backflow" means the flow of water in any pipe or fitting in a direction opposite to the normal direction of flow;

"Backflow preventer" means any device or means to prevent backflow;

"Back siphon age" means the backflow resulting from pressures lower than atmospheric pressure in the water installation;

"Basic sanitation" means the minimum standard of safe and hygienic sanitation services and sewage disposal rendered to households, prescribed in terms of the Act, under regulation 2 of Government Notice R509 of 8 June 2001, as amended from time to time, or any substitution for that regulation;

"Basic water supply" means the minimum standard of water supply services necessary for the reliable supply of water to households to support life and personal hygiene, prescribed in terms of the Act under regulation 3 of Government Notice R509 of 8 June 2001, as amended from time to time, or any substitution for that regulation;

"Best practicable environmental option" means the option that provides the most benefit or causes the least damage to the environment as a whole, in both the long and the short term;

"Borehole" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water, and includes a spring;

"Building regulations" means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1997 (Act No. 103 of 1977);

"Business unit" in relation to any premises means any building or section of a building occupied or used, or intended to be used for purposes other than residential occupation;

"Combined installation" in relation to water supply means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

"Commercial effluent" means effluent emanating from an enterprise having a commercial purpose where the effluent is neither industrial effluent nor standard domestic effluent;

"Commercial purpose" in relation to the supply of water, means water supplied to premises to be used in the carrying out of a trade or business;

"Communal sewer" means a sewer main and connecting sewers and in respect of which a group of consumers and/or owners has constituted itself as a person willing to assume responsibility for, and has signed an agreement accepting responsibility, for the maintenance and repair of the communal sewer;

"Communal water connection" means a consumer connection through which water services are supplied to more than one consumer, and "communal water services work" has a corresponding meaning

"Connecting point" means the point at which a drainage installation joins the connecting sewer;

"Connecting sewer" means a pipe owned by the Council and installed by it for the purpose of conveying sewage from a drainage installation on any premises, to a sewer beyond the boundary of those premises, or within a servitude area, or within an area covered by a way leave document or other type of agreement;

"Connection pipe" means a pipe, the ownership of which is vested in the Council and installed by it for the purpose of conveying water from a main to a water installation, and includes a

"Communication pipe" referred to in SABS Code 0252 Part I;

"Consumer" means-

(a) Any person who occupies premises to whom, and in respect of which premises, the Council-

(i) Has agreed to provide water services;

(ii) Is actually providing water services;

(iii) Has entered into an agreement with the Council for the provision of water services to or on any premises;

(b) The owner of any premises to which the Council is providing water services;

(c) Where water services are provided through a single connection to a number of accommodation units or consumers or occupiers, means the person to whom the Council agreed to provide such water services; and

(d) Any end-user who receives water services from the Council or other water services institution.

"Conventional water meter" means a meter where the account is issued subsequent to the consumption of water;
"Council" means -

(a) The Local Municipality of Dihlabeng duly established in terms of the Local Government: Municipal Structures Act, 117 of 1998, , exercising its legislative and executive authority through its municipal Council; 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; or

(d) A service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act 2000, or any other law, as the case may be.

"Day" means a 24 hour period commencing and ending at 24:00;

"Designated officer" means a person in the employ of the Council, authorized as a designated officer, or if the Council has for the purposes of these By-laws, appointed a service provider which is still operative, an employee of such service provider, authorized by it as a designated officer and acting within the scope of the powers, functions and duties assigned to that service provider by the Council.

"Domestic purposes" in relation to the supply of water means the general use of water supplied for personal and residential uses, including health and hygiene, drinking, ablution, culinary, household and garden maintenance;

"Drain" means that portion of the drainage installation that conveys sewage within any premises;

"Drainage installation" means a system situated on any premises and vested in the owner thereof that is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage or other form of waste water on those premises to the connecting point, and includes a drain, a fitting, an appliance, a septic tank, a conservancy tank, a pit latrine and a private pumping installation, forming part of or being ancillary to such system;

"Drainage work" includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or, otherwise connected with the drainage of any premises;

"Dwelling unit" means an interconnected suite of rooms designed for residential purposes and occupation by a single household, regardless of how many persons comprise the household;

"ECA" means the Environment Conservation Act, 1989 (Act No. 73 of 1989) and any regulations made in terms thereof, or any superseding legislation;

"Effluent" means any liquid, whether or not containing matter in solution or suspension, which is discharged from any premises directly or indirectly into a drainage work; "EIA" means an environmental impact assessment as contemplated in NEMA , and/or the ECA

"EIA regulations" means the EIA Regulations as published in Government Notice R 1183 on 5

September 1997, as amended from time to time, or any regulations made in substitution therefor under the ECA or any superseding legislation;

"Emergency" means any situation that poses a risk or potential risk to life, health, the environment, or property, or declared to be an emergency under any law;

"Enforcement notice" means any notice issued by a designated officer under these By-laws, which instructs the person to whom it is issued to comply with the terms of the notice, and includes a compliance notice contemplated in section 111;

"Environmental cost" means the full cost of all measures necessary to restore the environment to its condition prior to an incident which causes damage to it, and in the event of this not being possible the value of the cost benefit that has been lost through the damage to or destruction of the environment;

"Fire installation" means a potable water installation that conveys water intended for fire-fighting purposes only;

"Fixed quantity water delivery system" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"Flood level" means that level reached by flood waters resulting from a storm designated in terms of recognised engineering criteria as being of a frequency to be expected once in every 50 years;

"Flood plain" means the area below the flood level subject to inundation;

"Garbage grinder" means an electrically or mechanically driven apparatus that is designed and made to be installed in a water borne sewage system, that has the function to crush food wastes and flush them down the sewage system and that is deemed to be a water fitting in

"General installation" means a water installation which conveys water for a combination of domestic, commercial and industrial purposes;

"Household" means the family unit of persons, or individuals, in occupation of a building or part of a building, designed for residential occupation by such family unit, or individuals;

"High strength sewage" means sewage with a strength or quality greater than standard domestic effluent;

"Industrial effluent" means any liquid, whether or not containing matter in solution or suspension, which is given off in the course of or as a result of any trade, manufacturing, mining, chemical or other industrial process or in any laboratory, or in

the course of research, or agricultural activity, and includes any liquid or effluent emanating from the use of water, other than standard domestic effluent or storm water, and "trade effluent" bears the same meaning;

"Industrial purposes" in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in Government Notice R2206 of 5 October 1984 or any superseding legislation, including the use of water for purposes of mining, manufacturing, retailing and service industries, generating electricity, land-based transport, construction or any related purpose;

"Installation work" means work in respect of the construction of, or carried out on, a water installation;

"Law" means any law, including the common law;

"Main" means a pipe, other than a connection pipe, vesting in the Council and used by it for the purpose of conveying water to any number of consumers;

"Measuring device" means any method, procedure, process, device, apparatus, or installation that enables the quantity and/or quality of water services provided to be quantified or evaluated;

"Meter" means a water meter as defined by Regulation 81(a) Government Notice R 2362 dated

18 November 1977, published in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973) or any superseding legislation or, in the case of a water meter of a size greater than 100 mm, a device which measures the quantity of water passing through it;

"National Water Act" means the National Water Act 1998, (Act No. 36 of 1998);

"NEMA" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"Nuisance" means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace or health of one or more of the residents in any particular locality within the area of the Council, or the rights, or reasonable comfort, convenience, peace, or quiet, of the occupants of any area within the Council's jurisdiction;

"Occupier" means a person who occupies any premises or part thereof;

"Owner" includes –

(a) The person in whom from time to time is vested the legal title to premises, including, but not limited to, the registered owner according to the title deed;

(b) Where the owner of the premises concerned is insolvent, deceased, has assigned his estate for the benefit of his creditors, has been placed under curatorship in terms of an order of court, is a closed corporation being wound up, or is a company being wound up or under judicial management, includes the person in whom the administration of such premises is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager as the case may be;

(c) In any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises; and

(d) The lessee under any registered lease of land which is entered into for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in such lease or which is renewable from time to time at the will of the lessee indefinitely or for period which together with the first period of such lease amount in all to not less than ten years, whether or not such renewal is dependent on the periodical consent or permission of, or the periodical renewal of a licence by the State or any statutory licensing body;

(e) In relation to –

(i) A piece of land delineated on a sectional plan registered in terms of the Sectional titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property; and

(ii) A section as defined in such Act, the person in whose name the relevant unit is registered under a sectional title deed, and includes the lawfully appointed representative of such a person;

"Person" means any natural or juristic person, an unincorporated body, and includes a voluntary association or trust, an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and the Minister of Water Affairs and Forestry, or his successor in function as Minister of Water Affairs;

"Pollution" means the introduction of any substance into the water supply system, a water installation or a water resource, that may make the water harmful to health or the environment, or impair its quality for the use for which it is intended;

"Premises" means any piece of land, with or without improvements, the external surface boundaries of which are delineated on-

(a) A general plan or diagram registered in terms of the Land Survey Act, 1927 (Act 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

(b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"Prepayment meter" means a meter that can be programmed to limit the flow of water into a water installation to the amount which has been previously purchased;

"Prepayment measuring system" means a meter and ancillary devices, approved by the Council, designed to measure and allocate to a consumer the quantity of water pre-purchased by himself or herself;

"Prescribed" means, determined by resolution of the Council from time to time;

"Prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

"Prescribed tariff" means a schedule of prescribed fees;

"Professional engineer" means a person registered as a professional engineer in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);

"Public notice" means at least two notices, each notice being in one of the official languages in general use in the area, but in a different official language to the other notice and published in at least one newspaper in general use within the area in question, preferably a newspaper published predominantly in the same language as the notice;

"Qualified plumber" means a person who has passed the plumbing trade test of the Department of Labour, and received a certificate therefor;

"Sanitation services" means the collection, removal and disposal or purification of human excreta, sewage and any other effluent including domestic and industrial effluent resulting from the use of water;

"SABS" means South African Bureau of Standards;

"Service pipe" means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier, and which is connected, or to be connected, to a connection pipe to serve the water installation on the premises;

"Sampler" means a person who takes samples for analysis from the sewage disposal and storm water disposal systems, and who has been certified as qualified to do so by the Council;

"Sewage" means waste water, industrial and commercial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but does not include storm water;

"Sewage disposal system" means a structure, pipe, valve, pump, meter or other appurtenance used in the conveyance of sewage through the sewer reticulation system, and the treatment thereof at a sewage treatment plant under the control of the Council and which may be used by it in connection with the disposal of sewage;

"Sewer" means any pipe or conduit which is the property of or is vested in the Council and which may be used or is intended for the conveyance of sewage from the connecting sewer but does not include a drain as defined; and "municipal sewer" has a corresponding inclusive meaning;

"Standard domestic effluent" means domestic effluent with prescribed strength characteristics in respect of chemical oxygen demand, total nitrogen, total phosphates and settle able solids as being appropriate to a sewage discharge from domestic premises within the jurisdiction of the Council, but does not include industrial effluent;

"Storm water" means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

"Systems Act" means the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000)

"Terminal water fitting" means a water fitting at an outlet of a water installation that controls the discharge of water;

"Trade premises" means premises upon which any form of industrial effluent is produced;

"Water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"Water installation" means the pipes and water fittings which are situated on any premises and vested in the owner thereof, and used, or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises, or is otherwise laid with the permission of the Council;

"Water services" means water supply services and sanitation services, as defined in these Bylaws and includes the collection and disposal of industrial effluent;

"Water services work" means a reservoir, dam, well pump-house, borehole, pumping installation, purification works, sewage treatment plant, access road, electricity transmission line, pipeline, meter, fitting or apparatus built, installed or used by a water services institution –

(i) To provide water services;

(ii) To provide water for industrial use; or

(iii) To dispose of industrial effluent;

"Water supply services" means the abstraction, conveyance, treatment and distribution by the Council, of water for domestic, industrial and commercial purposes;

"Water supply system" means a structure, aqueduct, pipe, valve, pump, meter or other apparatus relating thereto which is vested in the Council, and is used or intended to be used in connection with the supply of water;

"Wet industry" means an industry which discharges industrial effluent;

"Working day" means a day other than a Saturday, Sunday and public holiday;

"Working month" means a calendar month excluding any Saturday, Sunday, and public holiday.

(2) If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council 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 to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

2. Meaning of certain words the same as in Acts

Any word or expression used in these By-laws to which a meaning has been assigned in-

- (a) The Act will bear that meaning; and
- (b) The National Building Regulations and Building Standards Act 1977 (Act No. 103 of 1977), and Chapter III of the Building Regulations thereunder, will bear that meaning; unless the context indicates otherwise.

3. Levels of Service

(1) The Council may provide the various levels of service set out in subsection (2) to consumers at the fees set out in the schedule of fees, determined by the Council.

(2) The levels of service shall comprise -

(a) Service Level 1,

Which must satisfy the minimum standard for basic water supply and sanitation services as required in terms of the Act and its applicable regulations, and must consist of-

- (i) A water supply from communal water points; and
- (ii) A ventilated improved pit latrine located on each site; and

(b) Service Level 2,

Which must consist of -

- (i) An unmetered water connection to each stand with an individual yard standpipe;
- (ii) A water borne connection connected to either a municipal sewer or a shallow communal sewer system; and
- (iii) A pour flush toilet which must not be directly connected to the water installation; which service must be provided to consumers at the fees set out in the schedule of fees determined by the Council, provided that-
 - (aa) the average water consumption per stand through the unmetered water connection for the zone or group of consumers in the zone does not exceed 6kl over any 30 day period;
 - (bb) the water standpipe is not connected to any other terminal water fittings on the premises;
 - (cc) in the case of a communal sewer having been installed, a collective agreement has been signed by the group of consumers accepting responsibility for the maintenance and repair of the communal sewer; and
 - (dd) the Council may adopt any measures necessary to restrict the water flow to Service Level 2 consumers to 6kl per month.

(c) Service Level 3,

Which must consist of -

- (i) A metered full pressure water connection to each stand; and
 - (ii) A conventional water borne drainage installation connected to the Council's sewer.
- (3) If a consumer receiving Service Level 2 contravenes subparagraph (aa) or (bb) to subsection (2)(b) -
- (a) The Council may install a prepayment meter in the service pipe on the premises; and
 - (b) The fees for water services must be applied in accordance with section 6.
- (4) The level of service to be provided to a community may be established in accordance with the policy of the Council and subject to the conditions determined by the Council.

4. Application for water services

(1) No person, other than a consumer on Service Level 1, may consume, abstract or be supplied with water from the water supply system, or utilise the sewage disposal system or any other sanitation services, unless he or she has applied to the Council on the prescribed form for such services, and such application has been agreed to.

(2) An application for the use of water services approved by the Council constitutes an agreement between the Council and the applicant, and takes effect on the date referred to in the application.

(3) The person referred to in subsection (2) will be liable for all the prescribed fees in respect of water services rendered to him or her until the agreement has been terminated in accordance with these By-laws, and is the consumer for all purposes during the currency of the agreement;

(4) The Council, may, if it deems it necessary, require a third party to be bound jointly and severally as surety and co-principal debtor with the consumer, for the payment of any prescribed fees under these By-laws.

(5) An application form must contain at least the following minimum information -

- (a) A statement by the applicant that he or she is aware of and understands the contents of the form;
- (b) Acceptance by the applicant of the provisions of these By-laws, and acceptance of liability for the cost of water services rendered until the agreement is terminated;
- (c) The name of the proposed consumer, and his or her identity or registration number, where applicable;
- (d) The address or stand number of the premises to or on which, water services are to be rendered, or a communal water connection operates;
- (e) The address to which accounts must be sent;
- (f) If water is to be supplied, the purpose for which the water is to be used;
- (g) The agreed date on which the provision of water services will commence; and
- (h) A copy of any applicable lease agreement or written confirmation from the owner or the owner's agent, stating the date of occupation.

(6) Water services rendered to a consumer are subject to the provisions of these By-laws and the conditions contained in the relevant agreement.

(7) The applicant must be informed if the Council refuses an application for the provision of water services, or is unable to render such water services on the date requested for such provision of water services to commence, or is unable to render the water services, and the Council must furnish the applicant with the reasons therefor and, if applicable, the date when the Council will be able to provide such water services.

5. Special agreements for water services

The Council may enter into a special agreement for the provision of water services to an applicant(a) Inside its area of jurisdiction, if the service applied for necessitates the imposition of conditions not contained in the prescribed form or in these By-laws; and

(b) Outside its area of jurisdiction, if such application has been approved by the Council having jurisdiction in the area in which the premises to be supplied are situated.

6. FEES

6.1. Prescribed fees for water services

(1) all prescribed fees payable in respect of water services rendered by the Council in terms of these By-laws, including but not limited to the payment of connection fees, fixed fees or any additional fees or interest in respect of failure to pay such prescribed or fees on the specified date must be in terms of section 10 of the Act and regulations made thereunder.

(2) All fees determined by the Council for the use of the sewers, or for discharge into the sewage disposal system or otherwise in connection with such system are payable in accordance with the rules in Schedule A of these By-laws by the owner of the premises, or the consumer, whichever is applicable, in respect of which the fees are raised.

(3) If any piece of land, whether or not there are any improvements thereon, is, or in the opinion of the Council could be, connected to a sewer, the owner of that land must pay to the Council the fees determined by the Council.

6.2. Deposit

(1) every consumer must on application for the provision of water services and before such water services will be provided by the Council, deposit with the Council a sum of money equal to the estimated fees for two average months water services as determined by the Council.

(2) The Council may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.

(3) The Council may from time to time review the sum of money deposited by a consumer in terms of subsection (1) and, in accordance with such review -

- (a) Require that an additional amount be deposited by the consumer; or

(b) Refund to the consumer such amount as may be held by the Council in excess of the revised deposit.

(4) Subject to the provisions of subsections (5) and (8), an amount deposited with the Council in terms of subsections (1) or (2) must not be regarded as being in payment or part payment of an account due for water services rendered.

(5) If, upon the termination of the agreement for the provision of water services, an amount remains due to the Council in respect of water services rendered to the consumer, the Council may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer, if the address of the consumer is known.

(6) No interest will be payable by the Council on the amount of a deposit held by it in terms of this section.

(7) An agreement for the provision of water services may contain a condition that a deposit will be forfeited to the Council if it has not been claimed within twelve months of the date of termination of the agreement.

(8) In the case of disconnection of a water supply for an unpaid account, the deposit will be allocated to the unpaid account, and a new deposit must be paid before the water supply is reconnected.

6.3. Payment for water services

(1) Water services provided by the Council to a consumer must be paid for by the consumer at the prescribed fees, for the particular category of water services provided.

(2) A consumer is responsible for payment for all water services provided to him or her from the date of commencement of the services until the date of termination thereof.

(3) The Council may estimate the quantity of water services provided in respect of a period or periods within the interval between successive measurements which may not be more than 180 days apart, and may render an account to a consumer for the services so estimated, which estimate must, for the purposes of these By-laws, be regarded as an accurate measurement until the contrary is proved.

(4) If a consumer uses water supply services for a category of use other than that for which it is provided by the Council in terms of an agreement and as a consequence is charged at a rate lower than the rate which should have been charged, the Council may make an adjustment of the amount charged in accordance with the rate which should have been charged and recovered from the consumer the fees payable in accordance with such adjustment, and may also review the amount of the deposit held, in accordance with section 7(3).

(5) If amendments to the prescribed fees for water services provided become operative on a date between measurements for the purpose of rendering an account in respect of such fees -

(a) The same quantity of water services must be regarded as having been provided in each period of twenty-four hours during the interval between the measurements; and

(b) Any prescribed fee must be calculated on a pro rata basis in accordance with the prescribed fee which applied immediately before such amendments.

(6) Failure by the Council to comply with the period of 180 days referred to in subsection (3) will not disentitle the Council from recovering any monies due to it by a consumer.

7. Payment in respect of prepayment meters

When a consumer is supplied with water through a prepayment meter, in addition to the requirements of sections 7 and 8:

(a) No refund of the amount tendered for the purchase of water credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced;

(b) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer; and

(c) The Council shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, a prepayment meter and/or token.

8. Accounts

(1) Accounts must be rendered and administered in accordance with the requirements of the Council.

(2) If it is established that a meter is defective, the Council must, in accordance with section 35:

- (a) In the case of a conventional meter, adjust the account rendered;
- (b) In the case of a prepayment meter, (a) render an account where the meter has been under-reading; or (b) issue a free token where the meter has been over-registering.
- (3) The sections relating to credit control measures in these By-laws shall lapse upon the promulgation of relevant Credit Control By-Laws by the Council which replace the measures set out herein.

9. Accounts:

9.1. transitional measures

- (1) Monthly accounts will be rendered to consumers for the amount due and payable, at the address last recorded with the Council.
- (2) Failure by the Council to render an account does not relieve a consumer of the obligation to pay any amount due and payable.
- (3) An account rendered by the Council for water services provided to a consumer must be paid not later than the last date for payment specified in such account, which date must be at least 14 days after the date of the account.
- (4) If payment of an account is received after the date referred to in subsection (3), a late payment fee or interest as may be prescribed, must be paid by the consumer to the Council.
- (5) Accounts must –
 - (a) Show the following –
 - (i) The consumption or estimated consumption or assumed consumption as determined for the measuring and / or consumption period;
 - (ii) The measuring or consumption period;
 - (iii) The applicable tariff;
 - (iv) The amount due in terms of the consumption;
 - (v) The amount due and payable for any other service rendered in terms of these Bylaws by the Council;
 - (vi) The amount in arrears, if any;
 - (vii) The interest payable on any arrears, if any;
 - (viii) The final date for payment; and
 - (ix) The methods, places and approved agents where payment may be made; and
 - (b) State that –
 - (i) the consumer may conclude an agreement with the Council for payment of the arrears amount in instalments, at the Council's offices before the final date for payment, if a consumer is unable to pay the full amount due and payable;
 - (ii) If no such agreement is entered into the Council may terminate or limit the water services after sending a final demand notice to the consumer;
 - (iii) Legal action may be instituted against any consumer for the recovery of any amount 30 days in arrears;
 - (iv) The defaulting consumer's name may be made public, and may be listed with a credit bureau or any other equivalent body as a defaulter;
 - (v) The account may be handed over to a debt collector or attorney for collection;
 - (vi) Proof of registration as an indigent consumer in terms of the Council's indigent policy must be handed in before the final date for payment; and
 - (vii) An indigent consumer is only entitled to basic water supply services and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.

9.2. Queries or complaints in respect of account

- (1) a consumer may lodge a query or complaint in respect of the accuracy of the amount due and payable in terms of an account rendered to him, her or it.
- (2) A query or complaint must be lodged with the Council before or on the due date for payment of the account, or as soon as reasonably possible thereafter.
- (3) Where a query or complaint is lodged after the due date of the account queried or complained about, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount that was due and payable during the preceding three months.

(4) The Council must register the query or complaint and provide the consumer with a reference number.

(5) The Council must–

(a) Investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was registered ; and

(b) Must inform the consumer, in writing, of its finding as soon as possible thereafter, whereupon any arrears found to be due are payable must be paid within seven days from the date on which the consumer is notified of the amount found to be due and payable.

9.3. Arrears

(1) if a consumer fails to pay the amount due and payable on or before the final date for payment, the unpaid amount is in arrears and a final demand notice may be sent and may be hand delivered or posted, per mail, to the most recent recorded address of the consumer.

(2) Failure to deliver or send a final demand notice does not relieve a consumer from paying such arrears.

(3) The final demand notice must contain the following -

(a) The amount in arrears and any interest payable, and the date by which such arrears and interest must be paid;

(b) That the consumer may conclude an agreement with the Council for payment of the arrears amount in instalments within 14 days of the date of the final demand notice;

(c) That if no such agreement is entered into within the stated period that the water services will be discontinued or limited and that legal action may be instituted against any consumer for the recovery of any amounts 30 days or more in arrear, without further notice;

(d) That the consumer's name may be made public, and may be listed with a credit bureau or any other equivalent body as a defaulter;

(e) That the account may be handed over to a debt collector or attorney for collection;

(f) Proof of registration as an indigent consumer in terms of the Council's indigent policy must be handed in to the Council on or before the date for payment contemplated in paragraph (a); and

(g) That an indigent consumer is only entitled to basic water services and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.

(h) An opportunity for the consumer to make representation in writing, on or before the date of payment contemplated in paragraph (a).

(4) Interest may be levied on all arrears at a rate prescribed by the Council from time to time.

(5) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due will be allocated in reduction of the consolidated debt in the order determined by the Council.

(6) The Council may, after the expiry of the period allowed for payment in terms of the final demand notice, hand deliver or send, per mail, to the last recorded address of the consumer -

(a) A discontinuation notice informing such consumer that the provision of water services will be, or has been discontinued on the date stated on the discontinuation notice;

(b) A discontinuation notice must contain information advising the consumer of steps which can be taken to have the service re-connected.

(7) If representations made by a consumer are unsuccessful either wholly or in part, a final demand notice complying with the provisions of subsections (3)(a) to (g) must be given to the consumer in the manner provided for in subsection (1), stipulating that no further representations may be made.

(8) Subject to the provisions of the Act, and subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000), having been observed, save that the Council's reasons for its decision to act must be supplied within seven days after a request therefore; the Council may discontinue water services to a consumer if -

(a) Full payment was not received within the period stated in the final demand notices referred to in subsections (3) and (7);

(b) No agreement was entered into for the payment of arrears in instalments;

(c) No proof of registration as an indigent was furnished within the period provided for in the final demand notice contemplated in subsections (3) and (7);

(d) No payment was received in accordance with an agreement for payment of arrears;

(e) No representations as contemplated in paragraph (h) of subsection (3) were made within the period provided for in the final demand notice, contemplated in subsection (3); and

(f) The representations referred to in subsection (7) have not been wholly acceded to by the Council.

(9) Where an account rendered to a consumer remains outstanding for more than 60 days –

(a) The defaulting consumer's name may be made public, and may be listed with a credit bureau or any other equivalent body as a defaulter; and

(b) May be handed over to a debt collector or an attorney for collection.

(10) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.

(11) Where a body corporate is responsible for the payment of any arrears amount to the Council in respect of a sectional title development the liability of the body corporate shall be extended to the members thereof, jointly in proportion to the participation quota of each sectional title unit.

(12) No action taken in terms of this section due to non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, administration fee, additional charges, costs incurred in taking legal action and any penalty, including the payment of a higher deposit, which are payable, are paid in full.

(13) Subject to the provisions of the Act, an agreement for payment of the arrears amount in instalments, entered into after the water services were discontinued, will not result in the water services being restored until the arrears, any interest thereon, administration fees, costs incurred in taking legal action and any penalty, including payment of a higher deposit, are paid in full.

9.4. Agreement for the payment of arrears in instalments

(1) only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, will be allowed to enter into an agreement for the payment of arrears in instalments.

(2) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order determined by the Council.

(3) A consumer may be required to complete a debit order for the payment of arrears.

(4) No agreement for the payment of arrears will be longer than 24 months, unless the circumstances referred to in subsection (5) prevail.

(5) The Council may, on an individual basis, allow a longer period than 24 months for the payment of arrears, if special circumstances prevail, that in the opinion of the Council warrants such an extension and which the consumer could not reasonably prevent or avoid, and documentary proof of any special circumstances must be furnished by the consumer on request by the Council.

(6) The Council must, in exercising its discretion under sub-section (5) have regard to a consumer's—

- (a) Credit record;
- (b) Consumption;
- (c) Level of service;
- (d) Previous breaches of agreements for the payment of arrears in instalments; and
- (e) Any other relevant factors.

(7) A copy of the agreement must on request, be made available to the consumer.

(8) If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, any administration fee, costs incurred in taking legal action, and penalty, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence.

(9) If a consumer fails to comply with an agreement for the payment of arrears in instalments entered into after receipt of a discontinuation notice, access to water services must be discontinued without further notice or correspondence, in addition to any other actions taken against or that may be taken against such a consumer.

(10) No consumer is permitted to enter into an agreement for the payment of arrears in instalments, where that consumer failed to honour a previous agreement for the payment of arrears in instalments, unless the Council otherwise decides.

10. Termination of agreements

(1) Subject to the provisions of sections 9, 9A, 9B, 9C and 9D –

(a) A consumer may terminate an agreement for the provision of water services by giving to the Council not less than seven days' notice in writing of his or her intention to do so; (b) the Council may, by notice in writing of not less than 30 days, advise a consumer of the termination of his or her agreement for the provision of water services if –

(i) He or she has not used the water services during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement;

(ii) He or she has failed to comply with the provisions of these By-laws and has failed to rectify such failure to comply following the issue of a compliance notice contemplated in section III or has failed to pay prescribed fees due and payable: Provided that the provisions of the Act, these By-laws and any other applicable law must be followed before the agreement is terminated; or

(iii) An arrangement has been made by such consumer with another water services institution to provide water services to the consumer;

(2) The Council may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.

(3) (A) If it is determined by a body legally empowered to do so, other than the Council that an existing water service on private property, or emanating from private property, is creating environmental damage, or water pollution, or water wastage, and the owner of the property, or the consumer, whichever is applicable, is directed to carry out such measures as are required under any Act or law to rectify the situation, the Council is not liable for any damages arising as a result of the measures required to be taken or in respect of damages suffered as a result of a permanent or temporary termination of the services.

(b) Should the consumer fail to carry out such measures, the Council may, subject to the provisions of Chapter 4, undertake the measures required, and any expenditure incurred may be recovered from the owner of the premises or the consumer as the case may be.

11. Limitation and/or discontinuation of water services

(1) Subject to the provisions of sections 9, 9A, 9B 9C, 9D and 10, the Council may limit or discontinue water services provided in terms of these By-laws -

- (a) At the written request of a consumer;
- (b) If the agreement for the provision of services has been terminated in terms of section 10 and the Council has not received an application for subsequent services to the premises, within a period of ninety days of such termination;
- (c) If the building on premises to which services were provided has been demolished;
- (d) If the consumer has unlawfully interfered with the water installation or service in any way;
- (e) In an emergency;
- (f) If there has been material abuse of the water services by the consumer or an occupier of the premises; or
- (g) If the use of the water services is creating significant environmental damage or water pollution.

(2) The Council will, where a water service has been in terms of subsection (1) discontinued, only be obliged to restore it when the prescribed fees for the discontinuation and reconnection of the water service and any applicable deposit have been paid.

12. Restoration of water services

When a consumer enters into an agreement for the payment of the arrears amount in instalments after the receipt of a final demand notice or a discontinuation notice, the water services will be restored to the type of service the consumer elected in terms of the agreement for the provision of water services, as soon as reasonably possible.

13. Water services via, and responsibility for, a communal sewer

The Council must provide sanitation services in respect of a communal sewer, only once an agreement whereby the community served by that sewer has, by means of an association or other legal entity, concluded an agreement for the maintenance and repair of the communal sewer with the Council, and such service must be supplied in accordance with the provisions of that agreement, read with the provisions of these By-laws.

14. Obligations

(1) The Council must take reasonable measures to realise the right of every person to a basic water supply and sanitation services as defined in the Act, subject to the limitations contained in the Act.

(2) Notwithstanding this basic right, every person who is the head of a household or in charge of a business enterprise or industrial undertaking or the representative of any such person, and who or which desires to consume water must make application to the Council to acquire such services.

(3) If the Council is unable to meet the general requirements of all its consumers, it must give preference to providing a basic water supply and basic sanitation services to all its consumers.

(4) The Council shall not be obliged to provide water services -

- (a) To areas or consumers outside the defined limits of the Council's area of jurisdiction;
- (b) Where, due to the nature of the topography, water services cannot be provided economically and/ or cost effectively; or
- (c) Where the necessary bulk infrastructure does not exist or is inadequate to service additional consumers.

15. Prohibition of access to water services other than through the Council

(1) No person is permitted to have access to water services from a source other than the Council, without its written approval.

(2) Despite the provisions of subsection (1) hereof, a person who, at the commencement of these By-laws, was using water from another source may continue to do so –

- (a) For a period of 60 days after he or she has been requested to apply for approval;

- (b) Thereafter until the application for approval is granted, if it has not been granted within that period; or
 - (c) For a reasonable period thereafter, within the discretion of the Council, if the application for approval is refused.
- (3) In granting approval, the Council may require the person seeking approval to supply such services as may be specified in the approval to others on reasonable terms, which must be specified by the Council.

16. Environmental impact assessments

- (1) If an EIA is required to be carried out before the provision of the water services can be approved or commenced, the applicant for such services shall be responsible for the carrying out of such EIA, and for the expenses connected therewith
- (2) After environmental approval has been granted and the provision of water services has been approved by the Council, it is the responsibility of the proposed consumer or any entity established under any law to represent the property interests of any consumer or group of consumers to ensure that all laws and conditions affected by the provisions of water services and relating to environmental management and control are complied with.

17. General responsibility for compliance with these By-laws, and other laws

- (1) the owner of premises is ultimately responsible for ensuring compliance with these Bylaws in respect of all or any matters relating to any installation, and if he or she is not the consumer who actually uses the water services, the owner is jointly and severally liable with such consumer in respect of all matters relating to the use of any water services on his or her property, including any financial obligation.
- (2) The consumer is primarily responsible for compliance with these By-laws in respect of matters relating to the use of any water service
- (3) No approval given under these By-laws relieves any owner or consumer from complying with any other law relating to the abstraction and use of water, or the disposal of effluent.

18. Unauthorised use of water services

- (1) No person may gain access to water services from the water supply system, sewage disposal system or any other sanitation services unless an agreement has been entered into with the Council for the rendering of those services.
- (2) A designated officer may issue a compliance notice in terms of section III to ensure compliance with subsection (1) by, inter alia, ordering a person making unauthorised use of water services

To -

- (a) Apply for such services in terms of section 4 or 5; and
- (b) Undertake and complete, to the reasonable satisfaction of the designated officer, such plant as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these By-laws, and to make application in the prescribed manner for such services.

19. Purpose of water services

Where the purpose or extent for which water services are used is changed, the consumer must inform the Council, and must enter into a new agreement with the Council, expressed to be effective from the date on which such change of use took or will take effect.

20. Interference with water supply system or any sanitation services

- (1) No person may –
- (a) Operate or maintain any part of the water supply system;
 - (b) Operate any sewage disposal system;
 - (c) Effect a connection or reconnection to the water supply system or sewage disposal system; or
 - (d) Render any other sanitation services, unless in any such case he or she has been authorised to do so by the Council in writing.

(2) No person may interfere with, or wilfully or negligently damage, or permit damage to or interference with any part of the water supply system or sewage disposal system belonging to the Council.

21. Obstruction of access to water supply system or any sanitation service

No person may prevent or restrict physical access to the water supply system or sewage disposal system by any employee of the Council.

CHAPTER 2

WATER SUPPLY SERVICES

22. Provision of connection pipe

(1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner must make application on the prescribed form and pay the prescribed fees for the installation of such a pipe, which fees shall not apply to consumers on Service Level 1 and Service Level 2.

(2) If application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the Council may agree to the extension, modification or upgrade, if the owner pays for the cost thereof, as determined by the Council.

23. Location of connection pipe

(1) a connection pipe provided and installed by the Council must-

(a) Be located in a position determined by the Council after consultation with the owner referred to in section 22(1), and be of a suitable size as determined by the Council; and

(b) Terminate at the boundary between the land owned by or vested in the Council, or over which either of them has a servitude or other right, and the owner's premises.

(2) If there is land between the boundary of land owned by or vested in the Council and the land of an owner who has made an application referred to in subsection (1), and the intervening land is not subject to a servitude or other right to carry a connection pipe, such pipe must terminate at the boundary of the land owned by the Council, or vested in it.

(3) The Council shall be liable for the maintenance of any meter and associated valve which may be situated on the consumer's premises.

(4) The Council may, at the request of any person, agree, subject to such conditions as it may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises if the applicant agrees to be responsible for any extension of the water installation to the connecting point designated and agreed to by the Council and for obtaining at his or her cost, such servitudes over other property as may be necessary.

24. Provision of single water connection for supply to several consumers on same premises

(1) only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.

(2) Where the owner, or the person having the charge or management of any premises on which several accommodation units, business units, or consumers are situated, requires the supply of water to such premises for the purpose of separate supply to the different units or consumers, the Council may, in its discretion, provide and install either -

(a) A single measuring device in respect of the premises as a whole or a number of such units or consumers; or

(b) A separate measuring device for each such unit or consumer or any number thereof.

(3) Where the Council has installed a single measuring device as contemplated in subsection (2)

(a), the owner or the person having the charge or management of the premises, as the case may be -

(a) Must, if the Council so requires, install and maintain on each branch pipe extending from the connection pipe to the different units or consumers-

(i) A separate measuring device; and

(ii) An isolating valve; and

(b) Is liable to the Council for the prescribed fees for all water supplied to the premises through such single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.

(4) Notwithstanding the provisions of subsection (1), the Council may permit more than one connection pipe to be provided on the water supply system for the supply of water to any premises comprising sectional title units or if, in the opinion of the Council, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.

(5) Where the provision of more than one connection pipe is authorised by the Council in terms of subsection (4), the prescribed fees for the provision of a connection pipe are payable in respect of each water connection so provided.

(6) Where premises are supplied with water by a number of connection pipes, the Council may require the owner to reduce the number of connection points and alter his or her water installation accordingly at the owner's expense.

25. Interconnection between premises or water installations

An owner of premises must ensure that no interconnection exists between –

(a) The water installation on his or her premises and the water installation on any other premises; or

(b) Where several dwelling or business units are situated on the same premises, the water installations of such units, unless he or she has obtained the prior written consent of the Council and complies with any conditions that may have been imposed.

26. Disconnection of water installation from connection pipe

The Council may disconnect a water installation from the connection pipe and remove the connection pipe if –

(a) The agreement for supply has been terminated in terms of section 10 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or

(b) The building on the premises concerned has been or is in the process of being demolished pursuant to the grant of a permit for such demolition in terms of law.

27. Water supplied from a hydrant

(1) The Council may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and for such period as may be generally prescribed or specifically imposed by it in respect of such supply.

(2) Except in an emergency, a person who requires a temporary supply of water referred to in subsection (1) must apply therefor.

(3) The Council may, for the purpose of supplying water from a hydrant, provide a portable water meter to be returned to the Council on termination of the temporary supply, which portable meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant remains the property of the Council and will be provided subject to any conditions imposed by the Council.

28. Quantity, quality and pressure

Water supply services provided by the Council must comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

29. General conditions of supply

(1) Subject to the provisions of the Act, the supply of water by the Council does not constitute an undertaking by it to maintain at any time or any point in its water supply system –

(a) An uninterrupted supply;

(b) A specific pressure or rate of flow in such supply; or

(c) A specific standard of quality of water:

Provided that if the water supply to a consumer is interrupted for more than 24 hours, the

Council must provide an alternative basic water supply as soon as reasonably practicable.

(2) The Council may specify the maximum height above ground level or mean sea level to which water is supplied from the water supply system.

(3) If an owner requires that any of the standards contemplated in section 9 of the Act, be maintained on his or her premises, he or she must make provision in the water installation for such maintenance.

(4) The Council, may, in an emergency, interrupt the supply of water to any premises without prior notice.

(5) If the consumption of water by a consumer adversely affects the supply of water to any other consumer, the Council may apply such restrictions as are necessary, to the supply of water to the first mentioned consumer, in order to ensure a reasonable supply of water to the other consumer or consumers concerned, and must inform the first mentioned consumer of such restrictions.

(6) The Council will not be liable for any damage to property caused by water flowing from fittings left open when the water supply is re-instated, following an interruption in supply for any reason

(7) Every steam boiler and any premises which require, for the purpose of the work undertaken on the premises, a continuous supply of water, must have a cistern fitted and in working order and holding a water supply deemed adequate by the occupier of the premises.

(8) No consumer may resell water supplied to him by the Council except with the written permission of the Council, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the Council may deem necessary.

(9) The Council does not undertake to maintain sufficient pressure in the water supply system to ensure the operation of manually actuated toilet flushing valves which require a specified minimum pressure to operate.

30. Measuring of quantity of water supplied

(1) The Council must measure the quantity of water supplied at such regular intervals as the Council may determine, but which must not exceed 180 days.

(2) Any measuring device through which water is supplied to a consumer by the Council, and its associated apparatus, must be provided and installed by the Council, and remains its property, and may be changed and maintained by the Council when deemed necessary by it.

(3) The Council may install a measuring device, and its associated apparatus, at any point on the service pipe.

(4) If the Council installs a measuring device on a service pipe in terms of subsection (3), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section is deemed to form part of the water installation.

(5) If the Council installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (3), the owner must –

(a) Provide a place satisfactory to the Council in which to install it;

(b) Ensure that unrestricted access is available to it at all times;

(c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal fair wear and tear;

(d) Ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe or water main serving the installation;

(e) Make provision for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the Council on the measuring device;

(f) Not use nor permit to be used on any water installation, any fitting, machine or appliance which causes damage or, in the opinion of the Council, is likely to cause damage to any meter.

(6) No person other than an authorised official of the Council may –

(a) Disconnect a measuring device and its associated apparatus from the pipe in or to which they are installed or connected;

(b) Break a seal which the Council has placed on any meter; or

(c) In any other way interfere with a measuring device and its associated apparatus.

(7) If the Council considers that, in the event of the measuring device being a meter, the size of the meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed fees for the installation of the replacement meter.

(8) The Council may, at the owner's expense, install or require the installation, of a measuring device to each business or dwelling unit on any premises, if such units are in separate occupancy, for use in determining the quantity of water supplied to each such unit: Provided that where a fixed quantity water delivery system is used, a single measuring device may be used to supply more than one unit.

(9) Failure by the Council to comply with the period of 180 days referred to in subsection (1), will not disentitle the Council from recovering any monies due to it by a consumer.

31. Quantity of water supplied to consumer

(1) for purposes of assessing the quantity of water supplied to a consumer during any period and measured by a measuring device installed by the Council over a specific period, for the purposes of these By-laws it will be deemed that, other than in the case of prepayment meters -

- (a) The quantity is represented by the difference between measurements taken at the beginning and end of such period;
- (b) The measuring device was accurate during such period; and
- (c) The entries in the records of the Council were correctly made.

(2) If water is supplied to, or taken by, a consumer without its passing through a measuring device, the estimate by the Council of the quantity of such water will be deemed to be correct.

(3) Where water supplied by the Council to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the Council, the Council may for the purpose of rendering an account, make an estimate, in accordance with subsection (4), of the quantity of water supplied to the consumer during the period that water is so taken by the consumer.

(4) For the purposes of subsection (3), an estimate of the quantity of water supplied to a consumer must be based on –

- (a) The average monthly consumption of water on the premises registered over three succeeding measuring periods taken over not more than 180 days in total, after the date on which the irregularity referred to in subsection (2) was discovered and rectified, and/or
- (b) The period preceding the date referred to in subsection (2) but not exceeding 36 months.

(5) Nothing in these By-laws may be construed as imposing on the Council an obligation to cause any measuring device installed on any premises to be measured at the end of any fixed period, and the Council may estimate the quantity of water supplied over any period during the interval between successive measurements of the measuring device, which may not be more than 180 days apart, and render an account to a consumer for the quantity of water so estimated.

(6) The Council must, on receipt from the consumer of written notice of not less than seven days and subject to payment of the prescribed fees, measure the quantity of water supplied to such consumer at a time or on a day other than that upon which it would normally be measured.

(7) If a contravention of section 30(6) occurs, the consumer must pay to the Council the cost of such quantity of water estimated by the Council to have been supplied to the consumer.

(8) Until such time as a measuring device has been installed in respect of water supplied to a consumer, the estimated consumption of that consumer must be based on the average consumption of water supplied to the specific zone within which the consumer's premises are situated, during a specific period.

(9) Where in the opinion of the Council it is not reasonably possible or cost effective to measure water supplied to each consumer within a particular zone, the Council may determine the fees to be paid by each consumer within that zone irrespective of actual consumption.

(10) Fees determined in terms of subsection (9) will be based on the estimated average consumption of water supplied to that zone.

(11) Where water supply services are provided through a communal water services work, the amount due and payable by consumers gaining access to water supply services through that communal water services work, will be based on the

estimated average consumption of water supplied to that water services work, and the decision of the Council in arriving at that amount is final and binding on each consumer affected thereby, unless legally set aside.

(12) For the purposes of subsections (8) and (9), a zone is that local area of land, of which the premises occupied by the consumer is a part, which is zoned in terms of a town planning scheme or an integrated development plan for homogeneous usage.

(13) Failure by the Council to comply with the period of 180 days referred to in subsections (4) (a) and (5), will not disentitle the Council from recovering any monies due to it by a consumer.

31.1. Prepayment Metering

(1) Prepayment metering systems shall comply with the requirements of SABS Code 1529 Part 9- 2002

(2) The conditions set out in sections 30, 31, 32, 33, 34 and 35 in respect of conventional meters must apply in respect of prepayment meters unless otherwise provided for in these By-laws

32. Defective measurement

(1) if a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her or installed by the Council, is defective, he or she may, against payment of the prescribed fee, make application in writing for the measuring device to be tested.

(2) The consumer referred to in subsection (1) must lodge a deposit equal to the cost of the test with the Council, prior to the test being undertaken.

(3) If it is alleged that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy.

(4) The consumer referred to in subsection (2), must be informed of the prescribed range of accuracy then applicable, and the possible cost implications including the estimated cost of such test, as set out in subsection (5)(a) prior to such test being undertaken.

(5) If the outcome of any test shows that a measuring device is -

(a) Within a prescribed range of accuracy, the consumer will be liable for the costs of such test and any other amounts outstanding; or

(b) Outside a prescribed range of accuracy, which is not due to any act or omission of the consumer, the Council will be liable for the costs of such test and the consumer must be informed of the amount of any credit to which he or she is entitled.

(6) Any deposit lodged by a consumer for the testing of a measuring device -

(a) May be retained by the Council if the measuring device is found not to be defective; or

(b) Must be refunded to the consumer if the measuring device is found to be defective, and the defect is not due to any act or omission of the consumer;

(7) If the measuring device is -

(a) A meter to which the regulations relating to water meters published under the Trade Metrology Act, 1973, are applicable, it will be deemed to be defective if, when tested in accordance with SABS Code 1529 Part 1, it is found to have a percentage error in over-registration or under-registration greater than that permitted for a meter in use in terms of that specification.

(b) A meter of a size greater than 100mm diameter but not exceeding 800mm diameter to which the specification referred to in subsection (a) is not applicable, it will be deemed to be defective, when tested in accordance with SABS Code 1529 Part 4-1998 if it is found to have a percentage error in over-registration or under-registration greater than permitted for a meter in terms of that specification.

(c) A prepayment water measuring system, this shall be deemed to be defective if, when tested in accordance with SABS Code 1529 Part 9 –2002, it is found to have a percentage error in over-registration or under-registration greater than that permitted in terms of that specification.

(8) In addition to applying the provisions of subsection (6), if the measuring device is found to be defective, the Council must-

- (a) Repair the measuring device or install another device which is in good working order, without charging the consumer, unless the costs thereof are recoverable from the consumer where section 30(6) has been contravened;
- (b) Determine the quantity of water services for which the consumer will be charged on the Basis set out in section 35.

(9) A consumer is entitled, on giving the Council reasonable notice of his, her or its intention, to be present at the testing of any meter in which the consumer is interested.

(10) Any meter removed for testing by the Council must be retained intact and be available for inspection for a period of three months after testing.

33. Special measurement

(1) if the Council wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may, by written notice, advise the owner of the premises affected, of its intention to install a measuring device at such point in the water installation as it may specify.

(2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such removal must be carried out at the expense of the Council.

(3) The provisions of section 32 apply in respect of a measuring device installed in terms of Subsection (1).

34. No reduction of amount payable for water wasted

A consumer is not entitled to a reduction of the amount payable in respect of water wasted or water losses in a water installation.

35. Adjustment of quantity of water supplied through defective measuring device

(1) if a measuring device is found to be defective, the Council may estimate the quantity of water supplied to the consumer concerned during the period in which, in its opinion, such measuring device was defective, on the basis of the average daily quantity of water supplied to him or her over-

(a) A period between two successive measurements subsequent to the replacement of the measuring device or, if this is not possible;

(b) The period in the previous year, corresponding to the period in which the measuring device was defective; or, if this is not possible;

(c) The period between three successive measurements prior to the measuring device becoming defective.

(2) (a) If the quantity of water supplied to a consumer during the period when his or her measuring device was defective cannot be estimated in terms of subsection (1), the Council may estimate the quantity; and

(b) The consumer must be informed of the method used by the Council to estimate the quantity of water supplied to him or her, as contemplated in subsections (1) and

(2), and given an opportunity to make representations to the Council before a final estimate is arrived at.

36. Approval of installation work

(1) if an owner wishes to have installation work done, he or she must first obtain the written permission of the Council: Provided that permission is not required in the case of water installations in dwelling units or installations where no fire installation is required in terms of

SABS Code 0400 or in terms of any by-laws, or for the repair or replacement of an existing pipe or water fitting, other than a fixed water heater and its associated protective devices.

(2) If any of the installation work is governed by the EIA Regulations, then the owner must ensure compliance and obtain the relevant authorisation in respect thereof.

(3) Application for the permission referred to in subsection (1) must be made on the prescribed form and must be accompanied by -

(a) The prescribed fees, if applicable;

(b) Copies of the drawings as prescribed by the Council, reflecting the information and in the form required by Clause 4.1.1 of SABS Code 0252: Part I; or

(c) A certificate from a professional engineer or qualified plumber certifying that the installation has been designed in accordance with SABS Code 0252: Part I or, has been designed on a rational basis.

(4) The provisions of subsections (1), (2) and (3) do not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.

(5) Any authority given in terms of subsection (1) lapses at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.

(6) A complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed, where permission is required in terms of subsection (1).

(7) If installation work has been done in contravention of subsections (1), (2) or (3), a designated officer may, subject to the provisions of Chapter 4, issue a compliance notice requiring the owner of the premises concerned -

(a) To comply with the relevant subsection, within a specified period;

(b) If the work is still in progress, to cease the work; and

(c) To remove all such work as does not comply with these By-laws.

37. Persons permitted to do installation and other work

(1) No person who is not a qualified plumber may be permitted to –

(a) Do any installation work other than the replacement or repair of an existing pipe or water fitting;

(b) Replace a fixed water heater or its associated protective devices;

(c) Inspect, disinfect or test a water installation, fire installation or storage tank;

(d) Service, repair or replace a back flow preventer; or

(e) Install, maintain or replace a meter provided by an owner in a water installation

(2) No person may require or engage a person who is not a qualified plumber to do the work Referred to in subsection (1).

(3) Notwithstanding the provisions of subsection (1), the Council may permit a person who is not a qualified plumber to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her household, provided that such work may be required to be inspected and approved by a qualified plumber at the direction of the Council.

38. Provision and maintenance of water installation

(1) an owner must provide and maintain his or her water installation at his or her own cost and, except where permitted in terms of these By-laws, must ensure that the installation is situated within the boundary of his or her premises.

(2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner must obtain the written consent of the Council or the owner of the land on which such portion is situated, as the case may be.

39. Technical requirements for a water installation

(1) notwithstanding the requirement that a certificate be issued in terms of section 36(3) (c), all water installations must comply with SABS Code 0252 Part 1 and all fixed electrical storage water heaters must comply with SABS Code 0254.

(2) In addition to any requirement of SABS Code 0252 Part 1, the consumer must, at his or her own expense, or the Council may in its discretion and at the consumer's expense, and for the consumer's exclusive use, provide and install a stop-cock at a suitable point inside the boundary of the premises on the consumer's side of the meter leading to the water installation.

40. Use of pipes and water fittings to be authorised

(1) No person may, without the prior written permission of the Council, install or use a pipe or water fitting in a water installation within the Council's area of jurisdiction unless it is of a type that is included in the schedule of approved pipes and fittings as compiled by the Council.

(2) Application for the inclusion of a type of pipe or water fitting in the schedule referred to in subsection (1), must be made on the form prescribed by the Council and be accompanied by the prescribed fees.

(3) A type of pipe or water fitting may be included in the schedule referred to in subsection (1) if

(a) It bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or

(b) It bears a certification mark issued by the SABS to certify that the type of pipe or water fitting complies with an SABS mark, specification or a provisional specification issued by the SABS: Provided that no certification marks shall be regarded as valid if issued more than two years previously.

(4) The Council may, in respect of any type of pipe or water fitting included in the schedule, impose such additional conditions as it may deem necessary in respect of the use or method of installation thereof.

(5) A type of pipe or water fitting may be removed from the schedule if it -

(a) No longer complies with the criteria upon which its inclusion was based; or

(b) is no longer suitable for the purpose for which its use was accepted.

(6) The current schedule referred to in subsection (1) must be available for inspection at the office of the Council at any time during working hours.

(7) The Council may sell copies of the current schedule at the prescribed fees.

41. Unlawful water installation work

Where any installation work has been constructed in contravention of the provisions of these

By-laws, the owner must on receiving a compliance notice by the Council carry out such alterations to the installation as prescribed in the notice.

42. Labelling of terminal water fittings and appliances

A terminal water fitting and appliance using or discharging water must be marked, or have included within the packaging of the item, the following information:

(a) The range of pressure in kPa over which the water fitting or appliance is designed to operate; and (b) The flow rates, in litres per minute, related to the design pressure range, including at least the following water pressures -

(i) 20 kPa;

(ii) 100 kPa; and

(iii) 400 kPa.

43. Owner to prevent pollution of water

An owner must provide and maintain effective measures to prevent the entry of any substance affect its fitness for use, in -

(a) The water supply system or plant; and

(b) Any part of the water installation on his or her premises.

43.1. Protection of water supply system

(1) The owner must take any of the measures referred to in subsection (2) to prevent the backflow of water from the water installation to the water supply system in the case of-

(a) A fire or combined installation on premises; and

(b) A general installation serving the following activities-

(i) Medical treatment of people or animals;

(ii) Medical, pharmaceutical or chemical research and manufacturing;

(iii) Agriculture, including dairies and nurseries;

(iv) Photographic processing;

(v) Laundering and dry-cleaning;

(vi) Metal plating;

(vii) Treatment of skins and hides; and

(c) A general installation serving-

(i) Mortuaries;

(ii) Abattoirs;

- (iii) Sewage purification works;
- (iv) Refuse processing plants;
- (v) Oil processing and storage facilities;
- (vi) Wineries, distillers, breweries, yeast and cold drink factories; (vii) sports facilities; or
- (viii) Any other premises on which an activity is carried out which in the opinion of the Council is likely to cause a danger to health or affect the portability of water in the event of a substance resulting from such activity entering the water supply system; and
- (d) A general installation on any premises after a compliance notice by the Council to do so.

(2) The measures required in terms of subsection (1) are-

- (a) The discharge of water from the service pipe into a storage tank through an air gap; or
- (b) The passing of water through-
 - (i) A reduced pressure backflow preventer; or
 - (ii) A double check backflow preventer; or
- (c) Any other measures approved by the Council which achieve the same purpose.

43.2. Design and installation of backflow preventer

A backflow preventer contemplated in section 43A must be designed and installed in accordance with the requirements of SABS Code 0252 Part 1.

43.3. Inspection and servicing of backflow preventer

(1) the owner of premises on which a reduced pressure or double check backflow preventer is installed must, at his own expense, cause the backflow preventer to be-

- (a) Inspected and serviced not less than once in every 12 months to ensure that it is in working order; and (b) Replaced or completely overhauled once in every 5 years.

(2) The owner shall maintain a record of the inspections and services referred to in subsection (1) in which shall be recorded:

- (a) The name and address of the contractor who carried out the servicing;
 - (b) The date on which the work was done; and
 - (c) The details of the repairs or replacements that were effected;
- (3) The record of inspections shall be kept available for inspection by the Council.

43.4. Protection of water installations

(1) the owner of any premises must prevent the back siphonage into his or her water installation of a substance which is likely to cause a danger to health or affect the portability of water, in the case of-

- (a) A terminal water fitting which is so designed that a hose or other flexible pipe is or can be attached to it, which shall include a hose bibcock, a laboratory tap, and a movable shower unit;
- (b) A fire hose reel in a combined installation;
- (c) An underground irrigation system; or
- (d) Any other fitting which may provide contact between polluted water and the water installation.

44. Water restrictions

(1) whenever there is a scarcity of water available for distribution and supply to consumers, the Council may prohibit or restrict the use of water under its control or management, as contemplated in section 83A of the Local Government Ordinance, No. 17 of 1939.

(2) Whenever it acts in terms of subsection (1), the Council must cause a notice of the resolution taken in terms of section 83A(1) of the Local Government Ordinance, 1939, to be published in one or more local newspapers, in two of the official languages.

(3) Notwithstanding the provisions of subsections (1) and (2), should an emergency arise in relation to the availability of water for distribution and supply to its consumers, and immediate steps are necessary to avert or remedy any actual or potential consequences of such emergency, the Council may take any steps contemplated in section 83A of the Local Government Ordinance, 1939, without taking the resolution contemplated in that section.

45. Waste of water unlawful

(1) No consumer may permit -

- (a) The purposeless or wasteful discharge of water from terminal water fittings;
- (b) Pipes or water fittings forming part of a water installation to leak;
- (c) The use of maladjusted or defective water fittings in a water installation;
- (d) An overflow of water from a water installation to persist; or
- (e) A wasteful use of water to persist.

(2) An owner must repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an event referred to in subsection(1).

(3) If an owner fails to take measures as contemplated in subsection (2), a designated officer may issue an enforcement notice in connection therewith.

(4) Every consumer must ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.

46. Prohibition of use of certain equipment in a water installation

A designated officer may, by compliance notice, prohibit the use by a consumer of any equipment in a water installation if, in his or her opinion, its use of water is wasteful, and such equipment must not be returned to use until its efficiency has been restored, and a written application to do so has been approved by the Council.

47. Sampling of water

(1) The Council may take samples of water obtained from a source other than the water supply system, and cause the samples to be tested for compliance with the requirements referred to in section 50(2).

(2) The prescribed fees for the taking and testing of the samples referred to in subsection (1) must be paid by the person to whom approval to use the water for potable water was granted in terms of that section.

48. Testing of pressure in water supply system

The Council must, on application by an owner and on payment of the prescribed fees, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises, over such period as the owner may request.

49. Pipe in street or public place

No person may, for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of the Council, except with the prior written permission of the Council, and subject to such conditions as may be imposed by it on granting permission.

50. Use of water from source other than the water supply system

(1) except with the prior permission of the Council, no person may use or permit the use of water obtained from a source other than the water supply system, other than rain water tanks which are not connected to the water installation, and in accordance with such conditions as the Council may impose, for domestic, commercial or industrial purposes, and except with the approval of any other authority required by any law.

(2) Any person requiring the permission referred to in subsection (1) must, at his or her own cost, provide the Council with proof to its satisfaction that the water referred to in that section complies or will comply with the requirements of SABS Code 241:1999 (Fourth Edition):

Drinking Water, and any other requirement contained in these By-laws or any other law applicable to the consumption of water, or that the use of such water does not, or will not, constitute a danger to health.

(3) Any permission given in terms of subsection (1) may be withdrawn if, in the opinion of the Council -

- (a) A condition imposed in terms of that subsection is breached; or
- (b) The water no longer conforms to the requirements referred to in subsection (2).

(4) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the sewage disposal system, the Council must install a meter and any necessary monitoring equipment in the pipe leading from such borehole or other source of supply to the point or points where it is so used.

(5) The provisions of section 30 must apply insofar as they may be applicable in respect of any meter referred to in subsection (4).

51. Special provisions for fire services

(1) any water installation for the provision of water for fire fighting purposes, must comply with the provisions of SABS Code 0252-1:1994 or any revision or substitution thereof.

(2) Notwithstanding the provisions of subsection (1), the special provisions contained in sections 51 to 61 inclusive apply, insofar as they are applicable, to the supply of water for fire fighting purposes.

52. Payment for fire services

The consumer and the owner of the premises are jointly and severally liable to pay the fees determined by the Council, in respect of any fire extinguishing installation or appliance used or installed upon such premises.

53. Dual and combined installations

Any new building erected after the adoption of these By-laws must comply with the following requirements in relation to the provision of fire extinguishing services -

(a) If, in the opinion of any officer or employee of the Council charged with the approval of plans, boosting of the system is required, either in terms of ensuring adequate pressure or supply of water for the purposes which the system is intended to meet, a dual pipe system must be used, one for fire extinguishing purposes and the other for general domestic purposes;

(b) Combined installations, in which the same pipes and fittings are used for fire extinguishing and general domestic purposes, are only permitted where no booster pumping connection is provided on the water installation;

(c) In the circumstances contemplated in paragraph (b), a fire hydrant must be provided by the Council, at the consumer's expense, within 90 metres of the property to provide a source of water for the use of the crew of any fire tender sent to extinguish a fire; and

(d) All pipes and fittings must be capable of handling pressures in excess of 1015 kPa, which could be expected when boosting takes place and must be designed to maintain their integrity when exposed to fire conditions.

54. Connection pipes for fire extinguishing services

(1) a single connection to the water supply system, to serve a connection pipe for a fire installation, excluding a sprinkler system, may be provided by the Council.

(2) The Council may provide and install at its cost a meter on the connection pipe referred to in subsection (1).

(3) Where, there is an existing connection pipe for the sole purpose of fire extinguishing services, such connection pipe may only be used for that purpose.

(4) No take-off of any kind from any connection pipe referred to in subsection (3) may be made, nor may any water therefrom be used except in connection with an automatic sprinkler and drencher, a hydrant connection or a hose-reel connection, or for any pressure tank connection therewith, and such tank must be controlled by an approved fitting.

(5) A separate connection pipe must be laid and used for every fire sprinkler extinguishing system, unless otherwise approved.

55. Valves in connection pipe

Every connection pipe must be fitted with a proper gate valve, which must be -

- (a) Supplied by the Council at the expense of the consumer;
- (b) installed between the consumer's property and the main;
- (c) Of the same diameter as the connection pipe; and
- (d) Installed in such position as may be specified by the Council.

56. Inspection and approval of fire extinguishing installation

56 No water may be supplied to any fire extinguishing installation until -

- (a) It has been inspected and tested by the Council;
- (b) The Council has certified in writing that such water installation is complete and complies with the requirements of these By-laws; and
- (c) The fees determined by the Council for such inspection and testing have been paid.

57. Connection to be at the pleasure of the Council

(1) The Council, is entitled, in its absolute discretion, to grant or refuse an application for the connection of a fire extinguishing installation to its main.

(2) If in its opinion a fire extinguishing installation which it has allowed to be connected to its main is not being kept in proper working order or is otherwise not being properly maintained, or is being used in contravention of sections, 54(3) or 54(4), the Council is entitled either to require the installation to be disconnected from the main, or itself to carry out the work of disconnecting it at the expense of the owner or consumer, as the case may be.

58. Meter in fire extinguishing connection pipe

The Council is entitled to install a water meter in any connection pipe used solely for fire extinguishing purposes, and the owner of the premises will be liable for the whole of the cost of so doing if it appears to the Council that water has been drawn from the pipe otherwise than for the purpose of extinguishing a fire.

59. Sprinkler extinguishing installation

A sprinkler installation may be installed in direct communication with the main, but the Council is not bound to guarantee any specified pressure at any time.

60. Header tank or double supply from main

(1) unless a sprinkler installation is provided with a duplicate or reserve supply from a separate main, the consumer must install a header tank on or in the building or structure at such elevation as will compensate for any failure or reduction of pressure in the Council's main.

(2) The main pipe leading from such header tank to the sprinkler installation may be in direct communication with the main from which the principal supply of water is drawn, provided that such main pipe must be equipped with a reflux valve which, if the pressure in the main fails or is reduced for any reason, will shut off the opening to the main.

(3) Where a sprinkler installation is provided with a duplicate or reserve supply from a separate main, each supply pipe must be equipped with a reflux valve situated within the premises.

61. Sealing of private fire hydrants

(1) (a) except in the case of a fire installation supplied through a connection pipe fitted with a meter, a private hydrant and hose-reel must be sealed by the Council and such seal may not be broken by any person other than the Council in the course of servicing and testing, except for the purpose of opening the hydrant in the case of fire.

(b) Every owner or consumer must give the Council at least 48 hours' notice of his or her intention to cause a fire extinguishing installation to be serviced and tested.

(2) The cost of resealing a hydrant and hose-reel referred to in subsection (1) (a), must be borne by the consumer except when such seal is broken by the Council's employee for testing purposes.

(3) Any water consumed after the breaking of the seal referred to in subsection (2), other than in the course of testing by the Council or in the course of fighting a fire, must be paid for by the consumer at the fees determined by the Council for domestic purposes.

(4) The quantity of water consumed as contemplated in subsection (3), must be determined by the Council.

CHAPTER 3

SANITATION SERVICES

62. Objectionable discharge to sewage disposal system

(1) No person may discharge, or cause or permit the discharge or entry into any sewer of any sewage, industrial effluent or other liquid or substance-

(a) Which may be offensive to, or may cause a nuisance to the public;

(b) Which is in the form of steam or vapour or has a temperature exceeding 44 degrees Celsius at the point where it enters the sewer;

(c) Which has a pH value less than 4.0 or is above 9.0;

(d) Which contains any substance of whatsoever nature likely to produce or give off explosive, flammable, poisonous or offensive gases or vapours in any sewer;

(e) Which contains any substance having an open flashpoint of less than 93 degrees Celsius or which gives off a poisonous vapour at a temperature below 93 degrees Celsius;

(f) Which contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing an obstruction to the flow in a sewer, to a drain or interference with the proper operation of a sewage treatment plant;

(g) Which may inhibit the unrestricted conveyance of sewage through the sewage disposal system;

(h) Which contains any substance in such concentration as is likely in the final treated effluent from any sewage treatment plant to produce an undesirable taste after chlorination, or an undesirable odour or colour, or excessive foam;

(i) Which contains any substance listed in Schedule D –

(ii) In amounts higher than those specified therein;

(iv) Which may harm or damage any sewer, mechanical appliance, sewage treatment plant or equipment;

(v) Which may prejudice the use of sewage effluent for re-use; or

(vi) Which may adversely affect any water into which treated sewage effluent is discharged, or any land or crop irrigated with the sewage effluent;

(vii) Which contains any substance of whatsoever nature which–

(i) Which is not amenable to treatment at the sewage treatment plant, or

(ii) Causes or may cause a breakdown or inhibition of the normal sewage treatment processes; or

(iii) Is of such nature as is or may be amenable to treatment only to such degree as to result in the final treated effluent from the sewage treatment plant not complying in all respects with any requirements imposed in terms of the National Water Act; and

(k) Whether listed in Schedule D of these By-laws or not, either alone or in combination with other matter may –

(i) Generate or constitute a toxic substance dangerous to the health of a person employed at the sewage treatment plant, or entering a Council sewer or manhole in the course of his or her duty; or

(ii) Adversely affect the equipment of the sewage treatment plant or the land used for the disposal of treated sewage effluent; or

(iii) Adversely affect any process whereby sewage is treated or wherein any re-use of sewage effluent is permitted.

(2) No person may cause or permit any solid, liquid or gaseous substance, other than storm water to enter –

(a) Any storm water drain, storm water sewer or excavated or constructed water course;

(b) Any river, stream, or natural water course or any public water, whether ordinarily dry or otherwise, except in accordance with the provisions of the National Water Act; or

(c) Any street or premises.

(3) An authorized official may require any owner of premises from which there is a discharge of any sewage, industrial effluent, or any substance referred to in subsection (1), to conduct at his or her cost periodic expert inspections of the premises, in order to identify precautionary measures which would ensure compliance with these By-laws, and report such findings to the Council.

(4) If any contravention of any provision of subsection (1) takes place on any premises, or elsewhere, the owner of such premises, or any person aware of the contravention must as soon as possible notify the Council of the details of the contravention and the reason for it.

63. Disposal of sludge, compost and manure

(1) except when prohibited by any law, the Council may sell or dispose of sewage sludge, compost or animal manure resulting from the operation of any sewage treatment plant operated by the Council or sewage farm associated therewith, on such conditions regarding the loading and conveyance thereof, the place to which it is conveyed and the manner in which it is to be used, applied or processed, as the Council may impose or as may be required in terms of any law.

(2) Except in the case of long-term contracts entered into for the purpose of the removal thereof, such sludge, compost or manure must be sold or disposed of at a price determined from time to time by the Council.

64. Application for infrastructure

(1) if an agreement for on-site sanitation and associated services in accordance with section 4 has been concluded, and no infrastructure in connection therewith exists on the premises, the owner must immediately make application for the installation thereof on the prescribed form and -

(a) Pay the prescribed fees for the installation of the necessary infrastructure; or

(b) With the approval of the Council install on-site sanitation services in accordance with the specifications of the Council.

(2) In approving an application for the installation of infrastructure, the Council may specify the type of on-site sanitation services to be installed.

65. Septic tank and treatment plant

(1) No person may construct, install, maintain or operate any septic tank or other plant for the treatment, disposal or storage of sewage, without the prior written permission of the Council.

(2) The permission referred to in subsection (1) is subject to the provisions of these By-laws, any other relevant by-laws of the Council, or any other law.

66. French drain

The Council may, at its discretion and on such conditions as it may prescribe, having regard to the quantity and nature of the effluent and the nature and permeability of the soil, permit the disposal of wastewater or other effluent by means of a French drain, soakage pit or other approved work.

67. Conservancy tank

The Council may at its discretion permit the owner of any premises to construct a conservancy tank and ancillary appliances for the retention of soil water, or such other sewage or effluent as it may decide, and such tank and appliances must be of such capacity, constructed of such material, and located in such position and at such level as it may prescribe.

68. Ventilated improved pit latrine

The Council may at its discretion and on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of water table, any other factors which may have the potential to cause harm to the environment if approval is granted, the size of and access to the site and the availability of a piped water supply, permit the disposal of human excrement by means of a ventilated improved pit latrine, constructed in accordance with the specifications and located in a position indicated by the Council.

69. Services associated with on-site sanitation services

The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by the Council in accordance with a removal and collection schedule determined from time to time by the Council.

70. Fees in respect of services associated with on-site sanitation services

(1) Prescribed fees in respect of the removal or collection of conservancy tank contents, night soil or the emptying of a pit or septic tank will be based on the quantity removed by vacuum tank or on the number of pails, in the case of a night soil removal service, and must be in accordance with Schedule A of these By-laws.

(2) Regular night soil, conservancy tank and pit content removal services rendered in terms of these By-laws, will be discontinued on receipt by the Council of not less than 48 hours' notice in writing from the owner or occupier of the property or premises to discontinue the service.

(3) The fees for the services contemplated in subsection (1) will continue to be payable until the Council has received such notice and until the notice has expired;

(4) Where notice to discontinue the service referred to in subsection (1) is received by the Council after the date when the services were to have been discontinued, the fee must cease as from the date and time of receipt of the written notice.

71. Disused conservancy and septic tanks

(1) if an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner must either cause it to be completely recovered, or to be completely filled with earth or other suitable material, and the land involved to be rehabilitated;

(2) The Council may require the tank referred to in subsection (1) to be otherwise dealt with or it may permit it to be used for some other purpose, subject to such conditions as may be considered necessary, regard being had to all the circumstances of the case.

72. Provision of a connecting sewer

(1) if an agreement for the use of a sewage disposal system in accordance with section 4 has been concluded, the Council may, subject to the provisions of subsection (2) and as soon as practicable after being notified by the owner that the drainage installation on his premises is ready for connection to the sewage disposal system, at the Council's own expense, connect the drainage installation to the sewage disposal system.

(2) Any connection required by the owner subsequent to the initial connection provided by the Council is subject to the approval of the Council and must be installed at the owner's expense.

(3) The discharge of any substance whatsoever other than clean water for testing purposes may not be permitted to enter any drainage installation until the drainage installation has been connected to the sewage disposal system.

(4) If an application is made for the connection of the sewage disposal system to premises which are so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the Council may agree to the extension subject to such conditions as it may impose.

73. Location of connecting sewer

(1) a connecting sewer provided and installed by the Council in terms of section 72 shall be located in a position either agreed to between the owner and the Council, or if no agreement can be reached, determined by the Council, and be of a size determined by an authorised official.

(2) The Council may at the request of any person agree, subject to such conditions as it may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises.

(3) The applicant contemplated in subsection (2) is responsible for any extension of the drainage installation to the connecting point so agreed, and for obtaining at his or her cost, such servitudes over other premises as may be necessary.

74. Interconnection between premises

Every owner of premises must ensure that no interconnection exists between the drainage installation on his or her premises and any drainage installation on other premises, unless he or she has obtained the prior written permission of the Council and complies with any conditions that may have been imposed in granting such permission.

75. Disconnection of drainage installation from connecting sewer

The Council may disconnect a drainage installation from the connecting sewer and seal the opening to the sewer so made and recover from the owner the fees determined by the Council, if

-
- (a) Notified in writing by the owner when a drainage installation is to be disconnected from a connecting sewer; or
- (b) The building on the premises concerned has been demolished.

76. Acceptance of sewage delivered by road haulage

The Council may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the any sewage treatment plant by road haulage.

77. Written permission for delivery of sewage by road haulage

- (1) No person may discharge sewage into any Council sewage treatment plant by road haulage except with the written permission of the Council, and subject to such terms and conditions as may be imposed in terms of the written permission.
- (2) The fees for any sewage delivered for disposal to a Council sewage treatment plant must be assessed by the Council in accordance with the prescribed fees applicable.

78. Conditions for delivery of sewage by road haulage

When sewage is delivered by road haulage -

- (a) The time of delivery must be arranged with the Council;
- (b) The nature and composition of the sewage must be established to the satisfaction of the Council prior to the discharge thereof from the container in which it is delivered, and no person may deliver sewage that does not comply with the standards laid down in or in terms of these Bylaws; and
- (c) All other requirements in terms of SABS Codes 0231 and 0232 and any other applicable law must be complied with.

79. Withdrawal of permission for delivery of sewage by road haulage

- (1) The Council may subject to the provisions of the Promotion of Administrative Justice Act, 2000, withdraw any permission, after giving at least 14 days written notice of its intention to do so, to any person who has been granted permission to discharge sewage by road haulage if that person -
 - (a) Fails on more than two occasions to ensure that the sewage so delivered conforms to the standards prescribed in section 62 and Schedule D, whichever is applicable, or in the written permission referred to in section 77(1);
 - (b) Fails or refuses to comply with any notice lawfully served on him or her in terms of these By-laws, or contravenes any provisions of these By-laws or any condition imposed on him or her in terms of any permission granted to him or her; and
 - (c) Fails to pay the assessed fees in respect of any sewage delivered within the period allowed for payment.

80. Application for disposal of industrial effluent

- (1) every person desiring to dispose of industrial effluent must apply in writing and in duplicate on the form prescribed in Schedule C for that purpose, for written permission to discharge industrial effluent into the sewage disposal system of the Council, and must
Thereafter provide such additional information and submit such sample as the Council may require.
- (2) The Council may, if in its opinion the capacity of the relevant sewage disposal system is sufficient to permit the conveyance and effective treatment and lawful disposal of such industrial effluent for such period and subject to such conditions it may determine and impose, grant an application made in terms of subsection (1).
- (3) The provisions of Chapter 1 will apply, insofar as they are applicable and subject to such adjustments as may be necessary, to any permission granted in terms of subsection (2).
- (4) Any person to whom permission has been granted in terms of subsection (2) must, before doing or causing or permitting to be done anything that results in a change in the quantity of discharge or nature of effluent permitted, notify the Council in writing of the date on which it is proposed that such change is intended to take place and of the nature of the proposed change.

(5) Upon receipt of the notification referred to in subsection (4), the Council may grant permission for such change, and in so doing may amend the conditions applicable to the discharge permit of the party concerned, or it may refuse permission for the change.

(6) Any person who wishes to construct or cause to be constructed a building which is to be used as trade premises must, at the time of lodging his or her building plan in terms of section 4 of the National Building Regulations and Building Standards Act 1977, also lodge applications for the provision of sanitation services and for permission to discharge industrial effluent in terms of subsection (1).

(7) Subject to the provisions of the Promotion of Administrative Justice Act, 2000, the Council may from time to time or at any time as a result of a change in the method of sewage treatment, or the introduction of new or revised or stricter or other standards by the Council, or in terms of the National Water Act, or as a result of any amendment to these By-laws or for any other reason, review, amend, modify or revoke any permission given or any conditions attached to such permission, and / or impose new conditions, either generally or specifically, for the acceptance of any industrial effluent into the sewer, or prohibit the discharge of any or all of such effluent to the sewer, on giving adequate written notice in advance of its intention to do so, and on the expiration of such period of notice, the previous permission or conditions, as the case may be, must be regarded as having fallen away and the new or amended conditions, if any, as the case may be, forthwith apply.

80.1. Installation, supply and usage of garbage grinders

80A (1) No person shall install, supply or use a garbage grinder without the prior written approval of the Council.

(2) Any person who is in the business of supplying garbage grinders shall keep a record of all garbage grinders that are kept in stock and that are sold and shall at the written request of the Council furnish the Council with a copy of such record.
(Section 80A inserted: Notice 1455: 20/06/2008, PG 162)

81. Unauthorised discharge of industrial effluent

(1) any person who discharges or causes or permits to be discharged any industrial effluent into the sewer without having first obtained permission to do so in terms of section 80(2), shall be guilty of an offence and liable, in addition to the penalties provided for in section 119(3), to pay such fees as the Council may assess for the conveyance and treatment of effluent so discharged and for any damage or loss, whether pecuniary or otherwise, caused as a result of such unauthorised discharge.

(2) Apart from the powers and rights of the Council in terms of subsection (1) and section 84, the Council shall be entitled to recover from any person who discharges to a drain or sewer, any industrial effluent or any substance which is prohibited or restricted in terms of section 62 read with Schedule D, or who has been the subject of any action taken by the Council in terms of section 84(2), all loss, damages, costs, expenses and fees incurred by the Council as a result of any or all of the following:

(a) The death of or injury to any person, or damage to, or blockage or breakdown whether partial or complete, or contamination by, fats, oil or grease of -

(i) The sewer;

(ii) Any sewage treatment plant;

(iii) Any mechanical appliance; and

(iv) Any other property whatsoever whether or not under the control of the Council; and

(b) Any costs, including fines and damages, which may be incurred by or awarded against the Council, or any expense incurred by the Council as a result of a prosecution in terms of the National Water Act or any other law, or any action against it, consequent on any partial or complete breakdown of any sewage treatment plant or mechanical appliance, caused directly or indirectly by the said discharge.

(3) Any person who discharges or causes or permits to be discharged any industrial effluent in any manner whatsoever that is not authorised in terms of these By-laws is guilty of an offence.

82. Quality standards for disposal of industrial effluent

(1) a person to whom permission has been granted in terms of section 80 must ensure that no industrial effluent is discharged into the sewage disposal system of the Council, unless it complies with the standards and criteria set out in section 62, read with

Schedule D.

(2) (a) The Council may by endorsement on the permission concerned, relax or vary the standards and criteria referred to in subsection (1), if the Council is satisfied that any such relaxation represents the best practicable environmental option.

(b) In determining whether relaxing or varying the standards and criteria referred to in subsection (1) represents the best practicable environmental option, the Council must consider -

(i) Whether the applicant's undertaking is operated and maintained at optimal levels;

(ii) Whether technology used by the applicant represents the best available option for the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;

(iii) Whether the applicant is implementing a programme of waste minimisation which complies with national and local waste minimisation standards to the satisfaction of the Council;

(iv) The cost to the Council of granting the relaxation or variation; and

(v) The environmental impact or potential impact of such a relaxation or variation.

(3) Test samples may be taken at any time by a sampler to ascertain whether any industrial effluent complies with the standards and criteria mentioned in subsection (1) or any other standard laid down in a written permission issued in terms of subsection (2).

83. Conditions for disposal of industrial effluent

(1) A designated officer may subject to the provisions of Chapter 4, issue a compliance notice requiring the person in charge of any enterprise that generates industrial effluent to-

(a) Subject the industrial effluent to such preliminary treatment as will ensure that it conforms to the standards and criteria prescribed in section 82 before being discharged into the sewage disposal system;

(b) Install such equalising tank, valve, pump, appliance, meter and control system and other equipment as in the opinion of the designated officer will be necessary to control the rate and time of discharge into the sewage disposal system in accordance with the requirements of section 82;

(c) Install a separate drainage installation for the conveyance of industrial effluent and to discharge the same into the sewage disposal system through a separate connection as directed by the designated officer, and such notice may prohibit the discharge of the effluent through any drainage installation intended or used for the conveyance of wastewater and standard domestic effluent, or prohibit the discharge of any wastewater and standard domestic effluent through the separate drainage installation for industrial effluent;

(d) Construct on any pipe conveying industrial effluent to any sewer, a manhole or stop-valve in such position and of such dimensions and materials as the designated officer may prescribe;

(e) Provide all such information as may be required by the designated officer to enable the Council to assess the prescribed fee due to the Council;

(f) Provide adequate facilities such as a level or overflow detection device, standby equipment, overflow catch-pit, or other appropriate means to prevent a discharge into the sewage disposal system which is in contravention of these By-laws;

(g) Cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority accepted by the Council, at the cost of that person at such intervals as are stated in the notice, and to forward a copy of the calibration certificate to the Council;

(h) Cause the industrial effluent to be sampled and analysed as often and in such manner as may be prescribed by the designated officer and provide the Council with the results of these tests when completed; and

(i) Manage the effluent in such a manner that at all times the samples taken thereof are an accurate representation of the general strength and composition of the industrial effluent.

(2) The cost of any treatment, plant, work or analysis which the person discharging industrial effluent may be required to carry out, construct or install in terms of subsection (1) must be borne by the person discharging the industrial effluent.

(3) In the event that any industrial effluent that does not comply with the standards prescribed or permitted in terms of section 82 is discharged into the sewage disposal system, the Council must be informed by the owner or occupier of the premises of the incident and the reasons therefor within twelve hours of such discharge.

84. Withdrawal of written permission for disposal of industrial effluent

(1) Subject to the provisions of the Promotion of Administrative Justice Act, 2000, the Council may withdraw any permission, after giving at least 14 days' written notice of its intention to a person permitted to discharge industrial effluent into the sewage disposal system, if that person or any employee, contractor or consultant of that person -

(a) Fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed or permitted in terms of section 82; or

(b) Fails or refuses to comply with any notice lawfully served on him or her in terms of these By-laws or contravenes any provisions of these By-laws or any condition imposed in terms of any permission granted.

(c) Fails to pay the assessed fees in respect of any industrial effluent discharged into the sewage disposal system.

(2) Subject to the provisions of Chapter 4, the Council may, on withdrawal of any written permission and after notifying the owner and occupier of its intention to do so -

(a) In addition to any other steps prescribed in these By-laws, authorise the closing and sealing of the connecting sewer of the said premises conveying such effluent to the sewer;

(b) Refuse to accept any industrial effluent from that source until it is satisfied that adequate steps have been taken to ensure that the industrial effluent to be discharged will conform with the standards prescribed in these By-laws; and

(c) Close off the water supply to the industrial process.

(3) No person may, without the written permission of the Council, open or break the seal of a drain closed and sealed off in terms of subsection (2) or cause or permit this to be done.

(4) In the event of the Council acting in terms of subsection (2), the owner or occupier of the premises must furnish written proof to the authorised official that the industrial effluent emanating from the premises will be discharged to an alternative disposal site approved by the authorised official.

85. Measurement of quantity of standard domestic effluent discharged

(1) the quantity of standard domestic effluent discharged must be determined as a percentage of the water supplied to those premises by the Council;

(2) If the Council is of the opinion that the percentage referred to in subsection (1), in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the Council may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.

(3) In the absence of direct measurement, the standard domestic effluent will be estimated as follows -

(a) 1,0 kilolitre per full-time staff member per working month;

(b) 4,0 kilolitre per resident per working month, not included in paragraph (a); and (c) for staff canteens: 0,15 kl per meal prepared per working month; for which purpose a working month will be based on a five day working week, and in cases where the working week deviates from five days, a pro rata adjustment will be made.

(4) Where premises are lawfully supplied with water from a source other than or in addition to the Council's water supply system, including abstraction from a river or borehole, the quantity will be a reasonable percentage of the total water used on those premises as may be estimated by the Council, taking into account any representations which may be made by the consumer.

86. Measurement of quantity of industrial effluent discharged

(1) The Council may install, in such position as it determines, in any drainage installation conveying industrial effluent to a sewer, any meter or gauge or other device for the purpose of ascertaining the quantity or composition of the industrial effluent.

(2) It is an offence for any person to bypass, open, break into or otherwise interfere with or to damage any such meter, gauge or other device.

(3) The Council may, after consultation with the person concerned, establish an alternative method of assessing the quantity of the effluent to be discharged.

(4) The Council is entitled to install and maintain any such meter, gauge or device as aforesaid at the expense of the owner of the premises on which it is installed.

(5) Notwithstanding the foregoing provisions of this section, the Council may require any person who discharges industrial effluent into its sewers to provide one or more meters in such a position in the water installation as the Council may deem necessary to record the water consumption in a specific part of the premises.

(6) The Council may determine a rebate to apply to the fees determined in accordance with Schedule A if the owner or occupier discharges industrial effluent –

(a) Solely during periods specified by the Council; and /or

(b) Containing constituents which will have a beneficial effect on the effluent discharged from the sewage treatment plant.

(7) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the Council may, on application, reduce the assessed quantity of industrial effluent.

(8) Upon payment of the prescribed fee determined by the Council for the installation of any meter, the Council must install on any premises, a separate meter to record the consumption of water -

(a) Obtained from any source other than the Council's water supply, or

(b) Which, after use, will not reach a drainage installation.

87. Reduction in the quantity determined in terms of sections 85 and 86

(1) a consumer is entitled to a reduction in the quantity determined in terms of sections 85 and 86 in the event that the quantity of water on which the percentage is calculated was measured during a period where water was wasted, or a leakage on the water installation was undetected, if the consumer satisfies the Council that the said water was not discharged into the sewage disposal system.

(2) The reduction in the quantity referred to in subsection (1) must be based on the assessed quantity of water loss through leakage or wastage during the leak period.

(3) The leak period is either the measuring period immediately prior to the date of repair of the leak or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity of water supplied.

(4) The quantity of water lost will be calculated as the consumption for the leak period less an average consumption, based on the three months after the repair of the leak, for the same length of time as the leak period.

(5) If no previous consumption history is available, the average water consumption will be determined by the Council, after due consideration of all relevant information.

(6) There will be no reduction in the quantity determined in terms of sections 85 and 86 if the loss of water resulted directly or indirectly from the consumer's failure to comply with, or as a result of a contravention of these By-laws.

88. Construction or installation of drainage installation

Any drainage installation must comply with *SABS Code 0400-1990 Part P, Drainage* and any amendments thereto.

89. Use of pipe and fitting in drainage installation to be authorised

(1) No person may, without the prior written permission of the Council install or use a pipe or fitting in a drainage installation within the Council's area of jurisdiction, unless it is of a type included in the schedule referred to in section 40(1).

(2) Application for the inclusion of a type of pipe or fitting in the schedule referred to in subsection

(1) Must be made on the form prescribed by the Council and be accompanied by the prescribed fees.

(3) A type of pipe or fitting may be included in the schedule referred to in subsection (1) if -

(a) It bears the standardisation mark of the SABS in respect of the relevant SABS specification issued by the Bureau; or

(b) It bears a certification mark issued by the SABS to certify that the type of pipe or fitting complies with an SABS mark specification or a provisional specification issued by the

SABS, provided that no certification marks are valid for this purpose beyond a period exceeding two years from the date of issue.

(4) The Council may, in respect of any type of pipe or fitting included in the schedule, impose such additional conditions, as it may deem necessary in respect of the use or method of installation thereof.

(5) A type of pipe or fitting may be removed from the schedule referred to in subsection (1) if it -

(a) No longer complies with the criteria upon which its inclusion was based; or

(b) is no longer suitable for the purpose for which its use was accepted.

(6) (a) the current schedule must be available for inspection at the office of the Council at any time during working hours; and

(b) The Council may sell copies of the current schedule at the fees prescribed from time to time.

90. Approval of drainage work

(1) No person may construct, reconstruct, alter, add to or make any permanent disconnection in or of any drainage installation without first having obtained the permission of the Council in writing.

(2) No drainage work mentioned in subsection (1) for which permission has been given in terms of these By-laws, may be commenced until after the expiration of two clear days after notice in writing has been served on the Council stating the day on and time at which it is intended to commence the work.

(3) Before any part of a drainage installation is permanently covered or otherwise rendered practically inaccessible to visual inspection, it must be inspected and approved by the Council.

91. Unlawful drainage work

(1) where any drainage work has been constructed without complying with the provisions of these By-laws concerning the submission and approval of plans, the owner must subject to the provisions of Chapter 4, on receiving a compliance notice from a designated officer, so to do, comply with the said provisions within the period prescribed in that notice.

(2) Where any drainage installation has been constructed or any drainage work has been carried out which fails in itself in any respect to comply with any of these By-laws other than those referred to in subsection (1), the owner must, on receiving a compliance notice from the

Council, and notwithstanding that he or she may have received approval of the plans in respect of the said installation or work in terms of these By-laws, carry out such alterations to the installation, remove such parts thereof, and carry out such other work as and within the time which the notice may specify.

(3) The Council must, subject to the provisions of Chapter 4, where such a notice has not been complied with within the time prescribed therein, proceed itself to carry out any such alteration, removal or other work as it may deem necessary for compliance with these By-laws and recover the cost thereof from the owner.

92. Ingress of storm water into drainage installation prohibited

(1) No part of a drainage installation may at any time be constructed or designed to allow or be capable of allowing water from any source, not being soil water or waste water, both as defined in the national regulations published in Government Notice R2 378 of 12 October 1990, as amended, to enter the drainage installation.

(2) No person may discharge or cause or permit to be discharged any substance other than sewage into a drainage installation.

(3) No pipe, channel or other device used for conducting or capable of being used to conduct rainwater from any roof or other surface may be permitted to discharge into any gully forming part of a drainage installation.

(4) Should the Council at any time become aware of any installation which does not comply with the provisions of subsections (1), (2) or (3) or that any provision thereof has or is being contravened it may, subject to the provisions of section 95 and Chapter 4, carry out such alterations to the installation as it may deem necessary to ensure compliance with the

Provisions of those sections and recover from the owner the costs or the prescribed fees as determined by the Council.

93. Emission of gas

When a nuisance exists or could exist, owing to the emission of gas from any trap or sanitary fitting or any other part of a drainage installation, the Council may require the owner, at his or her own expense, to take such action as may be necessary to prevent such nuisance.

94. Industrial grease traps

(1) Industrial effluent which contains or, in the opinion of the Council, is likely to contain, grease, oil, fat or inorganic solid matter in suspension, must, before it is allowed to enter any sewer, be passed through one or more tanks or chambers of approved type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter.

(2) Oil, grease or any other substance which is contained in any industrial effluent or other liquid which gives off a flammable or noxious vapour at a temperature of or exceeding 20 degrees Celsius, must be intercepted and retained in a tank or chamber so as to prevent the entry thereof into the sewer.

(3) The tank or chamber must be regularly cleaned of such grease, oil, fat or solid matter and the person discharging effluent to the tank or chamber must maintain a register in which shall be recorded-

(a) The dates on which the tank or chamber was cleaned;

(b) The name, address, and telephone number of the company employed to clean the tank or chamber; and

(c) A certificate from the person who undertook the cleaning, certifying the cleaning of the tank or chamber, and stating the manner in which the contents of the tank or chamber were disposed of.

95. Mechanical appliances for lifting sewage

(1) Where any part of a building or premises is at such a level in relation to the sewer that a drainage installation serving that part cannot discharge into the sewer by gravitation, the Council may, subject to subsections (2) and (4) and to any other conditions it may deem necessary, permit the sewage from such part to be raised by a mechanical appliance to discharge at such point and such level as it may determine.

(2) Before installing any mechanical appliance for the raising or transfer of sewage, the owner must apply in writing to the Council for permission to do so in the form set out in Schedule B to these By-laws and must thereafter furnish such additional information as the Council may require.

(3) The form prescribed in subsection (2) must be completed by a professional engineer, and the undertaking annexed to such form must be signed by the owner of the premises, and must be accompanied by drawings of the proposed installation.

(4) The maximum discharge rate from any mechanical appliance, and the times between which the discharge may take place, must be as prescribed by the Council who may, at any time, require the owner to install such fittings and regulating devices as may be necessary to ensure that the said prescribed maximum discharge rate will not be exceeded.

96. Drain in street or public place

No person may, for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or the land owned by, vested in, or under the control of the Council, except with the prior written permission of the Council and subject to such conditions as it may impose.

97. Construction by Council of drainage work

The Council may agree with the owner of any premises that any drainage work which such owner desires or is required to construct in terms of these By-laws or the building regulations, will be constructed by the Council against payment, in advance, of all costs associated with such construction, and such agreement does not absolve the owner from complying with the requirements of any other law in respect of such construction work.

98. Maintenance of drainage installation

(1) the owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises.

(2) The Council itself is entitled, whether or not it has been requested by the owner to do so, at its own discretion to remove a blockage from a drainage installation and may charge the owner therefor in accordance with the prescribed fees determined by the Council.

(3) Should the clearing by the Council of any blockage in a drainage installation necessitate the removal or disturbance of any paving, lawn or other artificial surfacing on any premises, the Council shall not be liable for the reinstatement thereof.

(4) Should any drainage installation on any premises overflow as a result of an obstruction in the connecting sewer, and the Council be reasonably satisfied that such obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation is liable for the cost of clearing the blockage in accordance with the prescribed fee determined by the Council.

(5) Where a blockage has been removed from a drain or portion of a drain which serves two or more pieces of land, the charges for clearing of such blockage are recoverable in the first place in equal portions from each of the owners thereof, who are, however, ultimately jointly and severally liable for the whole charge.

(6) The Council may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof, and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff of charges.

99. Installation of pre-treatment facility

The Council may require that any premises which require connection to a sewage disposal system for the first time, must be provided with a minimum pre-treatment facility of a type specified by it prior to those premises being connected to the sewage disposal system.

100. Protection from ingress of floodwater

Where premises constructed within, or any portion of a property lie within the 1 in 50 years flood plain, the top level of any manhole, inspection chamber and gully located below the level of such flood plain must be above the 1 in 50 years flood level, except in the case of a manhole and inspection chamber the cover of which is secured in place by approved means.

CHAPTER 4

ENFORCEMENT OF THE BY-LAWS AND LEGAL MATTERS

101. Authorisation of designated officer

A service provider as contemplated in the definition of Council and in section 76 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), may authorize any person in its employ to be a designated officer.

102. Functions of designated officer

(1) a designated officer may execute work, conduct an inspection and monitor and enforce compliance with these By-laws.

(2) Subject to the provisions of any other law, a designated officer must carry out the functions contemplated in this section and the powers set out in section 103, in accordance with the procedure outlined in sections 104 and 105.

103. Powers of designated officer

(1) a designated officer who executes work or conducts an inspection may –

- (a) Execute work on or inspect premises;
- (b) Question a person present on any premises in respect of any matter which may be relevant to the work or inspection;
- (c) Question a person whom the designated officer believes may have information relevant to the work or inspection;
- (d) Inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
- (e) Copy any document referred to in paragraph (d) or if necessary, remove the document in order to copy it;
- (f) Take samples of any substance that is relevant to the work or inspection;
- (g) Monitor and take readings or make measurements;
- (h) Take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises; and
- (i) Do what is necessary for the execution of work or the conducting of an inspection that the Council is required to undertake in terms of these By-laws.

(2) A designated officer who removes anything other than a substance contemplated in subsection (1)(f) From premises being worked upon or inspected, must –

- (a) Issue a receipt for it to the owner or a person in control of the premises; and
- (b) Return it as soon as is practicable after achieving the purpose for which it was removed.

104. Procedure to execute work or conduct an inspection: entry with a written authorization

(1) A designated officer may subject to section 101 of the Systems Act, enter any premises if a justice of the peace as contemplated in section 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963), has issued a written authorization to enter and execute work or inspect the premises, and the written authorization is still valid.

(2) A justice of the peace may issue a written authorization to enter and execute work or inspect any premises if, from information on oath, there are reasonable grounds to believe

- (a) that, in the interest of the public, it is necessary to execute work or obtain information that cannot be obtained without entering those premises;
- (b) That there is non-compliance with any provision of these By-laws in respect of the premises; or
- (c) That significant environmental degradation or water pollution has taken, or is likely to take place, or is suspected.

(3) A justice of the peace may issue a written instruction to the owner or person in control of the premises to do work, at the expense of such owner or person, which is necessary to enable a designated officer to –

- (a) Determine whether or not there has been a contravention of the By-laws on such premises;
- (b) Restore access to the water supply system or any sanitation service where the owner or such person has restricted such access; and
- (c) Properly and effectively execute work or inspect premises, as contemplated in subsection (1).

(4) If, after the work contemplated in subsection (3) has been performed, it is established that no contravention of the By-laws has taken place, the expenses incurred in performing the work and restoring the premises to their former condition, shall be paid by the Council.

(5) A written authorization in terms of subsection (2) may be issued at any time and must specifically –

- (a) Identify the premises that may be entered and worked on or inspected; and
- (b) Authorize the designated officer to enter and execute work or inspect the premises and to do anything listed in section 103(1);

(6) A written authorization issued in terms of subsection (2) is valid until one of the following events occur:

- (a) It is carried out;
- (b) It is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
- (c) The purpose for which it was issued has lapsed; or
- (d) Three months have passed since the date of issue.

(7) A written authorization issued in terms of subsection (2) may only be carried out between

07h00 and 19h00, unless the justice of the peace who issues it states in writing that it may be carried out at a different time reasonable in the circumstances.

- (8) Before commencing any work or inspection, a designated officer who carries out a written authorization must either –
- (a) If the owner of or a person apparently in control of the premises is present –
 - (i) Identify him or herself and explain his or her authority to that person or furnish proof of such authority, and
 - (ii) Hand a copy of the written authorization to that person;
 - (b) If the owner or person apparently in control of the premises is absent or refuses to accept a copy, attach a copy of the written authorization to the premises in a prominent and visible place.

105. Procedure to execute work or conduct an inspection: entry without a written authorization

- (1) a designated officer who does not have a written authorization may subject to section 101 of the Systems Act, enter and execute work or inspect –
- (a) Any premises, with the consent of the owner or person apparently in control of the premises; or
 - (b) Any premise, except residential premises, on a routine basis –
 - (i) No more frequently than six times during a twelve month period; or
 - (ii) More frequently if permitted by these By-laws for the purposes of any work or inspection
 - (c) Any premises, if there are reasonable grounds to suspect that there is an emergency, and/or that any delay in commencing any work or inspection may –
 - (i) Disrupt or adversely affect the provision of water and sanitation services;
 - (ii) Result in excessive wastage or pollution of water; or
 - (iii) Have significant detrimental effects on public or private health and safety;
 - (d) Any premises from which there is a discharge or a suspected discharge, into any sewer of any storm water, sewage, industrial effluent, or other liquid or substance contemplated in section 62(1);
 - (e) Any premises on which a nuisance is caused by, related to, or emanates from a drainage installation; and
 - (f) Any premises on which a contravention of section 20 exists or is suspected.
- (2) Unless the emergency and/or delay in commencing any work or inspection referred to in subsection (1)(c) was caused by an act or omission of the Council, the cost of any remedial action taken in connection with subsections (c), (d), (e) and (f) must be paid by the owner of the premises.
- (3) In addition to the entry permitted in terms of subsection (1), a designated officer may enter any premises without a written authorization in respect of which there is an outstanding compliance notice, issued in terms of section 111 for the purpose of determining whether that notice has been complied with.
- (4) Before commencing work or inspecting any premises in terms of this section, a designated officer must identify him or herself and explain his or her authority or furnish proof of such authority to the person apparently in control of the premises or the person who gave permission to enter.
- (5) Any entry and execution of work or inspection without a written authorization must be carried out at a reasonable time in the circumstances.

106. Observing fundamental rights

A designated officer who enters and executes work or inspects any premises in terms of this Chapter must do so with strict regard for decency and orderliness and with regard for each person's human rights including the right to dignity, freedom, security and privacy.

107. Using force to enter

- (1) a designated officer carrying out a written authorization in terms of section 104 may overcome any resistance to entry, execution of work or inspection by using as much force as is reasonably required, including breaking a lock, door or window of the premises to be entered.
- (2) Before resorting to force, the person carrying out the written authorization must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, an article or document that is the object of the work or inspection.

(3) The Council must compensate anyone who suffers damage because of forced entry during the execution of any work or any inspection when no one responsible for the premises was present.

(4) Force may not be used to effect an entry to execute work or conduct an inspection in terms of section 105, unless an emergency arises.

108. Designated officer may be accompanied

During the execution of any work or an inspection, a designated officer may be accompanied by either a member of the South African Police Services or a member of the Municipality Traffic Official, in terms of Section 64A (4) of the South African Police Service Act, 1995 (Act No. 68 of 1995), and by any other person reasonably required to assist in executing the work or conducting the inspection.

109. Duty to produce document

Any person who holds any document relevant to the execution of any work or inspection contemplated in this Chapter must produce it at the request of a designated officer.

110. Duty to answer question and assist designated officer

(1) any person who is questioned by a designated officer in terms of this Chapter must answer truthfully and to the best of his or her ability;

(2) An answer or explanation given to a designated officer may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to –

(a) The administration or taking of an oath;

(b) The making of a false statement; or

(c) The failure to answer a lawful question fully and satisfactorily.

(3) An owner or occupier of any premises must provide any facility and assistance that is reasonably required by a designated officer to perform his or her functions effectively.

111. Compliance notice

(1) a designated officer who becomes aware that any provision of these By-laws has not been complied with, may issue a compliance notice to the owner or person apparently in control of the relevant premises.

(2) A designated officer who is satisfied that the owner or person apparently in control of any premises has satisfied the terms of a compliance notice may issue a compliance certificate to that effect.

(3) A compliance notice remains in force until a designated officer has issued a compliance certificate in respect of that notice.

(4) A compliance notice must set out –

(a) The provision that has not been complied with;

(b) Details of the nature and extent of non-compliance;

(c) Any steps that are required to be taken and the period with which those steps must be taken; and

(d) Any penalty that may be imposed in terms of these By-laws in the event of noncompliance with these steps.

112. Complaints against persons other than the Council or service provider

Any one may lodge a complaint with a designated officer, either directly or through any other channel established by the Council, that another person –

(a) Is likely to cause or has caused a disruption of the provision of water and sanitation services without just cause; or

(b) is likely to act or has acted contrary to any provisions of these By-laws; in which event the designated officer, unless he or she has reasonable grounds to believe that the complaint is frivolous, must investigate the complaint and, take any necessary action which is competent in terms of these By-laws.

113. Official address

(1) For the purpose of the service of any notice, order or other document relating to legal proceedings –

(a) The address of the owner of the premises on which domestic water is consumed or generated is deemed to be the official address, of such owner; and

(b) The address of the consumer, as referred to in section 4(5) (e) is deemed to be the official address, of the consumer.

(2) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings, it must be served on him or her personally,

Failing which it may be served on any member of his or her household or any employee as the case may be, of the apparent age of 16 years or older, at the place of residence or business of that person, or if sent by registered post, to the official address contemplated in subsection (1), it will constitute prima facie proof of the service of such notice.

114. Recovery of costs and fees

Any costs which the Council is entitled to recover from a consumer, owner or other person in terms of these By-laws include, where applicable, any prescribed fees, expenses incurred in any exploratory investigation, survey, plan, specification, or schedule of quantities compilation, supervision, administration or authorization charges, including the cost of any ancillary work associated therewith, wear and tear on plant and equipment utilized in any of these activities, the provision of labour and the costs, including environmental costs, involved in the disturbing and making good of any part of any street, ground or water services work.

115. Legal compliance warranty

Notwithstanding any provision to the contrary, any consumer by making application for water services, warrants that he or she will –

(a) In his or her activities, application and use of the water services, processes, and operations, comply with all relevant laws, regulation, and standards governing the environment, health and safety;

(b) Take all reasonable measures to prevent pollution or environmental degradation from occurring, continuing or recurring;

(c) Insofar as such harm to the environment is authorized by law, or cannot reasonably be avoided or stopped, minimize and rectify such pollution or degradation of the environment; and

(d) Bear all costs and expenses incurred in meeting the above obligations and the implementation thereof.

116. False statement or information

No person may make a false statement or furnish false information to the Council, an authorised official, a designated officer or an employee of the Council or falsify a document issued in terms of these By-laws.

117. Exceptions to application of these By-laws

(1) if authority was given before the date of commencement of these By-laws for installation work to be done, or if authorized work is in progress on such date, such work must comply with any applicable laws which were in force in the relevant portion of the area of jurisdiction of the Council, immediately prior to such date.

(2) For a period of 90 days after the commencement of these By-laws, the Council may give authority for installation work to be done in accordance with any law mentioned in subsection

(1).

(3) No owner may be required to comply with these By-laws by altering a water installation or part thereof which was installed in conformity with any law applicable immediately before the date of commencement of these By-laws: Provided that if in the opinion of the Council, the installation or a part thereof is so defective, or in such a condition or position as to cause waste or undue consumption of water, pollution of the water supply, or a health, safety or environmental

Hazard, it may by notice in writing require the owner to comply with the provisions of these Bylaws within a specified and reasonable period.

118. Exemptions

- (1) The Council may by resolution exempt any person from complying with a provision of these By-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable in the circumstances, provided that the Council may not grant an exemption from any section of this section that may result in –
- (a) The wastage or excessive consumption of water;
 - (b) The evasion or avoidance of water restrictions;
 - (c) Significant negative effects on public health, safety or the environment;
 - (d) Non-payment for services;
 - (e) The installation of pipes and fittings which are not approved in terms of these By-laws; or
 - (f) Non-compliance with the Act or any regulations made in terms thereof.
- (2) Subject to the provisions of the Promotion of Administrative Justice Act, 2000, the Council may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1), and may compel the owner or consumer, as the case may be, to comply with the relevant section or sections within a period to be stated in the notice of withdrawal: Provided that it may withdraw such an exemption without such notice if, in the opinion of the designated officer there is a present or imminent danger to public health or the environment, or of the wastage or excessive consumption of water, or of the evasion of water restrictions or the obligation to pay for the consumption of water supplied.

119. Offences

- (1) it is an offence for any person to –
- (a) Refuse to grant a designated officer access to premises to which that designated officer is duly authorized to have access;
 - (b) Obstruct, interfere or hinder a designated officer who is exercising a power or carrying out a duty under these By-laws;
 - (c) Fail or refuse to provide a designated officer with a document or information that the person is required to provide under these By-laws;
 - (d) Give false or misleading information to a designated officer;
 - (e) Unlawfully prevent the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of these By-laws;
 - (f) Pretend to be a designated officer;
 - (g) Falsely alter an authorization to a designated officer or written authorization, compliance notice or compliance certificate issued in terms of this Chapter;
 - (h) Enter any premises without a written authorization in circumstances requiring such authorization;
 - (i) act contrary to a written authorization issued in terms of this Chapter;
 - (ii) without authority –
 - (iii) Enter or inspect premises;
 - (ii) Carry out any act mentioned in section 103(1);
 - (k) Disclose any information relating to the financial or business affairs of any person which was acquired in the performance of any function or exercise of any power in terms of these By-laws, except –
 - (i) To a person who requires that information in order to perform a function or exercise a power in terms of these By-laws;
 - (ii) If the disclosure is ordered by a court of law; or
 - (iii) If the disclosure is in compliance with the provisions of any law.
 - (l) Contravene or fail to comply with any provisions of these By-laws;
 - (m) Fail to comply with any notice issued in terms of these By-laws;
 - (n) Fail to comply with any lawful instruction given in terms of these By-laws; or
 - (o) Obstruct or hinder any authorized official of the Council in the execution of his or her duties under these By-laws,

(2) Any alleged offence contemplated in subsection (1), except in paragraph (i) thereof, must be referred to the Johannesburg Metropolitan Police Department referred to in section 108 for investigation with a view to possible prosecution of the offender.

(3) Any person convicted of an offence contemplated in subsection (1) is liable on conviction to a fine, or in default of payment, to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council requiring the discontinuance of such offence, and for a second or subsequent offence he shall be liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months.

120. Application of this Chapter

- (1) the provisions of the Chapter apply to all persons or bodies, including the State.

(2) A provision of this Chapter conferring a power or imposing a duty applies in respect of–

- (a) All premises;
- (b) Any person or thing on or in any premises;
- (c) The owner or occupier of all premises; and
- (d) Any matter relating to premises, a person, or thing.

(3) For the purposes of this Chapter, the head of a national or provincial department or the municipal manager of the Council is deemed to be the owner and occupier of all premises that the department or municipality occupies or uses to the exclusion of any other person

Short title

121. These By-laws are called the Water Services By-laws, 2019.

SCHEDULE A

GENERAL RULES REGARDING FEES

In this Schedule, unless the context otherwise indicates –

"Half year" means the period of six months commencing on 1 January and 1 July in each year, as the case may be;

"Quarter" means the period of three months commencing on 1 January, 1 April, 1 July and 1 October in each year, as the case may be;

"Three monthly period" means the period of three months in the meter reading cycle ending on the date of the last meter reading preceding the end of the quarter.

PART 1

GENERAL RULES REGARDING FEES FOR THE USE OF THE COUNCIL'S SEWERS AND SEWAGE PURIFICATION PLANT IN ACCORDANCE WITH SECTION 6

1. The fees determined by the Council accruing in respect of each –

- (a) half-year, becomes due and payable in advance on 1 July and 1 January of each year:

Provided that the fees payable in terms of section 6 in respect of industrial effluent is payable half-yearly in arrears;

- (b) quarter, becomes due on the first day of such quarter and payable within six weeks after the first day of such quarter.

2. If any fees determined by the Council in respect of any type of premises is based on the number of inmates, patients, servants, students, staff or other persons resident or occupying such premises, the Council may require a certificate specifying the number of persons occupying or accommodated on such premises during any particular period to be furnished to it by the person in charge of such premises.

3. If any person who is required to furnish a return in terms of these By-laws, or this Schedule or to provide such other information as may be necessary to enable the Council to assess the amount payable in terms of a fee determined by the Council, fails to do so within 30 days after having been called upon to do so by notice in writing, he or she is liable to pay such fees as the Council may then assess on the best information available to it, subject to the Council's entitlement to levy any additional fees which may be applicable when further information becomes available.

4. In all cases of dispute as to the date from which a fee becomes applicable, the decision of the Council is final.

5. In the case of premises not connected to the municipal sewer the fees determined by the Council and contemplated in section 6 shall become payable with effect from the date on which the Council requires that a connection be made or with effect from the date when the premises are in fact connected, whichever is the earlier.

6. The fees determined by the Council for domestic sewage, industrial effluents, swimming pools, fountains and reservoirs, remain effective in the case of buildings wholly unoccupied or in the course of demolition until the date on which the Council is requested to seal the openings to the Council's sewer.

7. If any change is made in the nature of the occupation or the use of any premises which requires the application of a different fee determined by the Council, no claim for any adjustment of an account rendered or any refund of monies paid in

terms of these By-laws will be entertained by the Council unless notice in writing of the change is given to the Council within 30 days of the date of its occurrence.

8. (a) The Council must designate the category of domestic sewage into which premises connected to the municipal sewer fall, for purposes of assessment of the amount payable in accordance with the fees determined by the Council; and
(b) For the purpose of the designation referred to in this rule the Council may require the owner or occupier of any premises to furnish it with information to its satisfaction reflecting the number of dwelling-units on the premises.

9. (1) the fees determined by Council for premises other than those referred to in rule 2 shall be assessed in advance for each quarter, and shall be based on a quantity equal to the water consumption metered in terms of Chapter 2, sections 30 to 35 of these By-laws, for the meter reading cycle of three months preceding the last meter reading prior to the quarter in question
Provided that:

(a) In the case of new premises or if the record of metered consumption on existing premises does not extend over the full meter reading cycle of three months or if, in the opinion of the Council, the record of metered consumption is not a suitable basis for the assessment of the fees by reason of a change in the occupation, use or ownership of premises, or special contingency, the fees for the coming quarter shall, subject to adjustment when the consumption of water for the three monthly period becomes available, be based on the Council estimate of the quantity of water to be consumed and discharged into the sewer on such premises during such coming three monthly period;

(b) In the case of premises where the water consumed is not used solely for domestic purposes and in the absence of any direct measurement, the quantity of water discharged during a quarter shall be assessed by the Council according to the quantity of water consumed on the premises during that period, and in the assessment of that quantity deductions shall be made for the quantity lost during the process of trade or manufacture or present in the final product;

(c) If the quantity of water obtained from a source other than the Council's water supply on the premises during that cycle is unknown, the fees shall be based on the Council estimate of the total water consumption on such premises during the aforesaid meter reading cycle.

(d) Water consumption recorded by a meter installed in terms of -

(i) Section 86(8) shall be paid for on the basis of the fees determined by the Council for unspecified premises, or the fees determined by the Council for industrial effluent, if applicable, but not on the basis of both such fees;

(ii) Section 86(8) (b) shall not be subject to any fee;

(iii) Section 83(1) (c) shall not be subject to any fee for domestic effluent but subject to a fees for industrial effluent in terms of Part II, hereof.

(2) If on any premises the Council, after consideration of its size, the number of water supply points and the complexity of the water reticulation, considers it impractical to determine the quantity of water discharged into the sewer from records of metered water consumption, it may in its discretion:

(a) Direct that water reticulation system be altered at the cost of the owner, to facilitate separate metering of water discharged into the sewer after use, and other water consumed, but not so discharged; or

(b) Assess the quantity of water discharged into the sewer in any six monthly meter reading period in accordance with the quantity of water used on the premises of a similar nature as determined by the Council.

PART II

GENERAL RULES REGARDING FEES FOR INDUSTRIAL EFFLUENT

The following rules are applicable for the purposes of sections 80, 81 and 83 in connection with the fees determined by the Council which are payable for the acceptance, conveyance and treatment of industrial effluent discharged from any premises;

1. The owner or occupier of premises on which any trade or industry is carried on and from which, as a result of such trade or industry or of any process incidental thereto, any effluent is discharged to the municipal sewer, shall, in addition to any other fees determined by the Council for which he or she may become liable, pay to the Council an industrial effluent fee including any minimum fee, which fees must be determined by the Council and must be calculated -

(a) On the quantity of water discharged during the half-year forming the period of the fee; and

(b) In accordance with the arithmetic mean of the results of the analyses, specified in item 3, of not less than eight grab samples of effluent taken at any time during a three month assessment period: Provided that the Council may in its discretion use another method of assessment if in its opinion it will lead to a fairer result.

2. Whenever a sample is taken by the Council in terms of rule 1, one half thereof shall, on the request of the owner, occupier or person in control of the premises, be made available to him or her and like provisions shall apply to any samples taken by the owner, occupier or person in control in favour of the Council.

3. The analyses referred to in rule 1 must be in accordance with the methods of chemical analysis normally used by the Council for the purpose and may include - Chemical Oxygen Demand (COD) Total Kjeldahl Nitrogen

Nitrate as N

Ammonia as N

Total phosphorus

Orthophosphate as P

pH

Substances listed in Schedule C (Rule 5.9) and D:

4. In the absence of any direct measurement, the quantity of industrial effluent discharged during a half-year must be assessed by the Council according to the quantity of water consumed on the premises during that period, and in the assessment of that quantity a deduction must be made of the quantity used on the premises for domestic purposes, and the quantity lost to the atmosphere during the process of trade or manufacture, or present in the final product.

5. Unless the Council, in any particular case, agrees otherwise in writing with an owner or occupier, the fees determined by the Council for industrial effluent will be levied in respect of half-years beginning 1 July and 1 January;

Provided that -

(i) If the last monthly reading relating to a half yearly charging period is taken before the end of that period, the remaining part of the period will be deemed to belong for charging purposes to the next succeeding half-yearly charging period;

(ii) If the last monthly meter reading relating to the half-yearly charging period is taken after the end of that period, that part of the succeeding period which has elapsed when the reading is taken will be deemed to form part of the charging period to which the reading relates; and

(iii) If the discharge of effluent to the sewer begins during a half-year as aforesaid the charge made in respect of that half-year must be calculated as from the relevant date.

6. If a meter measuring the quantity of water consumed on premises is proved defective, an appropriate adjustment must be made to the quantity of industrial effluent discharged when calculated as provided by rule 4.

7. (1) If industrial effluent is discharged into the sewer from more points than one, whether on the same floor or on different floors of premises, the Council may in its discretion for all the purposes of assessing a fee for industrial effluent, including the taking of test samples, treat each such point of discharge as a separate point for the discharge of industrial effluent into the sewer.

(2) For the purpose of calculating, as prescribed in rule 4, the quantity of effluent discharged from each point of discharge as aforesaid, the total water consumed on the premises must be allocated as accurately as is reasonably practicable, after consultation between the Council and the occupier, among the several points of discharge

8. If a grab sample taken at any time after the three month assessment period should reveal that the total pollutant load is altered in such a way as to place a heavier load on the Council's sewage treatment plants, and the owner, occupier or person in control has failed to advise the Council in writing of the change, the owner or occupier will immediately become

liable for twice the difference between the assessed fees and the fees that would have been levied had the total pollutant load been correctly assessed.

9. If an inspection should reveal that the owner or occupier or person in control has failed to discharge industrial effluent during periods specified by the Council in accordance with section 86(6), the owner or occupier will immediately become liable for the full amount of the industrial effluent fees .

10. (1) (a) The Council may, during any half yearly period referred to in rule 5, render a provisional account in respect of a part of such period, which part must as nearly as practically possible be a period of 30 days, and the amount of such account must be determined as provided in sub-rule (b) and the Council must as soon as possible after the end of such period render an account based on the actual measurements and results obtained in terms of rule 1(a) and (b) for such period, giving credit for any sum paid on a provisional account as aforesaid.

(b) The amount of a provisional account referred to in sub-rule (a) must be determined by the Council by reference to such previous discharge on the same premises as would in its opinion, constitute a reasonable guide to the quantity of effluent discharged over the period covered by the provisional account by reference to such discharge on other similar premises which, in its opinion, affords reasonable guidance.

(2) A provisional account rendered in terms of sub-rule (1) (a) is payable on the date stipulated therein.

(3) An owner's decision to dispute an account shall not entitle him or she to defer payment beyond the due date stipulated in the account.

PART 3

GENERAL RULES REGARDING FEES FOR AN ON-SITE SANITATION SERVICE

The following rules are applicable for the purposes of section 70 in connection with the fees determined by the Council which are payable for the provision of a sanitation service:

1. A commencement fee as determined by the Council will be payable in respect of the provision of sanitation services before the commencement of such services.

2. Night soil removal services may be provided on a tri-weekly, nightly or other basis at the discretion of the Council.

3. The fees for night soil removal must be based on the number of pails and, for a vacuum tank removal, on the quantity removed.

4. A tri-weekly night soil removal service may be provided to a *bona fide* builder during building operations.

5. A mobile convenience may be provided at the discretion of the Council.

6. A vacuum tank removal service may be provided at the discretion of the Council.

7. Any sanitation service provided by the Council may be subject to an escalating tariff of fees within six months of the introduction of a suitable waterborne system.

---- oo000oo----

SCHEDULE B

FORM OF APPLICATION FOR PERMISSION TO INSTALL APPLIANCES FOR LIFTING SEWAGE

NOTE: *On premises where it is not possible to drain all sanitary fittings by gravitation to a connecting sewer, the Council will consider applications for lifting sewage in compliance with the requirements of the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977, and any other applicable law only in respect of those parts of premises which cannot be drained by gravitation. In the case of single basements, consideration will be given to the use of sanitary fittings on the ground floor. In all cases where lifting of sewage is permitted, the Council will stipulate the rate of discharge, which will be normally limited to a maximum of 240 litres per minute.*

INFORMATION TO BE FURNISHED BY OWNER

The owner of the premises must furnish the following information and the relevant literature and characteristic curves, and sign the application and undertaking:

- (a) Make of appliance, name of supplier and purpose for which the appliance is designed;
- (b) kW rating and speed of motor;
- (c) Maximum rate of discharge in litres per minute
- (d) Size of rising main and velocity of discharge;
- (e) Capacity and dimensions of storage tank depth to be given as liquid depth below inlet drain;
- (f) Descriptions of stand-by equipment, automatic controls, warning systems, and other relevant information. Any matters relating to the electric power connection and switchboard will be referred to the electricity supplier and will be subject to the approval of that supplier.

SCHEDULE C

FORM OF APPLICATION FOR PERMISSION TO DISCHARGE INDUSTRIAL EFFLUENT INTO THE COUNCIL'S SEWER

1. GENERAL

- 1.1 I (Name) the undersigned, duly authorised to and on behalf of
..... (Hereinafter referred to as the applicant), hereby apply in terms of the provisions of the
Water Services By-laws of the Council for permission to discharge industrial effluent into the municipal sewer on the basis of
the information set out herein.
- 1.2 Company's present street address, etc.
Street Address
Postal Address
Contact Person
Designation
Township Stand No(s)
Landlord Tel.....
- 1.3 Name or style under which the business or industry is carried on.
- 1.4 If the business or industry is carried on by a company, state the name of the secretary and if it is a partnership state the
names of the partners and their position held in the company and tel. no.
- 1.5 Nature of the business or industry concerned.....
- 1.6 Description of industrial or trade process by which effluent is / will be produced.
.....

2. INFORMATION RELATING TO EMPLOYEES

- Office/Factory
- 2.1 Total number of daily employees (not to include 2.3)
- 2.2 Number of days worked per week
- 2.3 Number of persons resident on the premises
- 2.4 Is a canteen provided? YES/NO
If YES, number of meals served per month

3. INFORMATION RELATING TO WATER CONSUMPTION

- 3.1 Kilolitres / Month
- 3.2 Approximate quantity of water purchased from the Councilkl/m
(In case of an established business or industry attach copies of all latest assessment and water accounts.)
- 3.3 Approximate quantity of water extracted from borehole(s) and/or other sources.
(In terms of the Water Services By-laws a meter measuring the total quantity of water drawn from any natural source and
used on the property must be installed.)
Source kl/m Meter No.
1
2.
3.
4.
5.
3.4 Approximate quantity of water entering with raw materials.

Raw Material kl/m Meter No.

- 1.
- 2.
- 3.
- 4.
- 5.

NOTE: QUANTITIES MUST BE SUB-METERED WHERE POSSIBLE, OR CERTIFIED FROM PRODUCTION FIGURES

4. WATER LOST FROM MISCELLANEOUS CAUSES (kl/m)

- 4.1 Quantity of water in end product
- 4.2 Quantity of water used as cooling make-up
- 4.3 Quantity of water used as boiler make-up
- 4.4 Does boiler blow down enter the sewer? Quantity
- 4.5 Specify other non-effluent uses, not domestic

B. In order to qualify for non-effluent deductions sub-meters must be installed wherever practicable. Certified quantities based on formal production records will also be considered. Such records must be available for inspection at all times.

5. EFFLUENT QUALITY

Information required concerning the chemical and physical characteristics of the effluent to be discharged.

- 5.1 Maximum temperature of effluent ° C
- 5.2 pH value
- 5.3 Electrical conductivity mS/m
- 5.4 Nature and amount of substances not in solution
- 5.5 Chemical oxygen demand valuemg/l
- 5.6 Maximum total daily dischargekl...
- 5.7 Maximum rate of discharge..... l/s
- 5.8 Periods of maximum discharge (e.g. 07:00 - 08:00 = 36 kl/h).....
- 5.9 If any of the substances, or their salts, specified in the table below are used or produced on the premises, a cross must be placed in the space in which the substance appears and the maximum concentration of each likely to be present in the effluent, must be stated in mg/l.

Substance	
Iron as Fe Cyanide as HCN	
Chromium as Cr Fluoride as F	
Nickel as Ni Sulphides as S	
Cadmium as Cd Sulphates as SO ₄	
Copper as Cu Phosphorus as P	
Zinc as Zn Orthophosphate as P	
Cobalt as Co Total Nitrogen as N	
Lead as Pb Ammonia as N	
Selenium as Se Nitrates as N	
Mercury as Hg Starch or sugars	
Molybdenum as Mo Tar or tar oil	

Arsenic as As Fats, oils and grease

Boron as B Synthetic detergents

Other substances Volatile solvents

5.10 Any further information as to kind or character, chemical composition and concentrations peculiar to the industrial effluent to be furnished on a separate sheet and attached hereto.

CONDITIONS OF ACCEPTANCE OF INDUSTRIAL EFFLUENT

This application will only be granted on the applicant's undertaking, as he or she is by virtue of his or her signature hereto appended deemed to do, to observe the following terms and conditions and any further special conditions which the Council may think fit to impose in any particular case:

1. The applicant must annex hereto descriptions and a statement of the dimensions of grease and oil traps, screens, dilution and neutralising tanks and any other provisions made by him for the treatment of the industrial effluent before it is discharged to the sewer.

2. The applicant must submit to the Council, if requested, plans showing the reticulation systems on his or her premises for water and industrial effluent.

3. The applicant must, in addition to complying with the provisions of the Water Services By-laws concerned with the protection of its employees, sewers and treatment plant from injury or damage, comply with any direction concerned with such protection of its employees, sewers and treatment plant from injury or damage, and comply with any direction concerned with such protection given to him by the authorised officer verbally or in writing for the purpose of ensuring the applicant's compliance with the said By-laws.

4. The applicant must provide a separate drainage installation for conveying industrial effluent and for discharging same into the sewer via a separate connection as directed by the Council.

5. The applicant agrees to provide a suitable sample point for his industrial effluent and manage the effluent in such a manner that at all times the samples taken thereof are an accurate representation of the strength and composition of the industrial effluent.

6. The applicant must notify the Council, as soon as possible after he becomes aware of, or at least 14 days before anything is done to cause any material alteration in the nature or quantity of discharge of the industrial effluent specified in this application, or in any of the facts stated by him therein.

7. The applicant hereby declares and warrants that the information given by him on this form or otherwise in connection with this application, is to the best of his knowledge and belief in all respects correct.

8. The applicant agrees that, the said information being warranted in all respects correct, forms the basis on which this application is granted by the Council.

Thus done at this day of 20.... .

Signature & Capacity of Applicant

Permission is hereby granted by me on behalf of the Council, I being duly thereunto authorised, for the discharge into the Council's sewer in accordance with the Water Services By-laws of industrial effluent as described in this form and in the circumstances therein set forth : Provided that this permission is revocable by the Council at any time at its absolute discretion on the expiry of reasonable notice in writing given by it to the applicant or in the event of any contravention of the said By-laws or the conditions on which this permission is granted.

The said permission is given subject also to the following special conditions:

SIGNED:

SCHEDULE D

LIMITS AND MAXIMUM CONCENTRATION OF CERTAIN SUBSTANCES

Subject to the provisions of section 62(1) (i) of the Water Services By-laws the following limits will apply:

(a) The maximum concentration limits of substances contained in any sewage, industrial effluent or other liquid discharged to the sewer;

(i) Electrical conductivity not greater than: 500mS/m at 20 degrees Celsius.

(ii) Substances not in solution including fat, oil, grease, waxes and like substances -

(a) Of mineral origin < 50 mg/l

(b) Of vegetable origin < 200 mg/l

Chlorides (expressed as Cl): 1 000 mg/l

Anionic surface active agents: 250 mg/l

Sulphates (expressed as SO₄): 250 mg/l.

Iron (as Fe): 200 mg/l

Manganese (as Mn) 50 mg/l

Nitrates (as N): 50 mg/l

Chrome (expressed as Cr): 20 mg/l

Cobalt (expressed as Co): 20 mg/l

Copper (expressed as Cu): 20 mg/l

Titanium (as Ti): 20 mg/l

Cyanides (as CN): 20 mg/l
 Zinc (expressed as Zn): 20 mg/l
 Lead (expressed as Pb): 10 mg/l
 Phenols (expressed as phenol): 10 mg/l
 Nickel (expressed as Ni): 10 mg/l
 Sulphides (as S): 10 mg/l
 Boron (expressed as B): 5 mg/l
 Fluoride (expressed as F) 5 mg/l
 Molybdenum (expressed as Mo): 5 mg/l
 Arsenic (expressed as As): 2, 5 mg/l
 Cadmium (expressed as Cd): 2, 5 mg/l
 Selenium (expressed as Se): 2, 5 mg/l
 Mercury (expressed as Hg): 1, 0 mg/l

Radio-Active Wastes

Any radio-active wastes or isotopes; such concentration as may be laid down by the Atomic Energy Board or any State Department.

Notwithstanding the requirements set out in this Schedule, the Council may limit the total mass of any substance or impurity discharged over a specified period into the sewers from any premises.

NOTE: THE METHODS USED FOR ASCERTAINING THE VALUE OF THE VARIOUS PARAMETERS LISTED IN THIS SCHEDULE WILL BE THE TEST METHODS NORMALLY USED BY THE COUNCIL FOR THE PURPOSE, DETAILS OF WHICH SHALL BE SUPPLIED ON REQUEST TO ANY PERSON WHO DISCHARGES INDUSTRIAL EFFLUENT.

SCHEDULE E

FORMULA FOR THE CALCULATION OF EFFLUENT DISCHARGE CHARGES

1. The additional charge for industrial effluent for the disposal of high strength sewage to a waste water treatment plant shall be determined in accordance with the following formula:

Where T_c = Extraordinary Treatment Cost to Consumer

Q_c = Waste water Volume discharged by consumer in kl

t = Unit Treatment cost of waste water in R/kl

COD_c = Total COD of waste water discharged by consumer in milligrams/litre and is inclusive of both the Biodegradable and non-biodegradable portion of the COD

COD_d = Total COD of domestic waste water in milligrams per litre

P_c = Ortho-phosphate concentration of waste water discharged by consumer in milligrams phosphorus per litre

P_d = Ortho-phosphate concentration of domestic waste water in milligrams phosphorus per litre

N_c = Ammonia concentration of waste water discharged by consumer in milli grams of nitrogen per litre

N_d = Ammonia concentration of domestic waste water in milligrams of nitrogen per litre

a = Portion of the costs directly related to COD

b = Portion of the costs directly related to the removal of phosphates

c = Portion of the costs directly related to the removal of nitrates

Different terms Value

T R0.82/kl

COD_d 600 mg/l

10 mg/l

N_d 25 mg/l

A 0.6

B 0.25

C 0.15

OUTDOOR ADVERTISING BY-LAW

To provide for the regulation of outdoor advertising; to provide for outdoor advertising on Municipal property and private property; to provide for measures to ensure the health and safety of the public and to protect the environment; to create offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Dihlabeng Local Municipality recognises the key role that outdoor advertising plays in business and in the holding of events;

WHEREAS the Dihlabeng Local Municipality recognises that the regulation of outdoor advertising is essential in order to–

- (a) promote the image of Dihlabeng Local Municipality;
- (b) promote civic pride;
- (c) ensure the responsible use of the Dihlabeng Local Municipality's natural environment;
- (d) promote a safe and healthy environment; and
- (e) protect the amenity of the areas under the jurisdiction of the Dihlabeng Local Municipality;

WHEREAS the Dihlabeng Local Municipality has competence in term of Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996 relating to such matters as the control of outdoor advertising;

AND WHEREAS the Dihlabeng Local Municipal Council has competence, in term of section 156(2) of the Constitution of the Republic of South Africa, 1996 to make and administer Bylaws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the Dihlabeng Local Municipal Council, acting in term of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1

INTERPRETATION

1. Definitions

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

“Adjustment of Fines Act” means the Adjustment of Fines Act, 1991 (Act No. 101 of 1991);

“advertisement” means any–

- (a) visible or audible representation of a–
 - (i) word or any abbreviation thereof;
 - (ii) name or any abbreviation thereof;
 - (iii) letter;
 - (iv) figure; or
 - (v) object;
- (b) sign or symbol; or
- (c) light which is not solely for illumination or used as a warning against danger, which is visible from any public place and which is intended to promote news headlines or any business, product, person, function, meeting, election or candidate in an election, event or activity;

“advertising” means the act or process of displaying an advertisement and

“advertise” has a corresponding meaning;

“advertising vehicle” means a vehicle constructed or adapted for the display of an outdoor advertising sign, and may include any object attached to the vehicle for the purposes of advertising;

“aerial advertisement” means any outdoor advertising sign displayed in the air by means of a balloon, kite, inflatable object, aircraft or any other means;

“alter” includes any change–

- (a) to the design, structure, size or illumination of an outdoor advertising sign, or its supporting structure; or (b) of face;

“animated advertisement” means an advertisement which is enhanced by the appearance of continuous movement by the use of moving units, flashing lights, electronic or digital messages or similar devices;

“applicant” means a person who makes an application for permission to display or alter an advertisement;

“appropriate” means that the locality, dimensions, installation, materials and supporting structure of an outdoor advertising sign are appropriate in all the circumstances in the opinion of the Municipality;

“arcade” means a covered pedestrian thoroughfare, whether or not located at ground level, passing wholly or partly through a building and to which the public usually has regular and unrestricted access;

“area of control” refers to the degree of advertising control to be applied in a specific area in accordance with the degree of landscape sensitivity and traffic safety conditions and includes–

- (a) an area of maximum control;
- (b) an area of minimum control;
- (c) an area of partial control; and
- (d) a special advertising zone;

“area of maximum control” means an area which is highly sensitive to advertising and where a high level of advertising control is applied;

“area of minimum control” means an area which is relatively insensitive to advertising and where a lower level of advertising control is applied;

“area of partial control” means an area which is moderately sensitive to advertising and where a moderate level of advertising control is applied;

“authorised official” means a person authorised to implement the provisions of this By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

“banner” means a piece of canvas or cloth, PVC or similar material on which an advertisement is displayed in such a manner as to be legible in windless conditions and is attached to one or more ropes, poles or a flagstaff or is attached to a building or other structure, but excludes a banner carried as part of a procession and a flat sign;

“billboard” means any screen, board, hoarding, fence, wall or free-standing structure used or intended to be used for the purpose of displaying any third-party outdoor advertising sign and which does not exceed 36m² in area;

“bit” means the basic unit for measuring the length of advertising messages and may consist of letters, digits, symbols, logos, graphics or abbreviations and for the purposes of this By-law bit values shall be calculated as follows:

Words of up to three letters 0.5 bit

Words four to eight letters 1.0 bit

Words of more than eight letters: 2.0 bits

Numbers of up to three digits 0.5 bit

Numbers from three to eight digits 1.0 bit

Numbers more than eight digits 2.0 bits

Logos and symbols 0.5 bit

“canopy” means a rigid roof-like projection from the wall of a building;

“change of face” means an alteration to the content of an outdoor advertising sign on a third party outdoor advertising sign;

“citi-lite” means a freestanding billboard not exceeding 18m² and which clad is in Municipal approved colours and cladding;

“combination sign” means a sign comprising a number of smaller, individual signs, usually displaying different products or services, placed adjacent to each other on a single structure specially designed to accommodate more than one sign;

“contractor” means a person who provides labour or materials in respect of construction, repairs, renovation or other building operations;

“contractor’s board” means an outdoor advertising sign that is temporarily displayed at premises on which building operations, repairs or improvements are being undertaken or in progress and which advertises the name, contact details and type of service or product offered by the contractor as well as the duration of the contract, and includes sub-contractors boards;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” means the Dihlabeng Local Municipal Council, a municipal council referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996;

“curtilage” is the whole of the area of land within the boundaries of the subdivision forming the site on which any building has been erected;

“days” means when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Saturday, Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Saturday, Sunday or public holiday;

“designated area” means an area designated as such in term of section 38 of this By-law;

“development board” means a sign displayed at premises describing the type of development to be carried out or being carried out on a construction premises and may include a pictorial representation of the proposed development; or relating to services being provided, but excludes a contract board for building or civil engineering projects required in terms of the Architectural Profession Act, 2000 (Act No. 44 of 2000);

“directional sign” means any navigational sign which contains directors, arrows or displays distances to a place, premises or event;

“display” means to erect or exhibit an outdoor advertising sign visible to the public view by any method whatsoever;

“election advertising sign” means an outdoor advertising sign used in connection with any national, provincial, or municipal election, by-election or referendum;

“electronic outdoor advertising sign” means an outdoor advertising sign that has an electronically-controlled, illuminated display surface which allows the advertisement to be changed or illuminated in various ways;

“engineer” means a person registered at the appropriate level with the Engineering Council of South Africa as a professional engineer or professional engineering technologist, professional certified engineer or professional engineering technician under the Engineering Profession Act, 2000 (Act No. 46 of 2000);

“estate agent” means an estate agent as contemplated in the Estate Agents Act, 1976 (Act No. 112 of 1976);

“estate agent’s board” means an outdoor advertising sign that is temporarily displayed to advertise that land, premises, a development or other immovable property for sale, to let or on show or which has been sold;

“event” means any occasion organised for the general public;

“exempted outdoor advertising sign” means a sign contemplated in section 6 of this By-law;

“fifty-fifty sign” means a combination outdoor advertising sign comprising of two individual advertisements displaying different products or services;

“flag” means a piece of cloth, canvas, PVC or similar material on which an advertisement is displayed and which is attached to a single rope attached to a pole or flagstaff in such a way that its contents are not normally legible in windless conditions;

“flashing outdoor advertising sign” means an electronic advertisement which intermittently appears and disappears;

“flat sign” means a sign which is affixed to an external wall but not to a parapet wall, balustrade or railing of a veranda or balcony of a building which is used for commercial, office, industrial or entertainment purposes and which at no point projects more than 300mm from the surface of such a wall and which may consist of a panel or sheet or of individual numbers, letters or symbols;

“fly posters” means posters or placards which are stuck or attached to existing surfaces that are not intended specifically for the display of an outdoor advertising sign;

“ground sign” means any sign which is affixed or secured to the ground and is not attached to any building;

“Head” means the Head of the relevant unit in the Municipality who is responsible for the regulation of outdoor advertising;

“handbill” means a printed sheet or pamphlet which is distributed by hand;

“high impact outdoor advertising sign” means an outdoor advertising sign which has a high impact on the visual, social and traffic safety aspects of the specific environment;

“illuminated outdoor advertising sign” means an outdoor advertising sign which is illuminated, whether by an electrical current or otherwise, and includes, but is not limited to, a laser beam;

“intersection” means an intersection as defined in the regulations promulgated in term of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“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, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“locality bound outdoor advertising sign” means an outdoor advertising sign which directs the attention of the public to a place, business, undertaking or activity for the purpose of indicating its locality, and excludes a third party outdoor advertising sign;

“low impact outdoor advertising sign” means an outdoor advertising sign which has little effect on the visual, social and traffic safety aspects of the specific environment;

“moderate impact outdoor advertising sign” means an outdoor advertising sign which has a moderate effect on the visual, social and traffic safety aspects of the specific environment;

“Municipality” means the Dhlabeng Local Municipality, a category B Municipality as envisaged in term of section 155(1) (b) of the RSA Constitution and established in term of the Provincial Gazette, FS 192.

“Municipal property” means property owned by, leased by or under the control of the Municipality; and includes a public place;

“National Building Regulations and Building Standards Act” means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and

“National Building Regulations” shall have a corresponding meaning;

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“non-locality bound outdoor advertising sign” means a sign displayed on a premises which refers to a product, place, business, undertaking or activity which is not located, rendered or provided on that premises;

“nuisance” means anything which may cause or causes an environmental, traffic, social or visual hazard;

“organ of state” means any department of state or administration in the national, provincial or local sphere of government;

“outdoor advertising sign” means any screen, fence, wall, structure or other object or device, whether freestanding, attached to any other wall or structure or in the air, intended to display an advertisement with the object of transferring information out of doors and **“sign”** shall have a corresponding meaning;

“owner” means the person in whose name the land is registered in the relevant deeds office or the person in possession of or having control over the land or premises—

- (a) in the case of a trust, the trustees of that trust;
- (b) the registered owner of a sectional title unit, where the interior of a sectional title unit is at issue;
- (c) the trustees of a body corporate, where the common property of a sectional title scheme is at issue;
- (d) the administrator of the body corporate of the sectional title scheme where the common property of a sectional title scheme is at issue and there are no elected trustees of the body corporate;
- (e) the executor, where the—
 - (i) owner of the building is deceased and the building has not yet been transferred out of the deceased’s estate; or
 - (ii) estate of the owner has been sequestrated;
- (f) the curator, where the owner of the building has been declared by any court to be incapable of managing his or her own affairs or a prodigal;
- (g) the administrator, where the owner of the building is a mental health care user as defined in section 1 of the Mental Health Act, 2002 (Act No. 17 of 2002);
- (h) the liquidator, where the owner of the building is a judicial person or a trust and has been liquidated;
- (i) the former members of a close corporation which has been deregistered and in respect of which they have a continuing liability as contemplated in section 26 of the Close Corporations Act, 1984 (Act No. 69 of 1984), read with sections 83(2) and (3) of the Companies Act, 2008 (Act No. 71 of 2008);
- (j) the business rescue practitioner, where the owner of the building has been placed under business rescue;
- (k) the managing agent, where the owner of the building is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts; or
- (l) every person who is entitled to occupy or use a building, or who does occupy or use a building, where—
 - (i) the owner of the building is absent from the Republic of South Africa;
 - (ii) the Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
 - (iii) there is no managing agent;

“permit” means the written approval granted to an applicant for the display of an outdoor advertising sign; and includes the time period permitted for the display of the sign and any other conditions imposed;

“permit holder” means the person in whose name a permit has been granted by the Municipality for the display of an outdoor advertising sign;

“person” means a natural or juristic person, and includes an organ of state;

“portable board” means any self-supporting, A-frame outdoor advertising sign or any other collapsible structure which is not affixed to the ground, which is capable of being readily moved;

“poster” means any placard intended to be temporarily displayed in a public place as an announcement of an election, meeting, function or event;

“premises” means any building, together with the land on which such building is situated;

“prescribed” means as determined by resolution of the Council from time to time;

“product replica sign” means a replica or reproduction of a product or object, or device used for advertising that may be free-standing or attached to a structure or wall;

“projecting sign” means any sign which is affixed to a main wall of a building which is used for commercial, office, industrial or entertainment purposes and which at any point projects more than 300 mm from the surface of the wall and up to 1.2 m in length with a minimum ground clearance of 2.4m;

“Provincial Gazette” means the official Gazette of the province concerned;

“public place” means–

- (a) a public road;
- (b) any parking area, square, park, recreation ground, sports ground, swimming pool, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has–
 - (i) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (ii) at any time been dedicated to the public;
 - (iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or
 - (iv) at any time been declared or rendered as such by the Municipality or other competent authority;
- (c) a public transportation motor-vehicle; or
- (d) a municipal property, premises or facility which the public has access to, but will not include public land that has been leased or otherwise alienated by the Municipality;

“public road” means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes–

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

“road reserve” means the full width of a public street including the roadway, shoulder and sidewalk and the air space above a roadway, shoulder and sidewalk and any other area within the road reserve boundary;

“road traffic sign” means any road traffic sign as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) or any other applicable law;

“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, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“roof sign” means a sign on the roof of a building which is used for commercial, office, industrial or entertainment purposes;

“shoulder” means that portion of the road, street or thoroughfare between the edge of the roadway and the kerb line, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“sky sign” means a sign displayed on top of a building which has more than 15 floors;

“special advertising zone” means an area within an area of maximum control in which outdoor advertising would not otherwise be permissible, but is permitted as a result of a particular development need in that area;

“street name outdoor advertising sign” means any outdoor advertising sign displayed in combination with street naming;

“supporting structure” means any object, which includes but is not limited to a wall or building, on which an outdoor advertising sign is placed, or which supports such a sign, together with any supports, guys, anchors, braces, stays or ties which secure that structure;

“temporary outdoor advertising sign” means any outdoor advertising sign displayed for a temporary period, and includes but is not limited to posters, banners, flags, contractors boards, developers board and estate agents boards;

“third party outdoor advertising sign” means any outdoor advertising sign which is not a locality bound outdoor advertising sign;

“**veranda**” is a roofed structure attached to or projecting from the façade of a building and supported along its free edge by columns or posts;

“**verge**” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway on the shoulder, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

one” means the area shown on a map for the purpose of indicating the restrictions imposed by the Municipality’s land use scheme on the erection and use of buildings or structures or use of the land.

2. Interpretation of By-law

In the event that there is a conflict of interpretation between the English version of this Bylaw and a translated version, the English version prevails.

3. Objects of By-law

The object of this By-law is to regulate advertising and the use of signs in a manner which–

- (a) promotes the image of the Municipality;
- (b) promotes civic pride;
- (c) ensures the responsible use of the Municipality’s natural environment;
- (d) promotes a safe and healthy environment;
- (e) promotes the health and safety of people attending events within the area of jurisdiction of the Municipality;
- (f) promotes the amenity of the area of jurisdiction of the Municipality; and
- (g) allows for appropriate penalties in the event of non-compliance with this Bylaw.

4. Application of By-law

This By-law applies to all areas which fall under the jurisdiction of the Dihlabeng Local Municipality and is binding on all persons to the extent applicable.

CHAPTER 2

PERMITS AND EXEMPTED OUTDOOR ADVERTISING SIGNS

5. Permit required

- (1) No person may–
 - (a) display an outdoor advertising sign; or
 - (b) alter an existing outdoor advertising sign, without a permit issued by the Municipality.
- (2) An outdoor advertising sign may only be displayed or altered in accordance with conditions imposed in terms of the Municipality’s permit, this By-law or any other applicable law.
- (3) The provisions of subsection (1) do not apply to any outdoor advertising sign which is exempt from the requirement for a permit as contemplated in section 6 of this By-law.

6. Exempted outdoor advertising signs

No permit is required for the following outdoor advertising signs:

- (a) an outdoor advertising sign which is required to be displayed in terms of any applicable law;
- (b) a road traffic sign;
- (c) a contract board for building or civil engineering projects required in terms of the National Building Regulations;
- (d) a sign which bears only the name of a business and which is situated outside the registered office or other premises of that business: Provided that the outdoor advertising sign–
 - (i) does not exceed 0,6m²;

- (ii) does not project onto any road; and (iii) is not illuminated.
- (e) a sign which is incorporated into the face of a building and which form an integral of the fabric of the building;
- (f) an outdoor advertising sign which is displayed in an arcade and which is not aimed at road users;
- (g) an outdoor advertising sign which is displayed inside a building and which is more than two metres away from a window or any other opening;
- (h) a price ticket on an item displayed in a shop window: Provided that the ticket is smaller than 0,5m2;
- (i) an outdoor advertising sign displayed in a sports stadium which is not visible from outside of the stadium and from a public road; and
- (j) a branded vehicle displaying a company's products: Provided that the company may not display the price, fee or charge for products displayed.

CHAPTER 3

APPLICATION AND APPROVAL

7. Applications

(1) Any person who wishes to–

- (a) display an outdoor advertising sign; or
- (b) alter an existing outdoor advertising sign, other than an exempted outdoor advertising sign, must make written application to the Municipality for a permit to display or alter the sign.

(2) A written application for a permit contemplated in subsection (1) must –

- (a) be lodged in duplicate on the prescribed form;
- (b) contain the requirements for the type of outdoor advertising sign applied for;
- (c) include payment of the prescribed fee and where applicable, a deposit;
- (d) include a locality plan indicating the proposed position of the outdoor advertising sign;
- (e) include additional drawings, diagram, Environmental Impact Assessments, photographs and approved building plans which are necessary in the opinion of the Municipality to reflect the true nature and scope of the application;
- (f) include any assessment, consent or approval which may be required by the Municipality in respect of the application;
- (g) include any further documents, certificates or information which may be required for that particular outdoor advertising sign;
- (h) proof of compliance with any other applicable legislation;
- (i) include authorisation from an organ of state or state owned enterprise if required for that type of sign;
- (j) where applicable, include a copy of the Title Deed of the premises on which the sign is to be displayed;
- (k) provide a copy of the applicant's latest municipal consolidated billing account;
- (l) copy of any applicable lease agreement; and
- (m) an address at which notification or service of a document may be delivered, including a physical address, facsimile address or e-mail address.

(3) Every application must where applicable include the written consent of the owner of the premises on which an outdoor advertising sign is to be displayed, as well as the owner's written undertaking to be bound by this Bylaw and to indemnify the Municipality in the event of non-compliance with this By-law.

(4) The Municipality must take into account the following factors when considering an application for a permit–

- (a) the type of outdoor advertising sign to be displayed;
- (b) the provisions of this By-law;

- (c) any Advertising Control Map, and accompanying schedule of conditions, issued by the Municipality in terms of this By-law;
- (d) any other applicable law; and
- (e) any other consent or authorisation which may be required by an organ of state, state owned enterprise or line department of the Municipality.

(5) The Municipality must consider an application for a permit to display or alter an outdoor advertising sign and may–

- (a) approve it subject to any conditions including, but not limited to, the period of validity of the permit;
- (b) request that additional information or required amendments be furnished within a specified time frame; or (c) reject the application.

(6) An application for a permit in respect of which the Municipality has requested additional information or required amendments must be deemed to have been refused if–

- (a) such additional information has not been submitted; or
- (b) the required amendments have not been effected to the satisfaction of the Municipality, within 90 days after the date of request for additional information or required amendments was made.

(7) The applicant may re-submit an application within 12 months of the date of the initial application.

(8) The Municipality must within 21 days from the date of a decision in terms of subsection (5) in writing, notify the applicant of its decision and must provide written reasons for its decision on receipt of a written request by the applicant.

(9) The Municipality must for its record purposes retain every application, plans, drawings and other documentation submitted in terms of subsection (2) in accordance with the National Archives and Records Service of South Africa Act, 1996 (Act No. 43 of 1996) and any other applicable legislation or policies regulating the retention of records.

8. Indemnity

A person who applies for a permit to display or alter an outdoor advertising sign must–

- (a) indemnify the Municipality against any claim arising from the display of the outdoor advertising sign; and
- (b) where application has been made for an outdoor advertising sign to extend beyond the boundary of any street or public place, in addition indemnify the Municipality in respect of any claim arising from such encroachment.

9. Application fees and levies

(1) The Municipality is entitled to charge any person who applies for a permit to display or alter an outdoor advertising sign an application fee on submission of each application as may be prescribed.

(2) The Municipality may provide for a pre-assessment process in term of which the balance of the application fee is only payable after a non-locality advertising sign has been preapproved by the Municipality.

(3) All approved signs on private property will be charged an annual levy in accordance with the tariff which amount shall be determined in terms of a Council resolution.

(4) Approved signs on municipal property will be charged a prescribed levy in accordance with the tariff, and where applicable, in terms of written agreements or contracts entered into by the Municipality and the contracting party.

10. Display of approved outdoor advertising signs

- (1) A person may not display or alter an outdoor advertising sign except in accordance with this By-law and any conditions imposed by the Municipality as contained in the permit.
- (2) The owner and permit holder are jointly responsible for undertaking and completing, within the time limits specified in the permit, the display of an approved outdoor advertising sign and its supporting framework.
- (3) Any person who displays an approved sign must notify the Municipality within 14 days of such sign being erected.
- (4) If an approved sign in term of subsection (2) is not erected within the specified time limits in term of the permit, or any further period which the Municipality on good cause shown allows in writing, the approval lapses and a new application must be submitted.

11. Amendment of conditions and suspension or withdrawal of permits

- (1) The Municipality may withdraw a permit, or impose additional conditions on the display of an outdoor advertising sign, if the sign has become a nuisance, is offensive or is a threat to the safety of persons or property.
- (2) If the Municipality is of the opinion that there are reasonable grounds, including any contravention of the conditions imposed in terms of a permit, for suspending or withdrawing a permit to display an outdoor advertising sign, or imposing additional conditions on the display of an outdoor advertising sign, the following procedure must be followed:
 - (a) the Municipality must give the permit holder and the owner at least 21 days written notice of the Municipality's intention to suspend or withdraw the permit;
 - (b) the notice referred to in paragraph (a) must include—
 - (i) a statement setting out the nature of the proposed action;
 - (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter within a prescribed period;
 - (iv) an address at which representations may be submitted; and
 - (v) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the permit holder and the owner may submit representations and appear at the hearing.
- (3) The permit holder and the owner must be given an opportunity, either personally or through his or her duly authorised representative, to appear at a hearing and make representations.
- (4) If the permit holder and owner wish to appear at a hearing and to oppose the proposed action, he or she must, within seven days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing to the address indicated in the notice.
- (5) The Municipality must give a ruling on whether or not to suspend or withdraw the permit, or impose additional conditions, and must give the permit holder and the owner reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

12. Permit is non-transferable

- (1) A permit to display or alter an outdoor advertising signs non-transferable and may not be leased, sold, exchanged or otherwise disposed of.
- (2) Notwithstanding the period of validity for such permit, the permit shall lapse when the permit holder ceases to occupy the premises or conduct the business or undertaking to which the sign relates.

- (3) The permit holder and the owner must be given an opportunity, either personally or through his or her duly authorised representative, to appear at a hearing and make representations before the Municipality, and where applicable, must notify the Municipality within 14 days from the date he or she ceases to occupy or own the premises or to conduct the business or undertaking to which the sign relates.

13. Lapsing of permits

A permit to display or alter an outdoor advertising sign lapses if an approved outdoor advertising sign is–

- (a) not displayed within six months from the date of approval, unless the permit holder makes written application for an extension, which may only be granted for an additional period of six months; or
(b) altered or added to without the further approval of the Municipality: Provided that the Municipality may approve minor alterations by means of an endorsement on the original application.

14. Advertising Advisory Committee

- (1) The Head may establish an Advertising Advisory Committee comprised of officials to consider and make recommendations on identified applications for the display of signs.
- (2) The Head shall appoint a Chairperson and Deputy Chairperson for the Committee.
- (3) Three members of the Advertising Advisory Committee must be present in order for a meeting to proceed.
- (4) The Advertising Advisory Committee must meet as often as required in order to perform their duties and functions.
- (i) The Head shall determine the Term of Reference for the Committee. this Bylaw, any applicable law or the land use scheme of the Municipality;
- (ii) obscures, obstructs or interferes with any traffic sign or signal for traffic control;
- (iii) inhibits, obstructs or interferes with road traffic safety, pedestrian safety, aircraft safety or the safety of the public in general;
- (iv) obstructs any street, fire escape, exit way, window, door or other opening used as a means of entering or exiting or for ventilation or firefighting purposes, or which constitutes a fire risk in the opinion of the Municipality;
- (v) in the opinion of the Municipality, is indecent, obscene, offensive or otherwise objectionable;
- (vi) is painted onto or attached in any manner to any tree, plant, rock or to any other natural feature;
- (vii) is displayed on posters, banners or flags on Municipal property that is of a purely commercial nature, without the Municipality's approval;
- (viii) moves or which has moving components;
- (ix) obscures, whether partially or wholly, any other approved outdoor advertising sign which is being lawfully displayed;
- (x) constitutes a danger or imminent danger to any person or property as contained in the National Building Regulations;
- (xi) encroaches over the boundary line of the property on which it is erected; or
- (xii) is detrimental to the environment in which it is located by reason of scale, intensity of illumination or design;
- (b) outdoor advertising signs on top of a canopy or veranda unless the outdoor advertising sign consists of–
- (i) individually cut-out fabricated or boxed letters not exceeding the prescribed height; and
- (ii) not more than two symbols not exceeding one metre in height, which must be mounted separately to the letters;

- (c) any illuminated outdoor advertising sign which causes a nuisance;
- (d) any handbills or promotional item;
- (e) any fly posters;
- (f) any flag unless the flag has been approved by the Municipality which–
 - (i) relates to a current or forthcoming event and is displayed on or within the curtilage of premises used for public entertainment;
 - (ii) is displayed during public celebrations or festive occasions and relates to those celebrations or occasions;
 - (iii) is a national flag which does not carry any advertisement;
 - (iv) is a flag carried as part of a procession; or
 - (v) is on-site and displays the name of a business conducted on that site;
- (g) any advertisement on a portable board displayed in a public place or visible from a public place;
- (h) any roof sign in an area other than in an industrial, harbour or airport zone: Provided that the Municipality may approve an appropriate roof sign in any area where a building is situated below street level;
- (i) any flashing outdoor advertising sign;
- (j) any animated advertisement;
- (k) any third-party advertising on a container;
- (l) any teardrop flags;
- (m) any unauthorised attachment on an advertising vehicle;
- (n) walking advertisements or sandwich boards; and
- (o) directional signs: Provided that an estate agents board displaying the words “on show” and other temporary signs in respect of an event may be permitted.

CHAPTER 5

AREAS OF CONTROL

16. Areas of control

- (1) For the purposes of this By-law, the following areas of control exist:
 - (a) areas of maximum control;
 - (b) areas of minimum control;
 - (c) areas of partial control; and
 - (d) special advertising zones.
- (2) The areas of control in which signs can be displayed are identified as set out in Schedule 19 hereto.

17. Advertising Control Map

- (1) The Council may adopt an Advertising Control Map which indicates the–
 - (a) boundaries of areas of maximum control, minimum control and partial control within its area of jurisdiction;
 - (b) types of signs which are prohibited within the areas contemplated in paragraph (a); and
 - (c) types of signs which are permitted within the areas contemplated in paragraph (a) and any conditions to which they may be subject to.
- (2) An Advertising Control Map must comply with the provisions of this By-law and with any other applicable law.

18. Public participation

- (1) The Municipality must consult with interested and affected persons, business people and residents in any area under consideration before the adoption of an Advertising Control Map.
- (2) The consultation process contemplated in subsection (1) must comply with the provisions set out in subsections (3) to (10).
- (3) The Municipality must–
 - (a) compile a draft Advertising Control Map; and
 - (b) publish a notice in the prescribed manner and form–
 - (i) informing the public that the draft Advertising Control Map is available for inspection at a specified location and between specified hours; and
 - (ii) inviting comments and objections from the public, to be received by the Municipality by a specified date not less than 30 days after the publication of the notice.
- (4) The notice contemplated in subsection (3) must–
 - (a) contain a summary of the key aspects of the draft Advertising Control Map; and
 - (b) be published in two local daily newspapers that circulate in the area, or if there is a community newspaper which is free to the public and is circulated in the area, it may be published in the community newspaper and one daily local newspaper.
- (5) The Municipality may call for a public meeting to be held and the public meeting must be held not less than seven days or more than 60 days after the date of the publication of the notice referred to in subsection (3).
- (6) At the public meeting contemplated in subsection (5), the Municipality must–
 - (a) present and explain the draft Advertising Control Map;
 - (b) respond to any queries related to the draft Advertising Control Map;
 - (c) give interested and affected persons, business people and residents an opportunity to make comments and to lodge objections; and (d) take minutes of the meeting.
- (7) The Municipality must consider all objections or comments received from the public regarding the draft Advertising Control Map.
- (8) After having considered the comments and objections, the Municipality may, within a reasonable period from the commencement of the public participation process–
 - (a) adopt the draft Advertising Control Map;
 - (b) amend and adopt the draft Advertising Control Map; or
 - (c) reject the draft Advertising Control Map.
- (9) Notwithstanding the provisions of section 59 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000) the Council may not delegate the decision-making powers referred to in subsection (8).
- (10) In the event that the Council adopts an Advertising Control Map, a notice must be published in the manner contemplated in subsection (4), as well as in the *Provincial Gazette*–
 - (a) confirming that the Advertising Control Map has been adopted;
 - (b) giving notice of the commencement date of the Advertising Control Map;
 - (c) summarising the key aspects of the Advertising Control Map; and
 - (d) confirming that the Advertising Control Map is available for inspection at a specified location and between specified hours.

19. Amendment, revocation and review of Advertising Control Maps

The Council–

- (a) may amend or revoke an adopted Advertising Control Map subject to the provisions of the Promotion of Administrative Justice Act ,2000 (Act No. 3 of 2000): Provided that the Council must follow the public participation process set out in section 18; and
- (b) must review the adopted Advertising Control Map whenever the Council deem it necessary.

20. Areas of maximum control

In areas of maximum control–

- (a) only low impact outdoor advertising signs which do not intrude into, dominate or derogate in any way from the character or quality of the environment, including the visual, social and traffic safety aspects, will be permitted; and
- (b) third party advertising is not permitted.

21. Areas of partial control

In areas of partial control–

- (a) only moderate impact outdoor advertising signs are permitted, taking into account the environmental impact including the visual, social and traffic safety aspects;
- (b) third party advertising may be permitted on billboards on Municipal property and on advertising signs with an area not exceeding 18m2,subject to appropriate limitations on the size, position and the number of signs; and
- (c) wall billboards may be permitted and shall not cover more than 50% of the surface of a return or retaining wall.

22. Areas of minimum control

In areas of minimum control, high impact outdoor advertising signs and third party outdoor advertising signs are permitted, subject to appropriate limitations on the size position and the number of signs.

CHAPTER 6

ESTATE AGENT'S BOARDS AND CONTRACTOR'S BOARDS

23. Registration of estate agents and contractors

- (1) An estate agent or contractor may not display estate agent's boards or contractor's boards unless he or she has–
 - (a) submitted an application to the Municipality; and
 - (b) been issued with a permit authorising the display of the estate agent's boards or contractor's boards.
- (2) In the case of estate agents–
 - (a) individual estate agents must hold a permit; and
 - (b) it is not sufficient for an entity or partnership through which estate agents trade to hold a permit.
- (3) An application for a permit to display estate agent's boards or contractor's boards must be made to the Municipality on the prescribed form together with payment of the prescribed fee.
- (4) A permit issued to a person in terms of subsection (1) –

- (a) is valid for a maximum period of 12 months; and
 - (b) is applicable to all estate agent's boards or contractor's boards displayed by the permit holder during the period of validity of such permit.
- (5) The Municipality may, in respect of a permit contemplated in subsection (1), grant a permit subject to conditions or refuse a permit.
- (6) If the Municipality is of the opinion that there are grounds for suspending or withdrawing a permit contemplated in subsection (1) that was issued to an estate agent or a contractor, the following procedure must be followed:
 - (a) the Municipality must give the estate agent or contractor concerned at least 21 days written notice of its intention to suspend or withdraw the permit; and
 - (b) the permit holder and the owner must be given an opportunity, either personally or through his or her duly authorised representative, to appear at a hearing and make representations before the Municipality.
- (7) The written notice contemplated in subsection (6) must include–
 - (a) a statement setting out the nature of the proposed action;
 - (b) the reasons for the proposed action;
 - (c) an invitation to make written representations on the matter;
 - (d) an address at which representations may be submitted; and
 - (e) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the estate agent or contractor concerned may submit representations and appear at the hearing.
- (8) In the event that an estate agent or contractor wishes to appear at a hearing and to oppose the proposed action, he or she must, within seven days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing to the address indicated in the notice.
- (9) The Municipality must give a ruling on whether or not to suspend or withdraw the permit and must give the estate agent or contractor concerned its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

24. Face of estate agent's and contractor's boards

- (1) An estate agent's board must, where applicable, indicate the following:
 - (a) the name of the agency to which the estate agent belongs;
 - (b) the logo of the agency;
 - (c) the full names of the estate agent;
 - (d) the estate agent's contact details; and
 - (e) the estate agent's registration number issued to the agent on receipt of a permit from the Municipality.
- (2) Where an estate agent's board indicates that a property has been sold or leased, the board must state the date of sale or lease and the estate agent must remove the board within 30 days of the date of sale or lease.
- (3) An estate agent must advise the Municipality regarding the sale or lease of the property within ten days of the date of such sale or lease, and on request provide the Municipality with proof of the sale or lease.
- (4) A contractor's board must indicate the following:
 - (a) the name of the contractor and, if applicable, a business or trading name;
 - (b) the contractor's contact details;
 - (c) if required by the Municipality, a brief indication, to the reasonable satisfaction of the Municipality, of the nature of the services or products provided by the contractor; and

- (d) the registration number issued to the contractor on receipt of a permit from the Municipality.
- (5) Any additional information which may be required to be included on an estate agents board or contractor's board is subject to the approval of the Municipality.
- (6) A contractor's board must be displayed within or on the boundary of the property and must not encroach over the boundary line of the property.

CHAPTER 4

PROHIBITED OUTDOOR ADVERTISING SIGNS

15. Prohibited outdoor advertising signs

- (1) The following outdoor advertising signs may not be displayed:
 - (a) any outdoor advertising sign which– does not comply with the requirements of the permit, t

CHAPTER 7

GENERAL REQUIREMENTS

25. Amenity

An outdoor advertising sign may not be detrimental to the environment or to the amenity of the human living environment by reason of size, shape, colour, texture, and intensity of illumination, quality of design or materials or for any other reason.

26. Aesthetics

- (1) An outdoor advertising sign may not be detrimental to the built or natural environment, detract from buildings or natural features, conflict with the harmony of any existing environment or detract from the general amenity of the neighbourhood.
- (2) An outdoor advertising sign must–
 - (a) be suitable for the environment in which it is to be displayed;
 - (b) be suitably placed so as to achieve an uncluttered effect;
 - (c) be constructed, executed and finished in an appropriate manner so that the structure and content of the sign is neat; and
 - (d) consist of durable materials suitable for the function, nature and permanence of the outdoor advertising sign.

27. Safety

- (1) An outdoor advertising sign must comply with the provisions of the National Road Traffic Act and any other applicable law.

- (2) An outdoor advertising sign may not be displayed in a position where it may cause danger, obstruction or a nuisance to any person, or damage to any property or the environment, including roads and pedestrian traffic ways.
- (3) The prohibitions contemplated in subsection (2) include but are not limited to—
- (a) obscuring any traffic signs or signals;
 - (b) inhibiting any pedestrian's or drivers' visibility;
 - (c) obstructing any road or access; and
 - (d) any nuisance caused by light.
- (4) An outdoor advertising sign positioned along a road and which targets road users, must—
- (a) be concise and legible;
 - (b) contain the minimal text; and
 - (c) comply with the guidelines for control of bits and the size of information set out in this By-law.
- (5) An outdoor advertising sign must comply with the safety conditions and principles contained in this By-law.

28. Illumination

- (1) An outdoor advertising sign may not exceed the maximum luminance levels per square m as set out in the Table below:

Illuminated Area	Maximum Luminance
Less than 0,5 m ²	1000 candela per m ²
0,5 to 2,0 m ²	800 candela per m ²
2,0 to 10 m ²	600 candela per m ²
10 or more m ² in visual zones	350 candela per m ²
10 or more m ² in other areas	400 candela per m ²

- (2) An electronic and illuminated outdoor advertising sign may not be so placed or contain an element which distracts or hinders the attention of drivers in a manner likely to lead to unsafe driving conditions.

- (3) An electronic and illuminated outdoor advertising sign must be positioned in such a manner to ensure effective distribution of light and to minimise light wastage or spill.
- (4) An outdoor advertising sign may not be illuminated on a freeway, irrespective of the area of control, unless the freeway is lit by overhead lighting over the full distance within which the advertisement sign is visible from the freeway.
- (5) The extent of illumination of an outdoor advertising sign may not cause discomfort, harm or danger to any person.
- (6) The light source emanating from floodlights shall not be visible to traffic travelling in either direction.
- (7) Floodlighting shall be positioned to ensure effective distribution and to minimise light wastage or spill.
- (8) In respect of urban freeways, irrespective of the area of control, billboards, temporary advertisements, product replicas and three-dimensional signs, roof signs, flat signs, signs painted on walls and roofs, signs incorporated in the fabric of a building, advertising on towers, bridges and pylons, advertisements on construction site boundary walls and fences, aerial signs, and trailer advertising may not be illuminated in any way unless the freeway is lit by overhead lighting over the full distance within which the advertisement sign is visible from the freeway.

29. Environmental impact

- (1) An outdoor advertising sign must be satisfactorily integrated into the environment to ensure that the Municipality's tourism and development potential is characterised by a high standard of user-friendly signage.
- (2) The position, size, design, construction and content of all signs must take cognisance of high quality, historically and environmentally sensitive green belts and open space areas.
- (3) An outdoor advertising sign may not cause harm to the environment.

30. Position of outdoor advertising signs

- (1) The position of an outdoor advertising sign must be in accordance with the provisions of the National Road Traffic Act, this By-law and any other applicable law.
- (2) Advertising signs may not be–
 - (a) positioned on a road island or road median unless they are street name advertisements;

- (b) suspended across a road with the exception of signs permitted on bridges across certain urban roads other than freeways or highways, advertising on towers, bridges and pylons as well as banners suspended across urban roads other than freeways and as part of a street-scoping project; or
 - (c) erected within or suspended above a road reserve or within the limited use area outside the road reserve boundary or freeways.
- (3) Sponsored road traffic projects, tourism signs, vehicular advertising and citilites may be allowed within all road reserves subject to approval by the Municipality.
- (4) Temporary advertisements such as project boards which concern road construction may be allowed within all roads reserves.
- (5) Posters and advertisements on street furniture, banners and flags, suburb name advertisements, projecting signs, veranda, balcony, canopy and under awning signs and functional advertisements by organs of state or state owned enterprises may be allowed within all urban road reserves other than freeways.
- (6) Temporary advertisements such as pavement posters and notices, street name advertisements, and signs on bridges may be allowed within urban road reserves other than freeways, but only in urban areas of minimum and partial control.
- (7) Neighbourhood watch and similar schemes signs may be allowed within road reserves other than on freeways in urban, rural, and natural environments subject to approval by the Municipality.
- (8) Flat signs, projecting signs, and veranda, balcony and under awning signs, may be allowed within the limited use area along freeways if the main building housing an enterprise is within 50m from the road reserve boundary of a freeway and if there is no other appropriate means of indicating that particular enterprise facing another public road carrying through passing traffic.
- (9) The Municipality may within vision zones, with regards to advertising restrictions on urban freeways, identify areas in which relaxation may be allowed to change the area of control of such visual zone, and in such instances, the Municipality may also stipulate any term and conditions it deem fit.
- (10) Advertising signs may not be permitted within a restricted area at urban street corners, with the exception of temporary window signs, street name advertisement, flat signs, projecting signs, veranda, balcony and under awning signs, window signs, signs incorporated in the fabric of a building and illuminated signs within restricted areas at signalised street corners which signs have a clear height of at least 6m if such signs contain the colours red, green or amber.

31. Temporary outdoor advertising signs

- (1) Any person who wishes to display a temporary outdoor advertising sign must apply to the Municipality for a permit to display the temporary sign.
- (2) A temporary outdoor advertising sign may only be used in connection with an event.
- (3) A temporary outdoor advertising sign may be displayed for a prescribed period of time as determined by the Municipality in the permit and must be removed within the prescribed period of time after the event has taken place.
- (4) A directional sign may not be misunderstood to represent a road traffic sign due to any factor, including the following–
 - (a) any form of arrow or other directional device;
 - (b) any symbol, logo or other devised as used on a road traffic sign;
 - (c) use of combination of colours specified for road traffic signs; or
 - (d) statements call for a driver to turn off the route on which he or she is travelling or to make a U-turn.

32. Maintenance

- (1) The owner and the permit holder are jointly responsible for maintaining an outdoor advertising sign, as well as its supporting structure, in a state of good repair, both structurally and aesthetically.
- (2) An outdoor advertising sign, as well as its supporting structure, must be–
 - (a) treated against corrosion and painted;
 - (b) cleaned on a regular basis;
 - (c) regularly maintained in good repair and in a safe condition, and according to the highest standard as regards quality of structures, posting and content in terms of the National Building Regulations and any other applicable law; and
 - (d) designed and positioned, where possible, to discourage vandalism.

33. Electrical and fire prevention requirements

- (1) An electronic and illuminated outdoor advertising sign, including its supporting structure must be constructed entirely of non-combustible materials and must be installed in accordance with the provisions of the Municipality's By-laws dealing with electricity and electricity supply, the Code of

Practice for the wiring of premises in accordance with the South African Bureau of Standards (SABS), any applicable legislation and any policy adopted by Council regulating electricity requirements for illuminated signage.

- (2) An electronic and illuminated outdoor advertising sign must–
 - (a) have power cables, and conduits containing electrical conductors, positioned and fixed so that they are not unsightly;
 - (b) be provided with an external weather proof isolator in an accessible position and at a height of at least 3m from the ground where the electricity supply to the advertisement may be switched off;
 - (c) contain a maximum of six bits of information displayed at any instant in time;
 - (d) contain a maximum height of text of 500mm; and
 - (e) have a clearance to the underside of the sign of 2.2m where such sign is over a pedestrian path.
- (3) The installation and maintenance of an electronic or illuminated advertising sign may only be conducted by a registered electrician who shall at the request of the owner or Municipality issue a certificate confirming he or she is satisfied that the wiring and installation is in accordance with the provisions of all applicable laws.
- (4) If an outdoor advertising sign is to be displayed on premises in a hazardous location as contemplated in SANS 10108 or on premises where flammable liquids and flammable gases are manufactured or stored in an outdoor location, the owner and the permit holder must ensure compliance with SANS 10108.
- (5) No movement of the electronic sign face is permitted except for the instant change from one message to another and the duration of the continuous display of each message shall not be less than 30 seconds.

34. Structural requirements

- (1) An outdoor advertising sign must be properly–
 - (a) constructed and erected; and
 - (b) secured, fixed and anchored, to the satisfaction of an engineer who is responsible for the design, supervision and certification of the display of the sign.
- (2) A sign, including its supports and frameworks, must be constructed of noncombustible, durable and safe materials, suitable for the particular design of the sign in accordance with the applicable laws.
- (3) Adequate provision must be made for the drainage of all outdoor advertising signs.

- (4) The supporting structure of any sign must be neatly constructed, designed and supervised by an engineer as an integral part of the design of the sign, or be otherwise concealed from view to the satisfaction of the Municipality.
- (5) No free-standing outdoor advertising sign exceeding 3.4m in height may be built without a certificate from an engineer confirming that the sign is structurally stable and safe.
- (6) The Municipality may at any time require that an engineer certify that the—
 - (a) design of an advertising sign and supporting structure is structurally stable and safe; and
 - (b) completed advertising sign and supporting structure is structurally stable and safe.
- (7) The supporting structure may only be erected once the Municipality has granted its approval for the erection of the sign in term of the National Building Regulations.

CHAPTER 8

SIGNS ON DIIHLABENG LOCAL MUNICIPAL PROPERTY

35. Signs on Municipal property

- (1) A person may not display or alter an outdoor advertising sign or cause or permit any outdoor advertising sign to be displayed or altered on municipal property, without the prior written permission of the Municipality.
- (2) Where a person makes application for the display of a billboard on municipal property the Municipality shall only consider applications for the display or altering of a billboard not exceeding 36m² in size.
- (3) The display or altering of any outdoor advertising sign, other than a billboard contemplated in subsection (2), on municipal property shall be regulated in terms of the Municipality's Supply Chain Management Policy and procurement processes.
- (4) A person who wishes to display an outdoor advertising sign on municipal property must—
 - (a) make an application in writing to the Municipality for permission; and (b) pay the prescribed fee as may be imposed by the Municipality.

CHAPTER 9

TYPES AND CLASSES OF SIGNS

36. Types of signs

- (1) The approval and display of an outdoor advertisement for a specific type of sign must be in accordance with this By-law and any other applicable law, and is furthermore subject to any additional requirements pertaining to a specific type of sign contained in the schedules contemplated in subsection (2).
- (2) The Schedules which relate to specific types of signs are as follows:
 - (a) Billboards: Schedule 2;
 - (b) Ground signs: Schedule 3;
 - (c) Flat signs: Schedule 4;
 - (d) Projecting signs: Schedule 5;
 - (e) Roof signs: Schedule 6;
 - (f) Sky signs: Schedule 7;
 - (g) Veranda, Balcony, Canopy and Under-awning Signs: Schedule 8;
 - (h) Posters, Banners and Flags (Temporary signs): Schedule 9;
 - (i) Aerial advertisements: Schedule 10;
 - (j) Advertising vehicles: Schedule 11;
 - (k) Flags on-site (Private property): Schedule 12;
 - (l) Estate Agents Boards and Contractors Boards: Schedule 13;
 - (m) Community Policing Forum (CPF) and Conservancy Signs: Schedule 14;
 - (n) Signs at stadia and sports grounds: Schedule 15;
 - (o) Signs at schools: Schedule 16; (p) `Home Business Signs: Schedule 17; and (q) Building wrap signs: Schedule 18.
- (3) The schedules contemplated in subsection (2) contain further requirements, criteria, conditions and minimum standards to which any person must comply with for a specific type of sign.

37. Architecturally Significant Buildings

- (1) The Municipality may from time to time identify buildings which are considered architecturally significant due to their architecture, location, age and any other relevant factors.

- (2) Any application for a permit for outdoor advertising which affects an architecturally significant building must be accompanied by written approval from the Dihlabeng Local Municipality Architectural Department.
- (3) A building may only be declared an Architecturally Significant building through a Council resolution and after following a public participation process.

38. Designated areas

- (1) The Municipality may identify and designate areas where outdoor advertising is prohibited or restricted and such designated areas may only be declared as such in terms of a Council Resolution.
- (2) Any outdoor advertising in designated areas may be restricted in terms of–
 - (a) the type of sign displayed;
 - (b) the time period permitted for the display of the sign;
 - (c) the content of the sign; and
 - (d) any other condition which may be prescribed by the Municipality.
- (3) Any outdoor advertising sign in a designated area may only advertise an event which will take place in the designated area.

CHAPTER 10

ENFORCEMENT

39. Lawful instructions

- (1) Failure to comply with a lawful request by an authorised official in accordance with the provisions of this By-law constitutes a contravention of this By-law.
- (2) An authorised official may enter onto any premises after reasonable notice has been given and at a reasonable time in order to conduct an inspection necessary for the proper enforcement and administration of this By-law.
- (3) In the event of the display of an unauthorised advertisement for an event held on private premises, the owner or person in charge of the premises must upon request by an authorised official provide the following information:
 - (a) name of event organiser; and
 - (b) any contact details of the event organiser.

- (4) Failure by the owner or person in charge to provide the information contemplated in subsection (3) will result in the owner or person in charge being guilty of an offence.

40. Notice to rectify or remove a sign

- (1) If an outdoor advertising sign contravenes–
- (a) a provision of this By-law;
 - (b) any condition of a permit to display or alter an outdoor advertising sign;
 - (c) an Advertising Control Map or the accompanying schedule of conditions which may be issued in terms of this By-law, the Municipality must serve a contravention notice on the owner or permit holder.
- (2) The contravention notice must direct the owner or permit holder within the time period determined by the Municipality to cease with the unlawful display of the sign, and may include an instruction to–
- (a) demolish or remove any unauthorised structure or sign and where necessary rehabilitate the land to its original form; or
 - (b) submit an application for a permit in terms of this By-law within 30 days of the service of the contravention notice and pay the contravention penalty.
- (3) In the event that an application lodged in terms of paragraph 2(b) is refused, the owner or permit holder must demolish or remove the unauthorised structure or sign within a prescribed period.
- (4) The contravention notice contemplated in subsection (1) must–
- (a) identify the person to whom it is addressed to;
 - (b) provide a description of the immovable property on which the sign is located;
 - (c) indicate whether an approval has or has not been granted for the display of the sign;
 - (d) state that the display of the sign is illegal and indicate which provision of the Bylaw, condition or other provision the display of the sign contravenes;
 - (e) indicate the steps the person must take and the period within which such person must do so;
 - (f) direct the person's attention to the following:
 - (i) that the person could be prosecuted for and convicted of an offence;
 - (ii) that on conviction, the person will be liable for the penalties as provided for; and

- (iii) that in addition to the conviction and imposition of a penalty, the person could be required by an order of the court to demolish or remove the unauthorised structure or sign and
where applicable, allow the Municipality to enter the property to demolish or remove the unauthorised structure or sign; and
 - (g) in the case of an application for the authorisation of the sign as contemplated in section 2(b), that a contravention penalty including any costs incurred by the Municipality shall be imposed.
- (5) Where the court convicts a person of an offence contemplated in section 45 of this Bylaw, it may–
 - (a) at the written request of the Municipality summarily enquire into and determine the monetary value of any advantage which that person may have gathered as a result of that offence; and
 - (b) in addition to the fine or imprisonment contemplated in section 46 of this By-law, order an award of damages, compensation or a fine not exceeding the monetary value of any advantage which the person may have gained as a result of that offence in favour of the Municipality.
- (6) Notwithstanding the provisions of section 40(1), in the event that an outdoor advertising sign–
 - (a) constitutes an imminent or irreversible threat or danger to the environment or the health, safety or well-being of any person, property or the public;
 - (b) in the opinion of the Municipality, is indecent, obscene, offensive or otherwise objectionable; or
 - (c) is displayed on Municipal property and has not been approved, the Municipality may immediately and without notice to any person remove or rectify the sign.
- (7) The remedies provided for in this By-law are in addition to any other statutory or common law criminal or civil remedies that a Municipality may have at its disposal.
- (8) The Municipality may implement a property rates adjustment in accordance with the use of the property where it has confirmed a contravention of this Bylaw.

41. Recovery of costs

- (1) Where the Municipality removes or rectifies a sign or undertakes any remedial action, the owner and the permit holder shall be liable jointly and severally for the costs incurred by the Municipality in taking such action.

- (2) The recovery of costs contemplated in subsection (1) is in addition to any fine which may be imposed on those persons.
- (3) No person shall be entitled to compensation for any loss or damage arising out of any *bona fide* action or decision taken by the Municipality or any authorised official in terms of this By-law.

42. Removal of signs and impoundment

- (1) An authorised official may remove and impound an unlawful outdoor advertising sign as provided for in section 40(6) of this By-law or in terms of a court order.
- (2) The removal and impoundment of any outdoor advertising sign in terms of subsection (1) may be effected irrespective of whether or not such sign is in the possession or under the control of any third party at the time.
- (3) In the event that any goods to be impounded are attached to immovable property or a structure, an authorised official may order any person who appears to be in control of the immovable property or structure to remove the goods to be impounded.
- (4) If the person contemplated in subsection (3) refuses or fails to comply—
 - (a) such person is guilty of an offence; and
 - (b) the authorised official may remove the goods him or herself.
- (5) Any authorised official who removes and impounds goods in term of subsection (1) must issue the permit holder or owner of premises with a receipt which—
 - (a) captures the full name, identity number and contact details of the person;
 - (b) states the relevant section of the By-law contravened;
 - (c) itemises and describes the goods to be removed and impounded;
 - (d) provides the address where the impounded goods will be kept;
 - (e) states the period of impoundment;
 - (f) states the term and conditions which must be met to secure the release of the impounded goods;
 - (g) states the impoundment fee to be paid to secure release of the impounded goods;
 - (h) states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of;

(i) provides 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 representations must be made;

(j) contains an acknowledgement signed or marked by the person confirming that–

(i) the contents of the receipt are correct;

(ii) the contents of the receipt have been explained to him or her; and

(iii) he or she understands the consequences of impoundment and the requirements for the release of such impounded goods; and

(k) contains the name of the authorised official concerned and the date and time of impoundment.

(6) An authorised official must, immediately upon removing the goods, transport such goods to the place of impoundment stated on the receipt issued to the person in terms of subsection (5).

(7) The Municipality must–

(a) keep a register of impounded goods at all places of impoundment;

(b) immediately enter in the register the–

(i) details of the permit holder or owner of premises;

(ii) details of the goods removed and impounded, including the condition of such goods;

(iii) place and area where such goods were removed from;

(iv) name of the authorised official who attended to the removal and impoundment of the goods; and

(v) time and date of such removal and impoundment, upon the presentation of such goods at the place of impoundment.

(8) Items which have been impounded may be released after payment of the prescribed impoundment and storage fees.

(9) Impounded goods may be disposed of by the Municipality if the owner of the outdoor advertising sign does not, or is unable to, pay the impoundment fee within 30 days from the date of impoundment of those goods.

(10) If impounded goods are disposed of by the Municipality in terms of subsection (9), the Municipality may, if the goods are claimed by the rightful owner, pay such person the proceeds of the sale less the prescribed impoundment and storage fees.

(11) After the 30 day period mentioned in subsection (9) has lapsed, the Municipality must serve a notice on such person concerned advising him or her–

- (a) that the Municipality intends selling his or her impounded goods as a result of his or her failure to secure the release of such goods within the specified time;
- (b) of the date, time and place where representations may be made by the person as to why the Municipality should not sell his or her goods; and
- (c) of the date, time and place of such sale should the person prove to be unsuccessful in his or her attempt to have such goods released as per paragraph (b).

43. Vicarious liability

(1) Where there has been a contravention of this By-law or a condition of a permit to display or alter an outdoor advertising sign, the owner of the premises on which an outdoor advertising sign is displayed, the permit holder or owner of the sign is deemed to have committed such contravention unless he or she satisfies the court that he or she took reasonable steps to prevent such contravention.

(2) The fact that the owner, permit holder or owner of the sign contemplated in subsection (1) issued instructions to the employee or agent, prohibiting such contravention, must not in itself constitute sufficient proof of such reasonable steps.

44. Service of notices

(1) Whenever a notice is required to be served on a person in terms of this Bylaw, it is deemed to have been effectively and sufficiently served on such person –

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence or business in the Republic of South Africa with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic of South Africa and an acknowledgement of the posting thereof is produced;
- (d) if his or her address in the Republic of South Africa is unknown, when it has been served on his or her agent or representative in the

Republic of South Africa in the manner contemplated in paragraphs

- (a), (b) or (c); or

(e) if his or her address and agent in the Republic of South Africa are unknown, when it has been affixed to a conspicuous place on the building.

(2) The date of notification in respect of any notice served in terms of this By-law is—

- (a) on the fourth day after the postmarked date upon the receipt for registration, when it is served by registered mail;
- (b) the date of delivery, when it is served on the person personally;
- (c) the date that the notice was left at a person's place of residence or place business in the Republic with a person apparently over the age of sixteen years;
- (d) the date on which the notice was successfully transmitted, if the document is by electronic transmission to the e-mail address or facsimile address;
- (e) the date on which the notice was displayed in a conspicuous place on the property or premises to which it relates, is the date on which the notice was posted or affixed to such place; or
- (f) in the case of a juristic person, to its registered address or principal place of business.

45. Offences

(1) A person commits an offence if he or she—

(a) contravenes any—

- (i) provision of this By-law;
- (ii) condition of a permit which has been issued to him or her; or
- (iii) provision of an Advertising Control Map issued by the

Municipality in terms of this By-law;

- (b) fails to comply with any lawful instruction or notice given in terms of this By-law;
- (c) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
- (d) deliberately furnishes false or misleading information to an authorised official.

(2) A person commits a continuing offence if he or she continues with an offence

- (a) after the notice has been served on him or her in term of this By-law requiring him or her to cease committing such offence; or
- (b) continues with an offence after he or she has been convicted of such offence.

46. Penalties

(1) Any person who is convicted of an offence under this By-law is liable to a fine or imprisonment not exceeding 20 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine or imprisonment for a period not exceeding three months, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

47. Presumptions

Any person charged with an offence in terms of this By-law who is–

- (a) alone, or jointly with any other person, responsible for organising, or in control of any meeting, function or event, to which an outdoor advertising sign relates, is deemed, until the contrary is proved, to have knowingly displayed every unlawful sign displayed in connection with such meeting, function or event or to have caused or allowed it to be so displayed;
- (b) the person whose name appears on an unlawful outdoor advertising sign, or whose product or services are advertised on such sign, is deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed;
- (c) the owner of any land or building on which any unlawful outdoor advertising sign was or is displayed, is deemed, until the contrary is proved, to have knowingly displayed such sign, or caused or allowed it to be displayed;
- (d) in possession of ten or more identical handbills in a public place is deemed, until the contrary is proved, to be handing out such handbills; and
- (e) the owner of an advertising vehicle parked on private property but in view of a public place is deemed, until the contrary is proved, to have knowingly displayed the outdoor advertising sign on the advertising vehicle.

CHAPTER 11

MISCELLANEOUS PROVISIONS

48. Delegations

- (1) Subject to the Constitution and applicable national and provincial laws, any–
 - (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) function; or
 - (c) duty, conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.
- (2) A delegation contemplated in subsection (1) must be effected in accordance with the system of delegation adopted by the Council in line with section 59(1) of the Local Government: Municipal System Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

- (3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—
 - (a) entity or person issuing the delegation or sub-delegation;
 - (b) recipient of the delegation or sub-delegation; and
 - (c) conditions attached to the delegation or sub-delegation.

49. Appeals

- (1) A person whose rights are affected by a decision taken by an authorised official in term of this By-law may appeal against that decision in term of the Appeals provision contained in the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000) 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.
- (3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
- (5) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (6) All appeals lodged are done so in term of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000) and not in term of this By-law.
- (7) Where a conviction has been confirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsection (1) to (5).

50. Repeal of laws and savings

- (1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

51. Transitional provisions

- (1) Any person who was authorised to display a sign in terms of a permit granted by or in terms of an agreement entered into between the Municipality or a local entity which was at that time competent to grant such permit or to enter into such agreement before 1 January 2010 must make application to the Municipality within six months of commencement of this By-law, failing which such authorisation shall lapse.
- (2) The Municipality must publish a notice in 2 local newspapers circulating within its area of jurisdiction calling for compliance with the provisions of this By-law.
- (3) Every owner of land, on which a sign was erected without formal approval, before the coming into operation of this By-law, that is prohibited by this Bylaw and which is not an advertisement or advertising sign for which the Municipality may grant approval, must be removed within 90 days of date of commencement of this By-law.
- (4) Where an advertisement or advertising sign has been erected or displayed before the date of commencement of this By-law without formal approval, which in terms of this By-law, may not be erected or displayed without the approval of the Municipality, the owner of the advertisement or advertising sign must apply to the Municipality, for approval, within 90 days from the date of commencement of this By-law, failing which the advertisement or advertising sign must be removed forthwith.

52. Short title and commencement

This By-law is called the Dihlabeng Local Municipality: Outdoor Advertising By-law, 2021, and takes effect on the date of publication in the *Provincial Gazette* or as otherwise indicated in the publication notice.

SCHEDULE 1

BILLBOARDS

1. Area of Control

A billboard may be permitted in urban areas of minimum control and in urban areas of partial control.

2. Environmental Impact Assessment

Any application for the display of or altering of a billboard must be accompanied by an Environmental Impact Assessment.

3. Size and Height

A billboard may not have—

- (a) an overall height in excess of seven m in landscape format or 12m in portrait format above the surface of the natural ground level; and
- (b) have an area in excess of 36m² in the case of ground signs.

4. Position

(1) A billboard must—

- (a) be spaced at least 120m; 200m or 300m apart on a road or freeway, where the speed limit is less than 60km/h, between 61-80km/h or greater than 81km/h respectively;
- (b) not be erected within a distance of 50 m from the nearest edge of an intersection on a lower order road and 100m from the nearest edge of an intersection on an arterial road;
- (c) not be erected within a distance of 100m; 200 m, 250m or 300m from any ramp gore and any yellow line break point at an interchange where the speed limit is equal to or less than 60km/h; between 61-80km/h; between 81-100km/h or greater than 100km/h respectively; and
- (d) not be erected within 50m; 100m or 200m from any road sign where a speed limit has been imposed which is equal to or less than 60km/h; between 61-80km/h or greater than 81km/h respectively.

(2) A billboard may not be displayed on a road reserve.

5. Duration of Permit

- (1) A billboard may be permitted for a period of 5 years in urban areas of minimum control and in urban areas of partial control subject to conditions which may be imposed by the Municipality.
- (2) Upon expiry of a permit granted for the display of a billboard, the permit holder has three months prior to the date of expiry to re-apply for a permit, failing which the permit to display lapses on date of expiry.

6. Safety

Any billboard displayed or altered must—

- (a) comply with any other applicable law;
- (b) not be detrimental to the nature of the environment in which it is located by reason of scale, intensity of illumination or design;

- (c) not partially or wholly obscure any approved outdoor advertising sign previously erected and legally displayed;
- (d) not constitute a danger to any person or property;
- (e) not encroach over the boundary line of the property on which it is erected;
- (f) not be erected if considered by an organ of state to be a distraction to drivers, cyclists or pedestrians which could contribute to unsafe traffic conditions;
- (g) not have red, amber or green as its main colours when it is located at signalised traffic intersections;
- (h) not obscure or interfere with any road traffic light or sign;
- (i) not constitute a road safety hazard or cause undue disturbance or where permitted to be illuminated if such illumination, in the opinion of Municipality, constitutes a road safety hazard or causes undue disturbance; and
- (j) not impede traffic flow on public roads during their display and maintenance, unless prior permission from the Municipality has been obtained and the necessary precautions have been taken and arranged.

7. General

- (1) A billboard may have a maximum of eight bits of information and a minimum lettering height of 500 mm.
- (2) The application number for the billboard must be displayed in a visible area on the sign.
- (3) All non-locality bound billboards must be clearly identified in term of ownership.
- (4) The billboard must where applicable display the name of the advertising company who is the lessee of immovable property on which the billboard is displayed.

SCHEDULE 2

GROUND SIGNS

1. Area of Control

Ground signs may be permitted in all areas of control.

2. Size and Height

A remote, non-locality bound ground sign which does not have an overall height in excess of 7m above the ground at any point nor dimensions which exceed 6m in length and 3m in height, and a total area of 18m² per face, shall be deemed to be of appropriate dimensions.

3. Position and number of signs

- (1) Only one on-site, locality bound, freestanding ground sign per premises may be permitted where–
 - (a) it is necessary to facilitate the location of the entrance or access to a business premises;
 - (b) it is not reasonably possible to affix appropriate signs to the building;
 - (c) the business premises is so set back as to make proper visibility of signs on the building not feasible; or
 - (d) the existence of a freestanding composite sign may prevent the proliferation of signage.
- (2) An on-site, locality bound freestanding ground sign in the form of a business sign and tower structure may be permitted in terms of the National Building Regulations and applicable laws, provided that no such sign may–
 - (a) exceed 7m in overall height;
 - (b) have a clear height of less than 2,4m, excluding service facility signs and free standing composite signs;

- (c) exceed 12m² (measured as total height x total width of the advertising structure) when such sign is a combination sign;
 - (d) be restricted to one such sign per site per street frontage or as otherwise permitted at the Municipality's discretion; and
 - (e) contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
- (3) A ground sign with dimensions which exceed those contemplated in subsection (2) shall not be erected unless, in the opinion of the Municipality, such sign screens premises which detract or are likely to detract from the amenities of the neighbourhood by reason of their appearance or the use to which they are put.

4. Duration of Permit

- (1) A non-locality sign which is a billboard may be displayed for a maximum of 5 years.
- (2) A locality bound sign may be displayed for a period as specified in the permit.

5. General

- (1) This class of sign includes service facility signs, such as those displayed at filling stations.
- (2) Any area between a ground sign and the street line shall be grassed or otherwise ornamented at the expense of the applicant and to the satisfaction of the Municipality.
- (3) Ground signs shall include project boards and development boards.

6. Development boards

- (1) Development boards may—
 - (a) be a maximum of 18m² in size; and
 - (b) be displayed for a maximum of 24 months.
- (2) If a development takes longer than 24 months to complete, a new application for the display of a development board must be submitted.
- (3) The following information must be displayed on a minimum of 50% of development boards while the picture of the development shall take up the rest of the space—
 - (a) name and type of development;
 - (b) developer's details;
 - (c) opening date;
 - (d) estate agents' details; and (e) on-show details.

SCHEDULE 3

FLAT SIGNS

Flat signs are permitted in all areas of control.

1. Environmental Impact Assessment

- (1) Applications for remote flat signs which exceed 36m² must be accompanied by an Environmental Impact Assessment and an approved building plan for the structure.

2. Size and Height

- (1) The maximum projection of any part of a flat sign shall be 180mm where the underside of such sign measures less than 2,4m from a footway or pathway immediately below it, and the maximum projection shall be 300mm where the underside of such sign measures more than 2,4m above such footway or ground level.
- (2) A flat sign may not exceed 54m² in total area or exceed 50% of the visible wall surface area to which they are attached, affixed or painted, whichever is the lesser.

3. Position

- (1) On-site, locality bound flat signs shall be permitted to be attached to the front, side and back walls of a building.
- (2) On site, non-locality bound flat signs shall only be permitted to be attached to the side and back walls of buildings which do not fulfil the function of a building facade.
- (3) A non-locality bound flat sign may only be permitted on blank return and back walls that have no sections which may be opened or that compromise any architectural features of the building.
- (4) A flat sign shall not extend beyond the ends of the wall to which it is attached in any direction.
- (5) A flat sign may not cover any windows or other external openings of a building or obstruct the view from such openings.

4. Number

Only one flat sign per enterprise per wall may be permitted by the Municipality.

5. Duration of Permit

- (1) A non-locality sign which is considered in the assessment thereof to be a billboard may be displayed for a maximum of 5 years.
- (2) A locality bound sign may be displayed for a period as specified in the permit.

6. Content

A locality bound flat sign may not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.

7. General

A flat sign displayed in urban landscapes of partial to maximum control may not exceed 50% of the visible wall surface area.

SCHEDULE 4

PROJECTING SIGNS

Projecting signs may be permitted in areas of partial and minimum control.

1. Size and Height

- (1) Projecting signs may have a maximum thickness of 300mm.
- (2) The minimum clear height of a projecting sign shall be 2,4m.

2. Position

- (1) Projecting signs may not extend beyond the ends of the wall to which it is attached.
- (2) Projecting signs must have a minimum clearance of 450mm from the edge of a roadway and 1,5m from any overhead electricity wires or cables.
- (3) The maximum projection of a sign may–
 - (a) be 1,5m in the case of a projecting sign which has a clear height of more than 7,5m; or
 - (b) 1m where the sign has a clear height of less than 7,5m.
- (4) Projecting signs must be installed at right angles to the street facade or to the direction of oncoming traffic.
- (5) A projecting sign may not be displayed within 5m of any other projecting sign displayed on the same building.

3. Number

Only one projecting sign per enterprise per street-facing is permitted.

4. Duration of Permit

- (1) A projecting sign shall be permitted for the duration of the business.
- (2) A projecting sign may not be displayed where a business is no longer in operation.

5. General

- (1) All projecting signs must be locality bound.
- (2) Projecting signs may not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
- (3) Letters on a projecting sign must be written horizontally.

SCHEDULE 5

ROOF SIGNS

Roof signs may only be permitted in harbour and industrial zones, and in commercial zones below road level.

1. Size and Height

The maximum permitted size of a roof sign shall depend on the area of the specific roof, the character of the building and a consideration of the urban- and streetscape as a whole.

2. Position

Roof signs must be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.

3. Design and Construction

- (1) Roof signs must be thoroughly secured and anchored to the building on or over which they are to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.
- (2) A roof or sky sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Municipality and if illuminated, shall not be placed on or over the roof of any building unless such sign, as well as the entire roof construction, is constructed of non-combustible material.

4. General

- (1) Locality bound roof signs may be permitted with the consent of the Municipality.
- (2) Roof signs may not obstruct the view or affect the amenity of any other building.
- (3) Roof signs shall not contain advertising matter other than locality bound roof signs. A locality bound roof sign may not have more than 50% of the area of the face of the sign containing advertising matter.
- (4) A roof sign may not be used for third party advertising.

SCHEDULE 6

SKY SIGNS

A sky sign may only be displayed at landmark sites in areas of minimum or partial control and in special advertising zones with the specific consent of the Municipality.

1. Position

- (1) A sky sign may not project in front of a main wall of a building so as to extend beyond the roof of such building in any direction.
- (2) A sky sign may not obstruct the view of or affect the amenity of any other building.
- (3) A sky sign must be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.

2. Number

Additional remote advertising signs may not be erected on a building where approval for the display of a sky sign has been granted.

3. Duration of Permit

A locality bound sign may be displayed for a period as specified in the permit.

4. Safety

A sky sign must be properly secured and anchored to the building on or over which it is to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.

5. Design and Construction

A sky sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Municipality and if illuminated, may not be placed on or over the roof of any buildings unless such sign, as well as the entire roof construction, is constructed of non-combustible material.

6. Content

The content of a sky sign is limited to advertising for branding purposes and the display of advertising campaigns is prohibited.

7. General

- (1) All applications for the display of a sky sign must be accompanied by an engineer's certificate.
- (2) An engineer's certificate must be submitted to the Municipality within five days of completion of the structure.

SCHEDULE 7

VERANDA, BALCONY, CANOPY AND UNDER-AWNING SIGNS

1. Area of Control

Veranda, balcony, canopy and under-awning signs are permitted in all areas of control.

2. Size and Height

An under-awning sign suspended below the roof of a veranda, canopy or balcony must-

- (a) be 1,8m in length, 610mm in height and 300mm in thickness;
- (b) have a minimum thickness of 100mm; and
- (c) have a minimum height of 2,4m above the pavement, footpath or street.

3. Position

- (1) A sign may be affixed flat on to or painted on a parapet wall, beam or fascia of a veranda or balcony.
- (2) A sign may not be allowed on or over architectural features of buildings, any may not cover any window or obstruct the view from any such opening or detract from the aesthetics of the building.
- (3) A sign contemplated in item 3 (1) may not-
 - (a) exceed 1m in height;
 - (b) project beyond any of the extremities of the surface to which it is affixed;
 - (c) project more than 300mm in front of the surface to which it is affixed; and
 - (d) extend within 450mm of the edge of a roadway unless the clear height of such sign is a minimum of 3.7m.

4. Number

One sign is permitted to be displayed per property.

5. Duration of Permit

Only one sign per enterprise per street-facing is permitted.

6. General

Signs will be permitted for the duration of the enterprise.

7. Design and Construction

- (1) Any sign which is attached to a building of the height set out in Column 1 of Table 1 below, shall be so situated that no part of such sign has a depth greater than that set out in Column 2. For the purpose of such Table, the height of the building shall be measured as its vertical height above the ground at the point where the sign is to be erected.

TABLE 1	
Column 1	Column 2
Height of building	Maximum Depth of Sign
Not exceeding 17 m	9 m
Exceeding 17 m but not exceeding 34 m	12 m
Exceeding 34 m but not exceeding 43 m	14 m

Exceeding 43 m	15 m
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- (2) In calculating the depth of any sign in accordance with the above Table, signs placed one above the other in the same vertical plane on the same building, or tier of that building, shall be deemed to be one sign, whether or not such signs belong to different owners or are displayed under separate permits.

8. General

- (1) An under-awning sign suspended below the roof of a veranda, canopy or balcony must—
- (a) be 1,8m in length, 610mm in height and 300mm in thickness, with a minimum thickness of 100mm;
 - (b) have a minimum height of 2,4m above the pavement, footpath or street;
 - (c) have its axis of symmetry at right angles to the street line;
 - (d) be centralised within the width of the veranda or canopy to which it is attached;
 - (e) be allowed with a minimum spacing of 3m centre to centre between signs;
 - (f) contain advertising matter other than on an exclusively directional sign which may not contain more than 50% advertising matter of the area of any face thereof; and
 - (g) be designed, supervised and certified by an engineer.
- (2) A sun-blind and awning must be constructed and fixed in such a manner as to be incapable of being lowered to less than 2,2m above the footway or pavement directly beneath it. Such signs must be parallel to the building line and may not interfere with vehicular or pedestrian traffic, traffic lights or traffic signs.
- (3) A sign must not be displayed above the lower edge of any visible second-floor window.

CHAPTER 8

SIGNS ON DIIHLABENG LOCAL MUNICIPAL PROPERTY

35. Signs on Municipal property

- (5) A person may not display or alter an outdoor advertising sign or cause or permit any outdoor advertising sign to be displayed or altered on municipal property, without the prior written permission of the Municipality.
- (6) Where a person makes application for the display of a billboard on municipal property the Municipality shall only consider applications for the display or altering of a billboard not exceeding 36m² in size.
- (7) The display or altering of any outdoor advertising sign, other than a billboard contemplated in subsection (2), on municipal property shall be regulated in terms of the Municipality's Supply Chain Management Policy and procurement processes.
- (8) A person who wishes to display an outdoor advertising sign on municipal property must—
- (a) make an application in writing to the Municipality for permission; and
 - (b) pay the prescribed fee as may be imposed by the Municipality.

CHAPTER 9

TYPES AND CLASSES OF SIGNS

36. Types of signs

- (4) The approval and display of an outdoor advertisement for a specific type of sign must be in accordance with this By-law and any other applicable law, and is furthermore subject to any additional requirements pertaining to a specific type of sign contained in the schedules contemplated in subsection (2).
- (5) The Schedules which relate to specific types of signs are as follows:
 - (a) Billboards: Schedule 2;
 - (b) Ground signs: Schedule 3;
 - (c) Flat signs: Schedule 4;
 - (d) Projecting signs: Schedule 5;
 - (e) Roof signs: Schedule 6;
 - (f) Sky signs: Schedule 7;
 - (g) Veranda, Balcony, Canopy and Under-awning Signs: Schedule 8;
 - (h) Posters, Banners and Flags (Temporary signs): Schedule 9;
 - (i) Aerial advertisements: Schedule 10;
 - (j) Advertising vehicles: Schedule 11;
 - (k) Flags on-site (Private property): Schedule 12;
 - (l) Estate Agents Boards and Contractors Boards: Schedule 13;
 - (m) Community Policing Forum (CPF) and Conservancy Signs: Schedule 14;
 - (n) Signs at stadia and sports grounds: Schedule 15;
 - (o) Signs at schools: Schedule 16; (p) Home Business Signs: Schedule 17; and (q) Building wrap signs: Schedule 18.
- (6) The schedules contemplated in subsection (2) contain further requirements, criteria, conditions and minimum standards to which any person must comply with for a specific type of sign.

37. Architecturally Significant Buildings

- (4) The Municipality may from time to time identify buildings which are considered architecturally significant due to their architecture, location, age and any other relevant factors.
- (5) Any application for a permit for outdoor advertising which affects an architecturally significant building must be accompanied by written approval from the Dihlabeng Local Municipality Architectural Department.
- (6) A building may only be declared an Architecturally Significant building through a Council resolution and after following a public participation process.

38. Designated areas

- (4) The Municipality may identify and designate areas where outdoor advertising is prohibited or restricted and such designated areas may only be declared as such in terms of a Council Resolution.
- (5) Any outdoor advertising in designated areas may be restricted in terms of–
 - (a) the type of sign displayed;
 - (b) the time period permitted for the display of the sign;
 - (c) the content of the sign; and
 - (d) any other condition which may be prescribed by the Municipality.
- (6) Any outdoor advertising sign in a designated area may only advertise an event which will take place in the designated area.

CHAPTER 10

ENFORCEMENT

39. Lawful instructions

- (5) Failure to comply with a lawful request by an authorised official in accordance with the provisions of this By-law constitutes a contravention of this By-law.
- (6) An authorised official may enter onto any premises after reasonable notice has been given and at a reasonable time in order to conduct an inspection necessary for the proper enforcement and administration of this By-law.
- (7) In the event of the display of an unauthorised advertisement for an event held on private premises, the owner or person in charge of the premises must upon request by an authorised official provide the following information:
 - (a) name of event organiser; and
 - (b) any contact details of the event organiser.
- (8) Failure by the owner or person in charge to provide the information contemplated in subsection (3) will result in the owner or person in charge being guilty of an offence.

40. Notice to rectify or remove a sign

- (9) If an outdoor advertising sign contravenes–
 - (d) a provision of this By-law;
 - (e) any condition of a permit to display or alter an outdoor advertising sign;
 - (f) an Advertising Control Map or the accompanying schedule of conditions which may be issued in terms of this By-law, the Municipality must serve a contravention notice on the owner or permit holder.
- (10) The contravention notice must direct the owner or permit holder within the time period determined by the Municipality to cease with the unlawful display of the sign, and may include an instruction to–

- (a) demolish or remove any unauthorised structure or sign and where necessary rehabilitate the land to its original form; or
 - (b) submit an application for a permit in terms of this By-law within 30 days of the service of the contravention notice and pay the contravention penalty.
- (11) In the event that an application lodged in terms of paragraph 2(b) is refused, the owner or permit holder must demolish or remove the unauthorised structure or sign within a prescribed period.
- (12) The contravention notice contemplated in subsection (1) must–
- (a) identify the person to whom it is addressed to;
 - (b) provide a description of the immovable property on which the sign is located;
 - (c) indicate whether an approval has or has not been granted for the display of the sign;
 - (d) state that the display of the sign is illegal and indicate which provision of the Bylaw, condition or other provision the display of the sign contravenes;
 - (e) indicate the steps the person must take and the period within which such person must do so;
 - (f) direct the person's attention to the following:
 - (i) that the person could be prosecuted for and convicted of an offence;
 - (ii) that on conviction, the person will be liable for the penalties as provided for; and
 - (iii) that in addition to the conviction and imposition of a penalty, the person could be required by an order of the court to demolish or remove the unauthorised structure or sign and where applicable, allow the Municipality to enter the property to demolish or remove the unauthorised structure or sign; and
 - (g) in the case of an application for the authorisation of the sign as contemplated in section 2(b), that a contravention penalty including any costs incurred by the Municipality shall be imposed.
- (13) Where the court convicts a person of an offence contemplated in section 45 of this Bylaw, it may–
- (a) at the written request of the Municipality summarily enquire into and determine the monetary value of any advantage which that person may have gathered as a result of that offence; and
 - (b) in addition to the fine or imprisonment contemplated in section 46 of this By-law, order an award of damages, compensation or a fine not exceeding the monetary value of any advantage which the person may have gained as a result of that offence in favour of the Municipality.
- (14) Notwithstanding the provisions of section 40(1), in the event that an outdoor advertising sign–
- (a) constitutes an imminent or irreversible threat or danger to the environment or the health, safety or well-being of any person, property or the public;
 - (b) in the opinion of the Municipality, is indecent, obscene, offensive or otherwise objectionable; or
 - (c) is displayed on Municipal property and has not been approved, the Municipality may immediately and without notice to any person remove or rectify the sign.
- (15) The remedies provided for in this By-law are in addition to any other statutory or common law criminal or civil remedies that a Municipality may have at its disposal.
- (16) The Municipality may implement a property rates adjustment in accordance with the use of the property where it has confirmed a contravention of this Bylaw.

41. Recovery of costs

- (4) Where the Municipality removes or rectifies a sign or undertakes any remedial action, the owner and the permit holder shall be liable jointly and severally for the costs incurred by the Municipality in taking such action.
- (5) The recovery of costs contemplated in subsection (1) is in addition to any fine which may be imposed on those persons.
- (6) No person shall be entitled to compensation for any loss or damage arising out of any *bona fide* action or decision taken by the Municipality or any authorised official in terms of this By-law.

42. Removal of signs and impoundment

- (6) An authorised official may remove and impound an unlawful outdoor advertising sign as provided for in section 40(6) of this By-law or in terms of a court order.
- (7) The removal and impoundment of any outdoor advertising sign in terms of subsection (1) may be effected irrespective of whether or not such sign is in the possession or under the control of any third party at the time.
- (8) In the event that any goods to be impounded are attached to immovable property or a structure, an authorised official may order any person who appears to be in control of the immovable property or structure to remove the goods to be impounded.
- (9) If the person contemplated in subsection (3) refuses or fails to comply–
 - (a) such person is guilty of an offence; and
 - (b) the authorised official may remove the goods him or herself.
- (10) Any authorised official who removes and impounds goods in term of subsection (1) must issue the permit holder or owner of premises with a receipt which—
 - (l) captures the full name, identity number and contact details of the person;
 - (m) states the relevant section of the By-law contravened;
 - (n) itemises and describes the goods to be removed and impounded;
 - (o) provides the address where the impounded goods will be kept;
 - (p) states the period of impoundment;
 - (q) states the term and conditions which must be met to secure the release of the impounded goods;
 - (r) states the impoundment fee to be paid to secure release of the impounded goods;
 - (s) states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of;
 - (t) provides 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 representations must be made;
 - (u) contains an acknowledgement signed or marked by the person confirming that–
 - (i) the contents of the receipt are correct;
 - (ii) the contents of the receipt have been explained to him or her; and
 - (iii) he or she understands the consequences of impoundment and the requirements for the release of such impounded goods; and
 - (v) contains the name of the authorised official concerned and the date and time of impoundment.
- (12) An authorised official must, immediately upon removing the goods, transport such goods to the place of impoundment stated on the receipt issued to the person in terms of subsection (5).
- (13) The Municipality must–
 - (a) keep a register of impounded goods at all places of impoundment;
 - (b) immediately enter in the register the–

- (vi) details of the permit holder or owner of premises;
 - (vii) details of the goods removed and impounded, including the condition of such goods;
 - (viii) place and area where such goods were removed from;
 - (ix) name of the authorised official who attended to the removal and impoundment of the goods; and
 - (x) time and date of such removal and impoundment, upon the presentation of such goods at the place of impoundment.
- (14) Items which have been impounded may be released after payment of the prescribed impoundment and storage fees.
- (15) Impounded goods may be disposed of by the Municipality if the owner of the outdoor advertising sign does not, or is unable to, pay the impoundment fee within 30 days from the date of impoundment of those goods.
- (16) If impounded goods are disposed of by the Municipality in terms of subsection (9), the Municipality may, if the goods are claimed by the rightful owner, pay such person the proceeds of the sale less the prescribed impoundment and storage fees.
- (17) After the 30 day period mentioned in subsection (9) has lapsed, the Municipality must serve a notice on such person concerned advising him or her–
- (d) that the Municipality intends selling his or her impounded goods as a result of his or her failure to secure the release of such goods within the specified time;
 - (e) of the date, time and place where representations may be made by the person as to why the Municipality should not sell his or her goods; and
 - (f) of the date, time and place of such sale should the person prove to be unsuccessful in his or her attempt to have such goods released as per paragraph (b).

43. Vicarious liability

- (3) Where there has been a contravention of this By-law or a condition of a permit to display or alter an outdoor advertising sign, the owner of the premises on which an outdoor advertising sign is displayed, the permit holder or owner of the sign is deemed to have committed such contravention unless he or she satisfies the court that he or she took reasonable steps to prevent such contravention.
- (4) The fact that the owner, permit holder or owner of the sign contemplated in subsection (1) issued instructions to the employee or agent, prohibiting such contravention, must not in itself constitute sufficient proof of such reasonable steps.

44. Service of notices

- (3) Whenever a notice is required to be served on a person in terms of this Bylaw, it is deemed to have been effectively and sufficiently served on such person –
- (a) when it has been delivered to him or her personally;
 - (b) when it has been left at his or her place of residence or business in the Republic of South Africa with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic of South Africa and an acknowledgement of the posting thereof is produced;
 - (d) if his or her address in the Republic of South Africa is unknown, when it has been served on his or her agent or representative in the Republic of South Africa in the manner contemplated in paragraphs (a), (b) or (c); or

- (e) if his or her address and agent in the Republic of South Africa are unknown, when it has been affixed to a conspicuous place on the building.

(4) The date of notification in respect of any notice served in terms of this By-law

is—

- (a) on the fourth day after the postmarked date upon the receipt for registration, when it is served by registered mail;
- (b) the date of delivery, when it is served on the person personally;
- (c) the date that the notice was left at a person's place of residence or place business in the Republic with a person apparently over the age of sixteen years;
- (d) the date on which the notice was successfully transmitted, if the document is by electronic transmission to the e-mail address or facsimile address;
- (e) the date on which the notice was displayed in a conspicuous place on the property or premises to which it relates, is the date on which the notice was posted or affixed to such place; or
- (f) in the case of a juristic person, to its registered address or principal place of business.

45. Offences

(3) A person commits an offence if he or she—

- (a) contravenes any—
 - (i) provision of this By-law;
 - (ii) condition of a permit which has been issued to him or her; or
 - (iii) provision of an Advertising Control Map issued by the

Municipality in terms of this By-law;

- (b) fails to comply with any lawful instruction or notice given in terms of this By-law;
 - (c) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
 - (d) deliberately furnishes false or misleading information to an authorised official.
- (4) A person commits a continuing offence if he or she continues with an offence
- (a) after the notice has been served on him or her in term of this By-law requiring him or her to cease committing such offence; or
 - (b) continues with an offence after he or she has been convicted of such offence.

46. Penalties

(3) Any person who is convicted of an offence under this By-law is liable to a fine or imprisonment not exceeding 20 years, or to both such fine and imprisonment.

(4) In the case of a continuing offence, an additional fine or imprisonment for a period not exceeding three months, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

47. Presumptions

Any person charged with an offence in terms of this By-law who is—

- (f) alone, or jointly with any other person, responsible for organising, or in control of any meeting, function or event, to which an

outdoor advertising sign relates, is deemed, until the contrary is proved, to have knowingly displayed every unlawful sign displayed in connection with such meeting, function or event or to have caused or allowed it to be so displayed;

- (g) the person whose name appears on an unlawful outdoor advertising sign, or whose product or services are advertised on such sign, is deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed;
- (h) the owner of any land or building on which any unlawful outdoor advertising sign was or is displayed, is deemed, until the contrary is proved, to have knowingly displayed such sign, or caused or allowed it to be displayed;
- (i) in possession of ten or more identical handbills in a public place is deemed, until the contrary is proved, to be handing out such handbills; and
- (j) the owner of an advertising vehicle parked on private property but in view of a public place is deemed, until the contrary is proved, to have knowingly displayed the outdoor advertising sign on the advertising vehicle.

CHAPTER 11

MISCELLANEOUS PROVISIONS

48. Delegations

- (4) Subject to the Constitution and applicable national and provincial laws, any–
 - (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) function; or
 - (c) duty, conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.
- (5) A delegation contemplated in subsection (1) must be effected in accordance with the system of delegation adopted by the Council in line with section 59(1) of the Local Government: Municipal System Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.
- (6) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the–
 - (a) entity or person issuing the delegation or sub-delegation;
 - (b) recipient of the delegation or sub-delegation; and
 - (c) conditions attached to the delegation or sub-delegation.

49. Appeals

- (8) A person whose rights are affected by a decision taken by an authorised official in term of this By-law may appeal against that decision in term of the

Appeals provision contained in the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000) 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.

- (9) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

- (10) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (11) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
- (12) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (13) All appeals lodged are done so in term of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000) and not in term of this By-law.
- (14) Where a conviction has been confirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsection (1) to (5).

50. Repeal of laws and savings

- (1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

51. Transitional provisions

- (5) Any person who was authorised to display a sign in terms of a permit granted by or in terms of an agreement entered into between the Municipality or a local entity which was at that time competent to grant such permit or to enter into such agreement before 1 January 2010 must make application to the Municipality within six months of commencement of this By-law, failing which such authorisation shall lapse.
- (6) The Municipality must publish a notice in 2 local newspapers circulating within its area of jurisdiction calling for compliance with the provisions of this By-law.
- (7) Every owner of land, on which a sign was erected without formal approval, before the coming into operation of this By-law, that is prohibited by this Bylaw and which is not an advertisement or advertising sign for which the Municipality may grant approval, must be removed within 90 days of date of commencement of this By-law.
- (8) Where an advertisement or advertising sign has been erected or displayed before the date of commencement of this By-law without formal approval, which in terms of this By-law, may not be erected or displayed without the approval of the Municipality, the owner of the advertisement or advertising sign must apply to the Municipality, for approval, within 90 days from the date of commencement of this By-law, failing which the advertisement or advertising sign must be removed forthwith.

52. Short title and commencement

This By-law is called the Dihlabeng Local Municipality: Outdoor Advertising By-law, 2021, and takes effect on the date of publication in the *Provincial Gazette* or as otherwise indicated in the publication notice.

SCHEDULE 1

BILLBOARDS

1. Area of Control

A billboard may be permitted in urban areas of minimum control and in urban areas of partial control.

2. Environmental Impact Assessment

Any application for the display of or altering of a billboard must be accompanied by an Environmental Impact Assessment.

3. Size and Height

A billboard may not have—

- (a) an overall height in excess of seven m in landscape format or 12m in portrait format above the surface of the natural ground level; and
- (b) have an area in excess of 36m² in the case of ground signs.

4. Position

(3) A billboard must—

- (a) be spaced at least 120m; 200m or 300m apart on a road or freeway, where the speed limit is less than 60km/h, between 61-80km/h or greater than 81km/h respectively;
- (b) not be erected within a distance of 50 m from the nearest edge of an intersection on a lower order road and 100m from the nearest edge of an intersection on an arterial road;
- (c) not be erected within a distance of 100m; 200 m, 250m or 300m from any ramp gore and any yellow line break point at an interchange where the speed limit is equal to or less than 60km/h; between 61-80km/h; between 81-100km/h or greater than 100km/h respectively; and
- (d) not be erected within 50m; 100m or 200m from any road sign where a speed limit has been imposed which is equal to or less than 60km/h; between 61-80km/h or greater than 81km/h respectively.

(4) A billboard may not be displayed on a road reserve.

5. Duration of Permit

(3) A billboard may be permitted for a period of 5 years in urban areas of minimum control and in urban areas of partial control subject to conditions which may be imposed by the Municipality.

(4) Upon expiry of a permit granted for the display of a billboard, the permit holder has three months prior to the date of expiry to re-apply for a permit, failing which the permit to display lapses on date of expiry.

6. Safety

Any billboard displayed or altered must—

- (k) comply with any other applicable law;
 - (l) not be detrimental to the nature of the environment in which it is located by reason of scale, intensity of illumination or design;
 - (m) not partially or wholly obscure any approved outdoor advertising sign previously erected and legally displayed;
-

- (n) not constitute a danger to any person or property;
- (o) not encroach over the boundary line of the property on which it is erected;
- (p) not be erected if considered by an organ of state to be a distraction to drivers, cyclists or pedestrians which could contribute to unsafe traffic conditions;
- (q) not have red, amber or green as its main colours when it is located at signalised traffic intersections;
- (r) not obscure or interfere with any road traffic light or sign;
- (s) not constitute a road safety hazard or cause undue disturbance or where permitted to be illuminated if such illumination, in the opinion of Municipality, constitutes a road safety hazard or causes undue disturbance; and
- (t) not impede traffic flow on public roads during their display and maintenance, unless prior permission from the Municipality has been obtained and the necessary precautions have been taken and arranged.

7. General

- (5) A billboard may have a maximum of eight bits of information and a minimum lettering height of 500 mm.
- (6) The application number for the billboard must be displayed in a visible area on the sign.
- (7) All non-locality bound billboards must be clearly identified in term of ownership.
- (8) The billboard must where applicable display the name of the advertising company who is the lessee of immovable property on which the billboard is displayed.

SCHEDULE 2

GROUND SIGNS

1. Area of Control

Ground signs may be permitted in all areas of control.

2. Size and Height

A remote, non-locality bound ground sign which does not have an overall height in excess of 7m above the ground at any point nor dimensions which exceed 6m in length and 3m in height, and a total area of 18m² per face, shall be deemed to be of appropriate dimensions.

3. Position and number of signs

- (4) Only one on-site, locality bound, freestanding ground sign per premises may be permitted where–
 - (a) it is necessary to facilitate the location of the entrance or access to a business premises;
 - (b) it is not reasonably possible to affix appropriate signs to the building;
 - (c) the business premises is so set back as to make proper visibility of signs on the building not feasible; or
 - (d) the existence of a freestanding composite sign may prevent the proliferation of signage.
- (5) An on-site, locality bound freestanding ground sign in the form of a business sign and tower structure may be permitted in terms of the National Building Regulations and applicable laws, provided that no such sign may–
 - (a) exceed 7m in overall height;
 - (b) have a clear height of less than 2,4m, excluding service facility signs and free standing composite signs;
 - (c) exceed 12m² (measured as total height x total width of the advertising structure) when such sign is a combination sign;

- (d) be restricted to one such sign per site per street frontage or as otherwise permitted at the Municipality's discretion; and
 - (e) contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
- (6) A ground sign with dimensions which exceed those contemplated in subsection (2) shall not be erected unless, in the opinion of the Municipality, such sign screens premises which detract or are likely to detract from the amenities of the neighbourhood by reason of their appearance or the use to which they are put.

4. Duration of Permit

- (3) A non-locality sign which is a billboard may be displayed for a maximum of 5 years.
- (4) A locality bound sign may be displayed for a period as specified in the permit.

5. General

- (4) This class of sign includes service facility signs, such as those displayed at filling stations.
- (5) Any area between a ground sign and the street line shall be grassed or otherwise ornamented at the expense of the applicant and to the satisfaction of the Municipality.
- (6) Ground signs shall include project boards and development boards.

6. Development boards

- (4) Development boards may—
 - (a) be a maximum of 18m² in size; and
 - (b) be displayed for a maximum of 24 months.
- (5) If a development takes longer than 24 months to complete, a new application for the display of a development board must be submitted.
- (6) The following information must be displayed on a minimum of 50% of development boards while the picture of the development shall take up the rest of the space—
 - (a) name and type of development;
 - (b) developer's details;
 - (c) opening date;
 - (d) estate agents' details; and (e) on-show details.

SCHEDULE 3

FLAT SIGNS

Flat signs are permitted in all areas of control.

1. Environmental Impact Assessment

- (1) Applications for remote flat signs which exceed 36m² must be accompanied by an Environmental Impact Assessment and an approved building plan for the structure.

2. Size and Height

- (3) The maximum projection of any part of a flat sign shall be 180mm where the underside of such sign measures less than 2,4m from a footway or pathway immediately below it, and the maximum projection shall be 300mm where the underside of such sign measures more than 2,4m above such footway or ground level.

A flat sign may not exceed 54m² in total area or exceed 50% of the visible wall surface area to which they are attached, affixed or painted, whichever is the lesser.

3. Position

- (6) On-site, locality bound flat signs shall be permitted to be attached to the front, side and back walls of a building.

- (7) On site, non-locality bound flat signs shall only be permitted to be attached to the side and back walls of buildings which do not fulfil the function of a building facade.
- (8) A non-locality bound flat sign may only be permitted on blank return and back walls that have no sections which may be opened or that compromise any architectural features of the building.
- (9) A flat sign shall not extend beyond the ends of the wall to which it is attached in any direction.
- (10) A flat sign may not cover any windows or other external openings of a building or obstruct the view from such openings.

4. Number

Only one flat sign per enterprise per wall may be permitted by the Municipality.

5. Duration of Permit

- (3) A non-locality sign which is considered in the assessment thereof to be a billboard may be displayed for a maximum of 5 years.
- (4) A locality bound sign may be displayed for a period as specified in the permit.

6. Content

A locality bound flat sign may not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.

7. General

A flat sign displayed in urban landscapes of partial to maximum control may not exceed 50% of the visible wall surface area.

SCHEDULE 4

PROJECTING SIGNS

Projecting signs may be permitted in areas of partial and minimum control.

1. Size and Height

- (3) Projecting signs may have a maximum thickness of 300mm.
- (4) The minimum clear height of a projecting sign shall be 2,4m.

2. Position

- (6) Projecting signs may not extend beyond the ends of the wall to which it is attached.
- (7) Projecting signs must have a minimum clearance of 450mm from the edge of a roadway and 1,5m from any overhead electricity wires or cables.
- (8) The maximum projection of a sign may–
 - (a) be 1,5m in the case of a projecting sign which has a clear height of more than 7,5m; or
 - (b) 1m where the sign has a clear height of less than 7,5m.
- (9) Projecting signs must be installed at right angles to the street facade or to the direction of oncoming traffic.
- (10) A projecting sign may not be displayed within 5m of any other projecting sign displayed on the same building.

3. Number

Only one projecting sign per enterprise per street-facing is permitted.

4. Duration of Permit

- (3) A projecting sign shall be permitted for the duration of the business.
- (4) A projecting sign may not be displayed where a business is no longer in operation.

5. General

- (4) All projecting signs must be locality bound.
- (5) Projecting signs may not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
- (6) Letters on a projecting sign must be written horizontally.

SCHEDULE 5

ROOF SIGNS

Roof signs may only be permitted in harbour and industrial zones, and in commercial zones below road level.

1. Size and Height

The maximum permitted size of a roof sign shall depend on the area of the specific roof, the character of the building and a consideration of the urban- and streetscape as a whole.

2. Position

Roof signs must be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.

3. Design and Construction

- (3) Roof signs must be thoroughly secured and anchored to the building on or over which they are to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.
- (4) A roof or sky sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Municipality and if illuminated, shall not be placed on or over the roof of any building unless such sign, as well as the entire roof construction, is constructed of non-combustible material.

4. General

- (5) Locality bound roof signs may be permitted with the consent of the Municipality.
- (6) Roof signs may not obstruct the view or affect the amenity of any other building.
- (7) Roof signs shall not contain advertising matter other than locality bound roof signs. A locality bound roof sign may not have more than 50% of the area of the face of the sign containing advertising matter.
- (8) A roof sign may not be used for third party advertising.

SCHEDULE 6

SKY SIGNS

A sky sign may only be displayed at landmark sites in areas of minimum or partial control and in special advertising zones with the specific consent of the Municipality.

1. Position

- (4) A sky sign may not project in front of a main wall of a building so as to extend beyond the roof of such building in any direction.
- (5) A sky sign may not obstruct the view of or affect the amenity of any other building.
- (6) A sky sign must be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.

2. Number

Additional remote advertising signs may not be erected on a building where approval for the display of a sky sign has been granted.

3. Duration of Permit

A locality bound sign may be displayed for a period as specified in the permit.

4. Safety

A sky sign must be properly secured and anchored to the building on or over which it is to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.

5. Design and Construction

A sky sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Municipality and if illuminated, may not be placed on or over the roof of any buildings unless such sign, as well as the entire roof construction, is constructed of non-combustible material.

6. Content

The content of a sky sign is limited to advertising for branding purposes and the display of advertising campaigns is prohibited.

7. General

- (3) All applications for the display of a sky sign must be accompanied by an engineer's certificate.
- (4) An engineer's certificate must be submitted to the Municipality within five days of completion of the structure.

SCHEDULE 7

VERANDA, BALCONY, CANOPY AND UNDER-AWNING SIGNS

2. Area of Control

Veranda, balcony, canopy and under-awning signs are permitted in all areas of control.

2. Size and Height

An under-awning sign suspended below the roof of a veranda, canopy or balcony must-

- (d) be 1,8m in length, 610mm in height and 300mm in thickness;
- (e) have a minimum thickness of 100mm; and
- (f) have a minimum height of 2,4m above the pavement, footpath or street.

3. Position

- (4) A sign may be affixed flat on to or painted on a parapet wall, beam or fascia of a veranda or balcony.
- (5) A sign may not be allowed on or over architectural features of buildings, any may not cover any window or obstruct the view from any such opening or detract from the aesthetics of the building.

- (6) A sign contemplated in item 3 (1) may not–
- (a) exceed 1m in height;
 - (b) project beyond any of the extremities of the surface to which it is affixed;
 - (c) project more than 300mm in front of the surface to which it is affixed; and
 - (d) extend within 450mm of the edge of a roadway unless the clear height of such sign is a minimum of 3.7m.

7. Number

One sign is permitted to be displayed per property.

8. Duration of Permit

Only one sign per enterprise per street-facing is permitted.

9. General

Signs will be permitted for the duration of the enterprise.

7. Design and Construction

- (3) Any sign which is attached to a building of the height set out in Column 1 of Table 1 below, shall be so situated that no part of such sign has a depth greater than that set out in Column 2. For the purpose of such Table, the height of the building shall be measured as its vertical height above the ground at the point where the sign is to be erected.

TABLE 1	
Column 1	Column 2
Height of building	Maximum Depth of Sign
Not exceeding 17 m	9 m
Exceeding 17 m but not exceeding 34 m	12 m
Exceeding 34 m but not exceeding 43 m	14 m
Exceeding 43 m	15 m

- (4) In calculating the depth of any sign in accordance with the above Table, signs placed one above the other in the same vertical plane on the same building, or tier of that building, shall be deemed to be one sign, whether or not such signs belong to different owners or are displayed under separate permits.

8. General

- (4) An under-awning sign suspended below the roof of a veranda, canopy or balcony must–

- (a) be 1,8m in length, 610mm in height and 300mm in thickness, with a minimum thickness of 100mm;

- (b) have a minimum height of 2,4m above the pavement, footpath or street;
 - (c) have its axis of symmetry at right angles to the street line;
 - (d) be centralised within the width of the veranda or canopy to which it is attached;
 - (e) be allowed with a minimum spacing of 3m centre to centre between signs;
 - (f) contain advertising matter other than on an exclusively directional sign which may not contain more than 50% advertising matter of the area of any face thereof; and
 - (g) be designed, supervised and certified by an engineer.
- (5) A sun-blind and awning must be constructed and fixed in such a manner as to be incapable of being lowered to less than 2,2m above the footway or pavement directly beneath it. Such signs must be parallel to the building line and may not interfere with vehicular or pedestrian traffic, traffic lights or traffic signs.
- (6) A sign must not be displayed above the lower edge of any visible second-floor window.

SCHEDULE 8

POSTERS, BANNERS & FLAGS (TEMPORARY SIGNS)

1. Area of Control

Posters, banners and flags are permitted in all areas of control.

2. Size

Any person who displays a poster, banner or flag advertisement to be displayed must ensure that—

- (a) any advertisement relating to an election, meeting, function or event must—
 - (i) be of maximum A1 in size;
 - (ii) have a clear height of minimum 2,4m; and
 - (iii) be securely fixed to durable hardboard, approved backing board or any other material, frame or fixing as approved by the Municipality; and
- (b) in the case of private property, where the event, function or meeting is taking place, the maximum size of a banner shall be 6m².

3. Position

- (1) There must be a minimum of 120m spacing between posters for the same event.
- (2) No posters are permitted to be displayed on bridges, traffic lights, traffic signs (includes supporting structure for such signs), natural features, trees, freeways, road centre islands or national roads.
- (3) No posters are permitted to be displayed on roads with a speed limit >60km/h.

- (4) Any advertisement relating to an election, meeting, function or event may not be placed in such a manner that the content of separate advertisements when read in succession forms a continuous relative legend.
- (5) The positioning of posters is restricted to electricity lamp standards.
- (6) Temporary advertisements may not be displayed on any national roads, highways, freeways and other areas as identified by the Municipality from time to time.

4. Number

- (1) Any person displaying any poster advertisement relating to an election, meeting, function or event shall be permitted one poster per electricity lamppost.
- (2) A maximum of two event posters, one street-pole banner or one poster is permitted per pole for two unrelated events.

5. Duration of Permit

- (1) A poster may not be displayed for more than 14 days prior to commencement of the event and must be removed within the prescribed period provided for in the permit
- (2) The provisions contained in subsection (1) do not apply to election posters.

6. General

- (1) Every person intending to display or erect any temporary advertisement or sign, for which the prior written permission of the Municipality is required, shall submit a written application to the Municipality, which shall be accompanied by the following-
 - (a) proof of advertisement to which the application relates, prior to printing, and
 - (b) a distribution list of the streets in which the advertisement is to be displayed.
- (2) Commercial advertising on a poster may not occupy more than 10% of the surface of the advertisement and must be displayed at the bottom of the poster.
- (3) Every poster for which permission is granted shall visibly display the Municipality's sticker or marking and the Municipality shall be entitled to retain one such poster for identification purposes.
- (4) Posters erected on Electricity Poles are subject to removal for maintenance work as and when necessary, and no notice is required to be given for their removal.
- (5) Any person who is granted permission to display posters must pay a prescribed deposit to the Municipality: Provided that such deposit shall not be refunded to the applicant where they fail to remove the posters within the specified period following the taking place of the advertised event.

SCHEDULE 9

AERIAL ADVERTISEMENTS

1. Area of Control

Aerial advertisements may be permitted in all areas of control.

2. Size

An aerial advertisement may not exceed 36m² in size.

- 3. Height**
No aerial advertisement may be flown at a height of more than 45m from the surface or ground.
- 4. Number**
Only one aerial advertisement is permitted per event.
- 5. Duration of Permit**
An aerial advertisement may only be displayed for the duration of the event.
- 6. Safety, Design and Construction**
 - (1) An engineer must provide a certificate confirming that the structure and tethering is suitable for display of the aerial advertisement.
 - (2) The engineer's certificate contemplated in subsection (1) must accompany the applicant's application to display the sign.
- 7. General**
 - (1) Any written application for the display of an aerial advertisement must be accompanied by the following, where applicable—
 - (a) particulars of the content and dimensions of the aerial advertisement and of the aerial device by means of which the advertisement is to be displayed;
 - (b) particulars of the materials used and method of construction and anchorage;
 - (c) particulars of the intended location with a description of the premises to which the aerial device will be anchored or tethered and details of electricity and telephone poles and cables and other structures within 30m or length of tether, whichever is the greater, of the point of anchorage;
 - (d) the name and address of the person/s or contractor/s displaying the aerial advertisement and the name and address of the approved competent person in attendance of the aerial device and of its owner;
 - (e) the period and times of intended display;
 - (f) written consent by the owner for such anchoring, where the applicant is not the owner of the premises to which the aerial device is to be anchored or tethered;
 - (g) proof of the provision of an automatic deflation device;
 - (h) adequate public liability insurance to the municipality's satisfaction;
 - (i) approval by and any conditions or requirements prescribed by the national Civil Aviation authority; and (j) engineers certificate.
 - (2) Aerial advertisements shall be permitted for events of a sporting, civic, cultural or political nature only and shall not be displayed or caused to be displayed on, from or over Municipal property, including any street or public place.

SCHEDULE 10

ADVERTISING VEHICLES

- 1. Area of Control**
Advertising vehicles are permitted in all areas of control, except in Central Business Districts.
- 2. Size and Height**
The advertising panel or portion of the vehicle used for transit advertising shall be a total of 18m² per panel and a maximum of eight bits is permitted per panel.
- 3. Position**
 - (1) An advertising vehicle may not be placed or parked on any property in a manner where it is visible from a public place.
 - (2) An advertising vehicle parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from any street or public place.
 - (3) The Municipality may identify municipal property where the parking or placement of advertising vehicles may be permitted.
- 4. Duration of Permit**
A permit to display may be granted for a maximum period of two years
- 5. Safety**
The safety conditions as contained in section 27 of the By-law apply.

6. General

- (1) Every application for the display of an advertising vehicle must be accompanied by–
- (a) particulars of the materials of which the advertising sign is made, its dimensions, the manner of its construction and the method by which it is secured to the advertising vehicle;
 - (b) the name, address and telephone number of the owner of the vehicle or, if the owner resides or has his place of business outside the boundaries of the Dihlabeng Local Municipal area, of the person having control of the vehicles at all times;
 - (c) a copy of the current vehicle licence and registration certificate issued in respect of such vehicles, as required in term of the Road Traffic Act, and
 - (d) public liability insurance in the Municipality's favour for a minimum of R2,5 million.

SCHEDULE 11

FLAGS ON-SITE (PRIVATE PROPERTY)

1. Area of Control

An application for flags on-site on private property may be considered for properties which are in areas of minimum control and partial control.

2. Size and Height

The minimum sizes of flags must be in accordance with the national standards for national flags on flag-poles.

3. Position

- (1) Flags on-site may be attached to a building or boundary wall, but may not encroach on municipal property.
- (2) The length of a pole attached to a building may not exceed two m in length.
- (3) An on-site flag attached to a flag-staff must have a minimum ground clearance of 2,5m and the pole must not exceed 4m in height.

4. Number of signs

A maximum of 4 flags displaying the name of the business which are street-facing may be permitted to be displayed.

5. Duration of Permit

A permit may be granted for the duration as specified in the permit

6. Safety, Design and Construction

- (1) Flags must be constructed of durable PVC materials and the flag-pole must be resistant to rust and corrosion.
- (2) All flag-faces must be secured so that they may not be caused to be blown by the wind to the extent that they de-attach from the pole.

SCHEDULE 12

ESTATE AGENTS BOARDS AND CONTRACTORS BOARDS

1. Area of Control

Estate agent's boards are permitted in all areas of control.

2. Position

Estate agent boards must be placed within a distance as determined by the Municipality from the boundary of the property or the perimeter fence and at right angles from the perimeter fence or boundary of the property.

3. Number of signs

- (1) The number of estate agent's boards permitted per property are as follows:
 - (a) area of maximum and partial control – a maximum of two signs per residential property where there is more than one agent selling or leasing the property;
 - (b) area of partial control (commercial) - a maximum of three signs per commercial property where there is more than one agent selling or leasing the property; and
 - (c) area of minimum control (industrial) – each agent to have only one sign on the perimeter fence where there is more than one agent selling or leasing the property.
- (2) A residential property real estate agent is permitted two estate agent's boards property per street-facing in respect of "For Sale/For Rent" signs if there is more than one selling agent.
- (3) A maximum of six estate agent's boards may be displayed to direct members of the public to a property "on show".
- (4) An "on show" estate agent's board may be displayed from 13h00 on a Saturday and must be removed before 09h00 on the following Monday.
- (5) A maximum of four contractors boards are permitted per site.

4. Duration of display of estate agent's board

An estate agent's board must be removed within 30 days from date of sale or leasing of property to which it relates.

5. General

- (1) Estate Agents must be registered with the Development Management's General Advertising Branch of the Municipality in accordance with the provisions of this By-law.
- (2) A commercial real estate agents' board may only state "For Rent", "To Let" or "For Sale".
- (3) A commercial property board must be a maximum of 2m² in size.
- (4) A residential property board may only be 0.552m² in size.
- (5) A contractor's board may not be less than 0.9m² or exceed 1.5m² in size.

6. Contents and position

- (1) A ground sign displayed by a commercial property estate agent may not–
 - (a) exceed 4 m in height;
 - (b) exceed 3m² in size;
 - (c) be displayed on vacant land without special consent having been obtained by the Principal of the agency;
 - (d) contain photographs of the Agent; and
 - (e) be positioned outside the boundaries of the vacant land which is for sale.
- (2) An estate agent may only display one free-standing board per street face.

SCHEDULE 13

COMMUNITY POLICING FORUM (CPF) AND CONSERVANCY SIGNS

1. Area of Control

Community Policing Forum and Conservancy Signs are permitted in all areas of control in a public place situated at or close to a Police Station.

2. Size and Height

- (1) The maximum height of a ground sign may only be 4m and the face of the ground sign may only be 1.5m x 1m.

3. Position

- (1) CPF boards may be positioned on municipal property.
(2) Banners and flags are only permitted inside the perimeter fence of the venue on the day of a meeting of the CPF or conservancy and are exempt from application fees.

4. Number

A CPF or conservancy ground sign is limited to one ground sign per street or road frontage.

5. Duration of Permit

- (1) An approval of CPF or conservancy signs may only be granted for maximum of 5 years.

6. Safety, Design and Construction

The structure and face of the ground sign may not be illuminated.

7. General

- (1) An application for permission to display a CPF or conservancy sign must be made by the chairperson of the CPF or Conservancy, and the application must include–
(a) a motivation letter by the chairperson;
(b) a letter from the Station commander of the South African Police Service or a letter confirming the status of the conservancy from the Deputy-Head: Environmental Management; and
(c) a proposed site or position which must be approved by the eThekweni Traffic Authority.
(2) only 30% area of the sign board may be reserved for sponsorships.
(3) The telephone number, logo and website address of the CPF or conservancy must be displayed on the ground sign.

SCHEDULE 14

SIGNS AT STADIA AND SPORTS GROUNDS

Locality bound signs are permitted in all areas of control.

1. Size and Type

The size and types of signs permitted at stadia will be determined by environmental factors such as traffic, land use and visual impact of the area where the stadium or public sports ground is located.

2. Position

The appropriateness of the position may be determined by the sign's environmental impact and the provisions of the By-law.

3. Number

One type of sign per street facing is permitted.

4. Duration of Permit

(1) Signs in stadia may be displayed for a determined period as stipulated in the permit.

(2) A temporary sign may only be displayed if the Stadium Management has obtained written permission from the Municipality and such signs may only be displayed for the duration of the event.

5. Safety

The safety conditions as contained in section 27 of the By-law apply.

6. General

7. The following classes of permanent signs will be considered at stadia, and include:

- a ground signs;
- b wall signs;
- c fascia signs; and
- d National and Sports Affiliation Flags.

8. Temporary signs may be considered for use within the premises of the venue while an event is taking place and includes but is not limited to, inflatable signs, banners and flags.

SCHEDULE 15

SIGNS AT SCHOOLS

Signs at schools are permitted in all areas of control.

1. Size and Content

- (1) A school must submit an application to the Municipality where it intends to display signs where the total areas of the signs exceed 12m².
- (2) A sponsor's content on all permitted signs may not exceed 50% on signs which display the school's name.

2. Position

A suitable position for a sign will be determined by the Municipality and will be a condition of approval for a permit.

3. Number

- (1) One billboard of a maximum size of 18m² will be permitted per school subject to the requirements of the display of a billboard.
- (2) One ground sign may be permitted per street-face.

4. Duration of Permit

All sponsored signs and billboards are permitted to be displayed for a maximum of 5 years.

5. Safety

- (1) The supporting structures of ground signs must be padded and raised 3m from the ground.
- (2) Branding may be permissible on the padding contemplated in subsection (1).

6. Design and Construction

All signs displayed must be cladded according to Municipal specifications.

7. General

- (1) An application for the display at signs at schools must be signed by the Chairperson of the School Governing Body.
- (2) Sponsor signs which display only the sponsor's content must face within the school premises.
- (3) An application for the display of a sponsor sign must be accompanied by a copy of the contract entered into between the school and the sponsor.
- (4) A school may apply for the display of a fifty-fifty sign on a wall which permit is renewable every 5 years.
- (5) A school who displays signs in term of the permit issued by the Municipality is exempt from the payment of annual levies.

SCHEDULE 16

HOME BUSINESS SIGNS

Home business signs are permitted in all areas of control.

1. Size and Height

- (1) One sign, per street frontage premises on which a home business is conducted, is permitted with a maximum size of 0,6 m².
- (2) A home business sign may not be illuminated.

2. Position

The home business sign must be strictly on the boundary of the property.

3. Number

One sign per street frontage premises on which a home business is conducted is permitted.

4. Duration of Permit

A permit is valid for the duration of the validity period of a Consent Use Approval from the Development Planning Department.

6. Safety

The safety conditions as contained in section 27 of this By-law apply.

7. Design and Construction

The Municipality may consider an application for a home business sign to be painted on the premises perimeter walls, subject to conditions.

8. General

- 1) Home businesses are required to obtain Consent Use approval from the Dihlabeng Municipality Development Planning Department before displaying any signs on their premises.
- (2) Each sign may display the name of the business, address and contact details and a maximum of eight bits of information is permitted.
- (3) The following types of signs may not be displayed–
 - (a) free-standing signs;
 - (b) illuminated signs;

- (c) signs with moving parts;
- (d) electronic signs;
- (e) banners;
- (f) flags;
- (g) projecting signs;
- (h) canopy and under-awning signs;
- (i) project replica signs;
- (j) inflatable signs; and
- (k) wrapping of trees on Municipal property.

SCHEDULE 17

BUILDING WRAP SIGNS

A building wrap sign may only be permitted in areas of minimum and partial control.

1. **Size and Height**
The Municipality shall determine the shape, dimension and area of the sign on a case by case basis.
2. **Duration of the permit**
An approval for a building wrap sign may be granted for a maximum period of 12 months.
3. **General**
The Municipality may permit the external illumination of a building wrap sign

SCHEDULE 18

AREAS OF CONTROL

MAXIMUM			PARTIAL	MINIMUM
Natural landscape	Rural landscape	Urban landscape	Urban landscape	Urban landscape
National Parks	Municipal Parks	Metropolitan	Central Business	Central commercial
Nature reserves	Horticultural areas	Open Space System	Districts	districts linked to
Forestry areas	Private Open	Private Open Spaces	Commercial &	railway/industrial
Natural environments	Spaces	Public Open Spaces	office	zones
Marine Reserves	Public Open	Pedestrian malls	components of	Industrial areas
Beaches and	Spaces	Pedestrian squares	residential	Industrial zones
Sea shores	Rural small	Community facilities	amenities	Transport nodes
Oceans	holdings Intensive	Urban small holdings	Commercial	Traffic corridors
Extensive agriculture	agriculture	All Residential zones	enclaves in	Transportation
Scenic corridors	Scenic drives	Scenic features	residential areas	terminals
Scenic landscape	Scenic routes	Scenic drives	Commercial	
River corridors	Scenic features	Gateways	nodes & ribbon	
Wetlands	Peri-urban and	River corridors	development	
Open Spaces	Traditional areas	Wetlands	Municipal /	
		Conservation Areas	Government	
		Heritage &	Entertainment	
		Battlefield sites Historic	districts or	
		or graded buildings and	complexes	
		areas Visual zones	Educational	
		along urban freeways	institutions	
		Visual zones along	Sports fields &	
		urban freeways	stadia Mixed	
			use & interface	
			areas	
			Visual zones along	
			urban roads	

DIHLABENG LOCAL MUNICIPALITY

Passing of By-Law: Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) that the Council of Dihlabeng Local Municipality has passed a Credit Control and Debt Collection By-Law as regulations made by the Council.

**CREDIT CONTROL AND DEBT COLLECTION BY-LAWS
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CHAPTER 1: DEFINITIONS

- 1(1) For the purpose of these by-laws any words or expressions to which a meaning has been assigned in the Act, shall bear the same meaning in these by-laws unless the context indicates otherwise – “account” means any account rendered for municipal services provided;
 “Act” means the Local Government: Municipal Systems Act. 2000 (Act No 32 of 2000), as amended from time to time;
 “applicable

“applicable charges” means the rate, charge, tariff, flat rate, or subsidy determined by the municipal council;
 “average consumption” means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by customer over the preceding three months by three; “actual consumption” means the measured consumption of that municipal service by any customer;
 “agreement” means the contractual relationship between the council or its authorized agent and a customer, whether written or deemed; “area of supply” means any area within or partly within the area of jurisdiction of the council to which a municipal service are provided; “arrears” means any amount due, owing and payable by a customer in respect of municipal services rendered and not paid on the due date;
 “authorized agent” means –

- (1) any person authorized by the municipal council to perform any act, function or duty in terms of or exercise any power under these by-laws; and/or
- (2) any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or
- (3) any person appointed by the municipal council in terms of a written contract as a service provider to provide revenueservices to customers on its behalf, to the extent authorized in such contract;

“commercial customer” means any customer other than household and indigent customers, including without limitation, business, government and institutional customers; “connection” means the point at which a customer gains access to municipal services; “council” means

(4) the Dhlabeng Local Municipality or its successors-in-title; or

“customer” means a person with whom the council or its authorized agent has concluded an agreement for the provision of municipal services;

“defaulter” means any customer who owes arrears;

“due date” means the date on which the amount payable in respect of an account becomes due, owing and payable by the customer.

“emergency” means any situation that if allowed to continue, poses a risk or potential risk to the financial viability or sustainability of the council or a specific municipal service;

“household” means a customer that occupies a dwelling, structure or property for residential purposes;

“household” means a traditional family unit

“illegal

connection” means a connection to any system through which municipal services are provided that is not authorized or approved by the council or its authorized agent;

“indigent

customer” means a household customer qualifying and registered with the council as an indigent in accordance with these by-laws;

“municipal

council” means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No 108 of 1996);

“municipal

manager” means the person appointed by the municipal council as the municipal manager of the council in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No 177 of 1998) and includes any person –

(1) acting in such position; and

(2) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

“municipal services” means for purposes of these by-laws, services provided by the council or its authorized agent, including refuse removal, water supply, sanitation, electricity supply and rates or any one of the above.

tenants whether for his down account or as an agent for any person entitled thereto or interested therein;

“owner” means-

(1) the person in who from time to time is vested the legal title to premises;

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

(3) in any case where the council or its authorized agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;

(4) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;

(5) in relation to –

(1) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986) the developer or the body corporate in respect of the common property, or

(2) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of

1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or

(6) a person occupying land under a register held by a tribal authority;

“person” means any person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

“public notice” means publication in an appropriate medium that may include one or more of the following -

(1) publication of a notice, in the official languages determined by the municipal council, -

(1) in the local newspaper or newspapers in the area of the council; or

(2) in the newspaper or newspapers circulating in the area of the council determined by the municipal council as a newspaper or record; or

(3) by means of radio broadcasts covering the area of the council;

(2) displaying a conspicuous notice at appropriate offices and pay-points of the council or its authorized agent; or

(3) communication with customers through public meetings and ward committee

“ratableproperty” means the land situated within a village area, municipality or local area, as the case may be;

“sharedconsumption” means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone in which a customer’s premises is situated for the same period, by the number of customers within that supply zone, during the same period;

“subsidizedservice” means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service, including services provided to customers at no cost;

“supplyzone” means an area, determined by the council or its authorized agent, within which all customers are provided with a service from the same bulk supply connection;

“unauthorizedservice” means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorized or approved by the council or its authorized agent;

CHAPTER 2: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS

Part 1: Application for Municipal Services

Application for Services

1.(1) A customer wanting to qualify, as an indigent customer must apply for services as set out in Chapter 4 below.

(2) No person shall be entitled to municipal services unless application has been made to, and approved by, the council or its authorized agent on the prescribed form attached as Annexure A to these by-laws.

(3) If, at the commencement of these by-laws or at any time, municipal services are provided and received and no written agreement exist in respect of such services, it shall be deemed that –

(1) an agreement in terms of sub-section (7) exists; and

(2) the level of services provided to that customer are the level of services elected;

Until such time as the customer enters into an agreement in terms of sub-section (2).

(4) the council or its authorized agent must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and/or charges associated with each level of service.

- (5) The council or its authorized agent is only obliged to provide a specific level of services requested if the service is currently being provided and if the council or authorized agent has the resources and capacity to provide such level of service.
- (6) A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the customer.
- (7) An application for services submitted by a customer and approved by the council or its authorized agent shall constitute an agreement between the council or its authorized agent and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) In completing an application form for municipal services the council or its authorized agent will ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner.
- (9) In the case of illiterate or similarly disadvantaged persons, the council or its authorized agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (10) Municipal services rendered to a customer are subject to the provisions of these by-laws, any applicable by-laws and the conditions contained in the agreement.
- (11) If the council or its authorized agent –
 - (1) refuses an application for the provision of municipal services or a specific service or level of service;
 - (2) is unable to render such municipal services or a specific service or level of service on the day requested for such provision to commence; or
 - (3) if the premises to receive such services are situated outside the area of supply, provided that the council, having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the council having jurisdiction of such special agreement

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- (2) No person shall be entitled to municipal services unless application has been made to, and approved by, the council or its authorized agent on the prescribed form attached as Annexure A to these by-laws.
- (3) If, at the commencement of these by-laws or at any time, municipal services are provided and received and no written agreement exist in respect of such services, it shall be deemed that –
 - (1) an agreement in terms of sub-section (7) exists; and
 - (2) the level of services provided to that customer are the level of services elected;
Until such time as the customer enters into an agreement in terms of sub-section (2).
- (4) the council or its authorized agent must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and/or charges associated with each level of service.
- (5) The council or its authorized agent is only obliged to provide a specific level of services requested if the service is currently being provided and if the council or authorized agent has the resources and capacity to provide such level of service.
- (6) A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the customer.
- (7) An application for services submitted by a customer and approved by the council or its authorized agent shall constitute an agreement between the council or its authorized agent and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.

- (8) In completing an application form for municipal services the council or its authorized agent will ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner.
- (9) In the case of illiterate or similarly disadvantaged persons, the council or its authorized agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (10) Municipal services rendered to a customer are subject to the provisions of these by-laws, any applicable by-laws and the conditions contained in the agreement.
- (11) If the council or its authorized agent –
- (1) refuses an application for the provision of municipal services or a specific service or level of service;
 - (2) is unable to render such municipal services or a specific service or level of service on the day requested for such provision to commence; or

- (2) if the premises to receive such services are situated outside the area of supply, provided that the council, having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the council having jurisdiction of such special agreement.

(3)
(4) **Special agreements for Municipal Services**

- (5)
(6) 2. The council or its authorized agent may enter into a special agreement for the provision of municipal services with an applicant-

- (7)
(8) (1) within the area of supply, if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these by-laws;
(9) (2) receiving subsidized services;
and

- (10) (3) if the premises to receive such services are situated outside the area of supply, provided that the council, having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the council having jurisdiction of such special agreement.

(11)
(12) **Change in purpose for which municipal services are used**

- (13)
(14) 3. Where the purpose for on extent to which any municipal service used is changed, the onus and obligation is on the customer to advise the council or its authorized agent of such change and to enter into a new agreement with the council or its authorized agent.

(15)
(16) **Property developments**

- (17)
(18) 4.(1) A property developer must, on the provision of infrastructure for the provisioning of municipal services, inform the council or its authorized agent in writing of the details of all municipal services that may be provided through the infrastructure and the details of all measuring devices that will be installed.

- (19)
(20) (2) A property developer that fails to comply with the provisions of sub-section (1) shall be liable for the payment of all estimated applicable charges that would have been payable by customers in respect of municipal services, provided if the details thereof was known by the council or its authorized agent.

(21)
(22) **Part 2: Applicable Charges**

(23)
(24) **Applicable charges for municipal services**

- (25)
(26) 5.(1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the municipal council in accordance with –

- (27)
(28) (a) its Rates and Tariff policy;

- (29) (b) any by-laws in respect thereof; and
- (30)
- (31) (c) any regulations in terms of national or provincial legislation
- (32)
- (33) (2) Applicable charges may differ between different categories of customers, users of services, types and levels of services, quantities or services, infrastructure requirements and geographic areas.
- (34)
- (35) **Availability/Fixed charges for Municipal Services**
- (36)
- (37) 6. The municipal council may, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed.
- (38)
- (39) **Subsidized Services**
- (40)
- (41) 7.(1) The municipal council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- (42)
- (43) (2) The municipal council may in implementing subsidies differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.

3) Public notice in terms of sub-section (1) must contain at least the following details applicable to a specific subsidy –

- (a) the household customers that will benefit from the subsidy;
- (b) the type, level and quantity of municipal service that will be subsidized; (c) the area within which the subsidy will apply;
- (d) the rate (indicating the level of subsidy);
- (e) the method of implementing the subsidy; and
- (f) any special terms and conditions that will apply to the subsidy. (4) If a

household customer's consumption or use of a municipal service is –

- (a) less than the subsidized service, the unused portion may not be accrued by the customer and will not entitle the customer to cash or a rebate in respect of the unused portion; and
- (b) in excess of the subsidized service, the customer will be obliged to pay for such excess consumption at the applicable rate.

(5) A subsidy implemented in terms of sub-section (1) may at any time, after reasonable notice, be withdrawn or altered in the sole discretion of the municipal council.

(6) Commercial customers may not qualify for subsidized services.

(7) Subsidized services shall be funded from the portion of revenue raised nationally that is allocated to the council and if such funding is insufficient, the services may be funded from revenue raised by rates, fees and charges in respect of municipal services.

Authority to recover additional costs and fees

8. The council or its authorized agent has the authority to, notwithstanding the provisions of any other sections contained in these by-laws, recover any additional costs incurred in respect of implementing these by-laws against the account of the customer, including but not limited to –

- (a) all legal costs, including attorney and client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the customer; and/or
- (b) the average costs incurred relating to any action taken in demanding payment from the customer or reminding the customer by means of telephone, fax, e-mail, letter or otherwise.

Part 3 : Payment

Payment of deposit

- 9.(1) The municipal council may, from time to time, determine different deposits for different categories of customers, users of services, debtors, services and service standards, provided that the deposit will not be more than three times the monetary value of the most recent measured monthly consumption of the premises for which an application is made.
- (2) A customer must on application for the provision of municipal services and before the council or its authorized agent will provide such services, pay a deposit if the municipal council has determined a deposit.
- (3) The council or its authorized agent may annually review a deposit paid in terms of sub-section (2) and in accordance with such review –
 - (a) require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the municipal council; or
 - (b) refund to the customer such amount as may be held by the council or its authorized agent where the deposit is in excess of the most recent deposit determined by the municipal council.
- (4) If a customer is in arrear, the council or its authorized agent may require that the customer –
 - (a) pay a deposit if that customer had not previously been required to pay a deposit, if the municipal council had determined a deposit; and
 - (b) pay an additional deposit where the deposit paid by the customer is less than the most recent deposit determined by the municipal council.
- (5) Subject to sub-section (6), the deposit shall not be regarded as being in payment or part payment of an account.
- (6) If the final account is in arrear, the deposit will be applied in payment or part payment of the arrears. (7) No interest shall be payable to the customer on any deposit held.
- (8) The deposit, if any, is refundable to the customer on settlement of all arrears and termination of the agreement. A deposit shall be forfeited to the council if it has not been claimed by the customer within 12 (twelve) months of termination of the agreement.

Methods for determining amounts due and payable

- 10.(1) The Council or its authorized agent must in respect of municipal services that can be metered, endeavor to within available financial and human resources, meter all customer connections and/or read all metered customer connections on a regular basis, subject to sub-section (2).
- (2) If a service is not measured a council or its authorized agent may, notwithstanding sub-section (1), determine the amount due and payable by a customer for municipal services supplied to him/her or it, by calculating the –
 - (a) the shared consumption; or if not possible
 - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances or beyond control of the council or its authorized agent, and the customer is charged for an average consumption, the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- (4) Where water supply is provided through a communal water service work (standpipe), the amount due and payable by customers gaining access to this water supply services through a communal water services work, must be based on the shared or estimated consumption of water supplied to that water services work.

- (5) Where in the opinion of the council or its authorized agent it is not reasonably possible or cost effective to meter all customer connections and/or read all metered customer connections within a determined area, the municipal council may, on the recommendation of the council or its authorized agent, determine a basic tariff (flat rate) to be paid by all the customers within the area irrespective of actual consumption.
- (6) The council or its authorized agent must inform customers of the method for determining amounts due and payable in respect of municipal services provided that will apply in respect of their consumption or supply zones.

Payment for Municipal Services provided

- 11.(1) A customer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the council or its authorized agent must recover all applicable charges due to the council.
- (2) If a customer uses municipal services for a use other than that for which it is provided by the council or its authorized agent in terms of an agreement and as a consequence is charged at a charge lower than the applicable charge the council or its authorized agent may make an adjustment of the amount charged and recover the balance from the customer.
- (3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges –
 - (a) it shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
 - (b) any fixed charge may be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

Full and final settlement of an amount

- 12.(1) Where an account is not settled in full, any lesser amount tendered to and accepted shall not be deemed to be in final settlement of such an account.
- (2) Sub-section (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the council's authorized agent made such acceptance in writing.

Responsibility for amounts due and payable

- 13.(1) The owner of a property at the time when the service was rendered is responsible for that debt even though the owner was not the customer at the time. These outstanding amounts will be recovered from the owner when legal action is instituted.

Dishonoured payments and cancelation of payments (EFT etc.)

- 14.(1) The municipality no longer accepts cheques, as a form of payment.
- (2) Should any payment made by the customer be cancelled for any reason; the council or its authorized agent may recover average bank charges incurred relating to the cancelled payment, and such payment would be regarded as default on payment.

Incentive Schemes

15. The municipal council may institute incentive schemes to encourage prompt payment and to reward customers that pay accounts on a regular and timeous basis.

Pay-points and Approved Agents

- 16.(1) A customer must pay his/her or its account at pay-points, specified by the council or its authorized agent from time to time, or at approved agents of the council its authorized agent.
- (2) The council or its authorized agent must inform a customer of the location of specified pay-points and approved agents for payment of accounts.

Part 4: Accounts

Accounts

- 17.(1) Accounts shall be rendered monthly to customers at the address last recorded with the council or its authorized agent. The customer may receive more than one account for different municipal services if they are accounted for separately.
- (2) Failure to receive or accept an account does not relieve a customer of the obligation to pay any amount due and payable.
- (3) The council or its authorized agent must, if administratively possible, issue a duplicate account to a customer on request
- (4) Accounts must be paid not later than the last date for payment specified in such account.
- (5) Accounts will as far as possible – (a) reflect

at least –

- (i) the services rendered;
 - (ii) the consumption of metered services or average, shared or estimated consumption; (iii) the period addressed in the account;
 - (iv) the applicable charges; (v) any subsidies;
 - (vi) the amount due (excluding value added tax payable) (vii) value added tax;
 - (viii) the adjustment, if any, to metered consumption which has been previously estimated; (ix) the arrears, if any;
 - (x) the interest payable on arrears, if any; (xi) the final date for payment;
 - (xii) the methods, places and approved agents where payment may be made; and
- (b) state that –
- (i) the customer may conclude an agreement with the council or its authorized agent for payment of the arrears amount installments, at the council or its authorized agent's offices before the final date for payment, if a customer is unable to pay the full amount due and payable.
 - (ii) if no such agreement is entered into, the council or its authorized agent will limit the services after sending a final demand notice to the customer;
 - (iii) legal action may be instituted against any customer for the recovery of any amount 40 (forty) days in arrears;
 - (iv) the account may be handed over to a debt collector for collection; and
 - (v) proof of registration, as an indigent customer, in terms of the council or its authorized agent's indigent policy, must be handed in at the offices of the council or its authorized agent before the final date for payment

Consolidated Debt

- 18.(1) If one account is rendered for more than one municipal service provided the amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –
- (a) towards payment of the current account; (b) towards payment of arrears; and
 - (c) towards payment of interest.
- (2) If an account is rendered for only one municipal service provided any payment made by a customer of an amount less than the total amount due, will be allocated in the following order –
- (a) towards payment of the current account; (b) towards payment of arrears; and
 - (c) towards payment of interest
- (3) A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.
- (4)

Part 5 : Queries, Complaints and Appeals

Queries or complaints in respect of accounts

- 19.(1) A customer may lodge a query or complaint in respect of the accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- (2) A query or complaint must be lodged with the council or its authorized agent in writing before the due date for payment of the account.
 - (3) In the case of illiterate or similarly disadvantaged customers, the council or its authorized agent must assist such a customer in lodging his or her query or complaint in writing and must take reasonable steps to ensure that the query or complaint is reflected correctly.
 - (4) A query or complaint must be accompanied by the payment of at least the total amount, excluding the amount in respect of which a query or complaint is lodged, due and payable in respect of the account.
 - (5) The council or its authorized agent will register the query or complaint and provide the customer with a reference number.
 - (6) the council or its authorized agent –

- (a) shall investigate or cause the query or complaint to be investigated within 7 (seven) days after the query or complaint was registered; and
- (b) must inform the customer, in writing, of its finding within 9 (nine) days after the query or complaint was registered.

Appeals against the finding of a council or its authorized agent in respect of queries or complaints

- 20.(1) A customer may appeal in writing against a finding of the council or its authorized agent in terms of section 19 above.
- (2) An appeal and request in terms of sub-section (1) must be made in writing and lodged with the council within 14 (fourteen) days after the customer became aware of the finding referred to in section 19 and must
 -
 - (a) set out the reasons for the appeal; and
 - (b) be accompanied by any security determined for the testing of a measuring device, if applicable.
- (3) The council may on appeal by a customer, request him or her to pay the amount agreed on by the appeal committee.
- (4) The customer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (5) An appeal must be adjudicated by the council within 21 (twenty one) days after it was lodged and the customer must be informed of the outcome in writing as soon as possible thereafter.
- (6) The decision of the appeal committee is final and the customer must pay any amounts due and payable in terms of the decision within 14 (fourteen) days of being informed of the outcome of the appeal.
- (7) The council may condone the late lodging of appeals or other procedural irregularities.
- 8) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy. The customer must be informed of the possible cost implications including the estimated amount of such test prior to such test being undertaken.
- (9) If the outcome of any test shows that a measuring device is –
 - (a) within a prescribed range of accuracy, the customer will be liable for the costs of such test and other amounts outstanding. Such costs will be debited against the customer's account;
 - (b) is outside a prescribed range of accuracy, the municipality or its authorized agent will be liable for the costs of such test and the customer must be informed of the amount of any credit to which he, she or it is entitled.
- (10) The security referred to in sub-section (2)(b), if applicable, and the amount paid in terms of sub-section (3) may be –
 - (a) retained by the council or its authorized agent if the measuring device is found not to be defective; or
 - (b) refunded to the applicant if the measuring device is found in terms of those sub-sections to be defective.
- (11) In addition to sub-sections (9) and (10) the council or its authorized agent, must if the measuring device is found defective –
 - (a) repair the measuring device or install another device which is in good working order without charge to the customer, unless the costs thereof are recoverable from the customer in terms of these or any other by-laws of the council; and
 - (b) determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device, by taking as basis for such determination, and as the council or its authorized agent may decide;
 - (c) the quantity representing the average monthly consumption of the customer during the three months preceding the month in respect of which the measurement is disputed, and adjusting such quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
 - (d) the average consumption of the customer during the succeeding three metered periods after the defective meter or measuring device has been repaired or replaced; or
 - (e) the consumption of services on the premises recorded for the corresponding period in the previous year.

Part 6 : Arrears

Arrears

- 21.(1) If a customer fails to pay the account on or before the due date, a final demand notice may be hand deliver or sent per registered mail to the most recent recorded address of the customer within 7 (seven) working days of arrears accruing.
- (2) Failure to deliver or send a final demand notice within 7 (seven) working days does not relieve a customer from paying arrears
- (3) All arrears of deceased indigent customers who left an estate of less than R60 000,00 up and until 30 June 2001 be cancelled.
- (4) All arrears of classified indigent pensioners up and until 30 June 2001 be cancelled.

Consolidated Arrears

- 22.(1) If one account is rendered for more than one municipal service, provided all arrears due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the local amount due, will be allocated in reduction of the consolidated debt in the following order –
 - (a) towards payment of the current account; (b) towards payment of arrears;
 - (c) towards payment of interest; and
 - (d) towards costs incurred in taking relevant action to collect amounts due and payable.

Interest

- 23.(a) Interest may be levied on arrears at the prevailing prime interest rate plus 1%.

Final Demand Notice

- 24.(1) The Final demand for arrears and any interest payable – (a) the amount in arrears and any interest payable;
- (b) that the customer may conclude an agreement with the council or its authorized agent for payment of the arrears in installments within 14 (fourteen) calendar days of the date of the final demand notice;
- (c) that if no such agreement is entered into within the stated period that – (i) the electricity services will be disconnected; or
- (ii) that water supply services will be disconnected in the event that –
 - (aa) no electricity services are provided by the council or its authorized agent; or
 - (bb) the arrears amount exceed the amount payable in respect of electricity services; (d) that legal action may be instituted against any customer for the recovery of any amount 40 (forty) days in arrears;
- (e) that the account may be handed over to a debt collector for collection; and
- (f) that proof of registration, as an indigent customer, in terms of the council or its authorized agent's indigent policy must be handed in at the offices of the council or its authorized agent before the final date of the final demand notice.
- (g) legal action may not be instituted against indigent customers but water may be restricted by a reducing washer.

Limitation or disconnection of municipal services

- 25.(1) The council or its authorized agent may -

- (a) disconnect the provisions of electricity services to the disconnect water supply services in the event that – disconnect water supply services in the event that –
 - (i) no electricity services are provided by the council or its authorized agent; or
 - (ii) the arrears amount exceeds the amount payable in respect of electricity services.
- (c) disconnect electricity service and water supply after sending a pre-termination notice of 14 calendar days.
- (2) If a customer fails to pay the amount/s due and payable within 7 (seven) working days after implementation of the actions specified in sub-section (1), the council or its authorized agent may hand deliver or send, per registered mail, to the most recent recorded address of the customer a disconnection of water supply services notice where actions taken in terms of sub-section (1) resulted in only electricity services being disconnected.
- (3) Failure to deliver or send a disconnection of water supply services notice within 7 (seven) working days does not relieve a customer from paying such arrears.
- (4) This disconnection of water supply services notice must contain the following statements – (a) the amount in arrears and any interest payable;
 - (b) a statement that the customer may conclude an agreement with the water services provider for payment of the arrears amount in installments, within 14 (fourteen) days of the date of the notice;
 - (c) that if no such agreement is entered into within the stated period, the council or its authorized agent may discontinue the water supply with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the customer for the recovery of the arrears amount, without further notice.
- (5) The council or its authorized agent may, within 7 (seven) working days after the expiry of the 14 (fourteen) day period allowed for payment in terms of the disconnection of water supply services notice disconnect the provision of water supply services to the defaulter.
- (6) the costs associated with the limitation or disconnection of municipal services which will be determined by Council will be for the cost of the customer and will be included in the account following the reconnection.

Accounts 40 (forty) days in arrears

- 26.(1) Where an account to a customer remaining outstanding for more than 40 days in respect of business consumers and 60 days in respect of residential consumers the council or its authorized agent may –
 - (a) institute legal action against a customer for the recovery on the arrears; and
 - (b) hand the customer account over to a debt collector or an attorney for collection.
- (2) A customer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the municipal council from time to time.

General

- 27.(1) No action taken in terms of this section due to non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit payable, are paid in full.
- (2) The council or its authorized agent will not be liable for any loss or damage suffered by a customer due to his/her electricity services being disconnected or his or her water services being disconnected.

Part 7 : Agreement for the Payment of Arrears in Installments

Agreements

- 28.(1) The following agreements for the payment of arrears in installments may be entered into – (a) an Acknowledgement of Debt;
- (b) a Consent of Judgement; or
- (c) an Emolument attachment order
- (2) Only customers with positive proof of identity or persons duly authorized in writing as a representative of a customer, will be allowed to enter into an agreement for the payment of arrears in installments.
- (3) The council or its authorized agent must require a customer to pay at least its current account on entering into an agreement for the payment of arrears in installments.

Additional costs, Partial settlement and Installments

- 29.(1) The costs associated with entering into agreements for the payment for arrears in installments and the limitation of the municipal services in accordance with section 25, will be included in the arrears amount due and payable by the customer.
- (2) In the event of a customer proving to the council or its authorized agent that he/she or it (remove) is unable to pay the amount referred to in sub-section (1) on entering into an agreement for the payment of arrears in installments, the council or its authorized agent may –
- (a) extend the payment thereof to the end of the month in which the customer enters into such an agreement; or
- (b) include it in the amount payable in terms of the agreement; (i) the credit record of the customer;
- (ii) the arrears amount;
- (iii) the level of consumption of municipal services; (iv) the level or service provided to the customer;
- (v) previous breaches of agreements for the payment of arrears in installments; and
- (vi) any other relevant factors
- (3) The council or its authorized agent may, after taking into account the factors referred to in sub-section (2), require a customer to pay the following amounts on entering into an agreement for the payment of arrears in installments; an amount in addition to the current account, representing a percentage of the arrears amount
- (4) The council or its authorized representative shall determine the installments payable in respect of any arrears amount by taking into account the same factors referred to in sub-section(2).

Duration of Agreements

- 30.(1) No agreement for the payment of arrears will be longer than 12 months, unless the circumstances referred to in sub-section (2) prevail.
- (2) The council or its authorized agent may, on an individual basis, allow a not longer period than twenty-four months for the payment of arrears if special circumstances prevail, that in the opinion of the council or its authorized agent warrants such an extension and which the customer reasonably could not prevent or avoid. The customer, on request by the council or its authorized agent, must furnish documentary proof of any special circumstances.
- (3) The council or its authorized agent may, in exercising his or her discretion under sub-section (2) have regard to a customer's –
- (a) credit record; (b) consumption; (c) income level;

- (d) level of service;
- (e) previous breaches of agreements for the payment of arrears in installments; and
- (f) any other relevant factors.

(4) A copy of the agreement shall be made available to the customer.

Failure to honour Agreements

31.(1) If a customer fails to comply with an agreement for the payment of arrears in installments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the council or its authorized agent may –

- (a) disconnect the electricity services provided to the customer;
- (b) in the event that no electricity services are provided by the council or its authorized agent, disconnect the water supply services provided to the customer;
- (c) institute legal action for the recovery of the arrears; and
- (d) hand the customer's account over to a debt collector or any attorney for collection.

Voluntary application for the limitation or disconnection of Services

32.(1) A customer may on entering into an agreement for the payment of arrears in installments request the council or its authorized agent in writing to limit or disconnect any metered municipal service provided to him/her or it for a specified period to limit the quantity of services consumed.

(2) the reasonable costs associated with a request in accordance with sub-section (1) shall be included in the arrears amount due and payable by the customer.

Reconnection of Services

33.(1) An agreement for payment of the arrears amount in installments, entered into after the electricity services was discontinued and/or the water services was limited or disconnected, will not result in the services being restored until –

- (a) the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
- (b) a written appeal by the customer due to timeous and full payment of installments and current amounts due and payable for a period of at least 6 (six) months has been approved by the municipality or its authorized agent.

(2) In addition to any payments referred to in sub-section (1) the customer shall pay the standard reconnection fee as determined by the council from time to time, prior to the reconnection of municipal services by the council in its authorized agent.

(3) Municipal services shall be restored within 7 (seven) working days after a customer have complied with the provisions of sub-sections (1) and (2).

CHAPTER 3: ASSESSMENT RATES Amount due for

assessment rates

34.(1) The provisions of Chapter 2 applies in respect of the recovery of assessment rates.

(2) All assessment rates due by owners are payable by a fixed date as determined by the council. (3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.

- (4) Assessment rates may be levied as an annual single amount, or in equal monthly installments. When levied in equal monthly installments the amount payable may be included in the municipal account.
- (5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that –
 - (a) the property is not occupied by the owner thereof; and/or
 - (b) the municipal account is registered in the name of a person other than the owner of the property.
- (6) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

Claim on rental for assessment rates in arrears

- 35.(1) The council or its authorized agent may, in accordance with Section 28: Local Government: Municipal Property Rates Act (Act 6 of 2004), “recover the amount in whole or part from the tenant or the occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier.”
- (2) The council or its authorized agent may, “in accordance with Section 29: Local Government: Municipal Property Rates Act (Act 6 of 2004), despite the Estate Agent Affairs, 1976 (Act no. 112 of 1976), recover the amount due for rates on a property in whole or part from the agent of the owner, if this is more convenient for the municipality.”

Disposal of council's property and payment of assessment rates

- 36.(1) The purchaser of municipal property is pro rata liable for the payment of assessment rates on the property as from the date of registration in the name of the purchaser in respect of the financial year in which the purchaser becomes the new owner.

Assessment rates payable on municipal property

- 37.(1) The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease as if the lessee is the owner of such property.
- (2) The council or its authorized representative may elect to include the assessment rates in respect of municipal property in the rent payable by the lessee, instead of billing it separately as in the case of owners of properties.

CHAPTER 4: PROVISION OF MUNICIPAL SERVICE TO INDIGENT CUSTOMERS Qualification for

registration

38. All households where the combined gross income of all the members of the household over the age of 18 years is less than the amount determined by National Treasury, and does not own more than one property, may apply for registration as an indigent customer.

Applicant for registration

- 39.(1) A household wishing to qualify as an indigent customer must complete the application form entitled “Application for Registration as Indigent Customer” attached as Annexure B to these by-laws. (2) Any

application in terms of sub-section (1) must be –

- (i) documentary proof of income, such as a letter from the customers employer, a salary advice, a pension card, unemployment fund card; or
- (ii) an affidavit declaring unemployment or income; and
- (iii) the customer's latest municipal account in his/her possession; and
- (v) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.

- (3) A customer applying for registration as an indigent customer shall be required to submit a sworn declaration to the effect that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
- (4) The responsible officer or authorized agent shall countersign the application form and certify that the consequences and conditions of such an application for the customer were explained to the customer and that the customer indicated that the contents of the declaration was understood.

Approval of application

- 40.(1) The municipal manager or his authorized agent may send authorized representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application.
- (2) An application received in accordance with section 39 shall be considered by the council or its authorized agent and the applicant shall be advised in writing within 14 (fourteen) working days of receipt of such application by the council or its authorized agent as to whether or not the application is approved. If it is not approved, the applicant shall be given reasons therefore.
- (3) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer that feels aggrieved by a decision of the council or its authorized agent in terms of sub-section (2).
- (4) An application shall be approved for a period of 24 (twelve) months only, subject to review and verification that will take place annually.

Conditions

- 41.(1) The council or its authorized agent may on approval of an application or any time thereafter –
 - (a) install a pre-payment electricity meter for the indigent customer where electricity is provided by the council or its authorized agent; and
 - (b) limit the water supply services of an indigent customer to a basic supply of not less than 6 (six) kiloliter.

Annual application

- 42.(1) An indigent customer must annually reapply for registration as an indigent customer, failing which the assistance will cease automatically.
- (2) The provisions of sections 38 and 39 shall apply to any application in terms of sub-section (1). (3) The council or its authorized agent given no guarantee of renewal.
- (4) The council or its authorized agent shall inform the applicant in writing within 14 (fourteen) working days of receipt of such application by the council or its authorized agent as to whether or not the application is approved; if it is not approved, the applicant shall be given reasons therefore.
- (5) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer that feels aggrieved by a decision of the council or its authorized agent in terms of sub-section (4).

Subsidized services for indigent customers

- 43.(1) The municipal council may annually, as part of its budgetary process, determine the municipal services and levels thereof that will be subsidized in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
 - (2) The municipal council may in the determination of municipal services that may be subsidized for indigent customers give preference to subsidizing at least the following services –
-

- (a) 50 (fifty) kilowatt electricity per household per month;
- (b) water supply services of 6 (six) kilolitres per household per month;
- (c) sanitation services of daily night soil removal or an improved ventilated pit latrine per household per month, whichever is the most affordable to the council or its authorized agent; and

(3) The council must on a determination in terms of sub-section (1) give public notice of such determination. (4) Public notice in terms of sub-section (3) must contain at least the following:

- (a) the level or quantity of municipal service that will be subsidized; (b) the level of subsidy;
- (c) the method of calculating the subsidy; and
- (d) any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.

(5) Any other municipal services rendered by the council or municipal services consumed in excess of the levels or quantities determined in sub-section (1), shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption.

(6) The provisions of Chapter 2 shall mutatis mutandis apply to the amounts due and payable in terms of sub-section (5).

Funding for subsidized services

44.(1) The subsidized services referred to in section 43 shall be funded from the portion of revenue raised nationally that is allocated to the council and if such fundings are insufficient, the services may be funded from revenue raised through rates, fees and charges in respect of municipal services and or capital working reserve/provision for bad debts.

(2) The subsidy amount to be funded from revenue raised nationally that is allocated to the council shall be calculated by dividing the amount allocated by the estimated number of customers that may qualify for registration as indigent customers.

Existing arrears of indigent customers on approval of application

45.(1) Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers may be suspended, and interest shall not accumulate in respect of such arrears for the period that a customer remains registered as an indigent customer.

(2) Arrears suspended in terms of sub-section (1) shall become due and payable by the customer in monthly installments as determined by the council or its authorized agent, on deregistration as an indigent customer in accordance with section 47.

(3) Notwithstanding the provisions of sub-section (2) arrears suspended for a period of two (2) years or longer shall be recovered from a customer on deregistration.

Audits

46. The council may undertake regular random audits and may be carried out by the council or its authorized agent to –

- (a) verify the information provided by indigent customers;
- (b) record any changes in the circumstances of indigent customers; and
- (c) make recommendations on the deregistration of the indigent customer.

Deregistration

47.(1) Any customer who provides or provided false information in the application form and/or any other documentation and information in connection with the application –

- (a) shall automatically, without notice, be deregistered as an indigent customer from the date on which the council or its authorized agent became aware that such information is false; and

- (b) shall be held liable for the payment of all services received; in addition to any other legal actions the council or its authorized agent may take against such a customer.
- (2) An indigent customer must immediately request deregistration by the council or its authorized agent if his or her circumstances has changed to the extent that he or she no longer meets the qualifications set out in section 38.
- (3) An indigent customer shall automatically be deregistered if an application in accordance with section 42 is not made or if such application is not approved.
- (4) An indigent customer shall automatically be deregistered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meets the qualifications set out in Section 38.
- (5) An indigent customer may at any time request deregistration.
- (6) In the event of the deregistration in terms of sections (2) and (4), the council or its authorized representative shall notify the customer in writing of such deregistration within 7 (seven) working days after deregistration.
- (7) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer feeling aggrieved by deregistration in terms of sub-section (3) and (4).

CHAPTER 5 : EMERGENCY SITUATIONS

Emergency situations

- 48.(1) The municipal council may, at the request of or after consultation with its authorized agent in a specific area, declare a supply zone as an emergency area if –
 - (a) the financial records of the council or its authorized agent indicate that payment levels in that supply zone has been less than thirty-five percent (35%) or that water losses in that supply zone has exceed forty percent (40%) for a period of three (3) consecutive months;
 - (b) that supply zone represents more than three percent (3%) of the area of supply of its authorized agent or customers.
- (2) In the event of the declaration of a supply zone as an emergency area in accordance with sub-section (12) the water supply services to that supply zone may be limited to a quantity equal to six (6) kilolitres per household of the number of estimated households residing in that zone.
- (3) The council must change the declaration of an emergency area if –
 - (a) the payment levels in that area improves to fifty percent (50%); or
 - (b) the water losses in that area are reduced to twenty percent (20%).

CHAPTER 6 : UNAUTHORIZED SERVICES Unauthorized

services

- 49.(1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the council or its authorized agent for the rendering of those services.
- (2) The council or its authorized agent may, irrespective of any other action it may take against such person in terms of these by-laws by written notice, order a person who is using unauthorized services to –
 - (a) apply for such services in terms of sections 1 and 2; and
 - (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained, complies with the provisions of these or any other relevant by-laws.

Interference with infrastructure for the provision of municipal services

- 50.(1) No person other than the council or its authorized agent shall manage, operate or maintain infrastructure through which municipal services are provided.
- (2) No person other than the council or its authorized agent shall effect a connection to infrastructure through which municipal services are provided.

Obstruction of access to infrastructure for the provision of municipal services

- 51.(1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
- (2) If a person contravenes sub-section (1), the council or its authorized agent may –
- (a) by written notice require such person to restore access at his or her own expense within a specified period; or
- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

Illegal reconnection

- 52.(1) A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such customers access to municipal services have been limited or disconnected shall immediately be disconnected.
- (2) A person who reconnects to municipal services in the circumstances referred to in sub-section (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions that may be taken against such a person.
- (3) The consumption will be estimated based on the average consumption of water supplied to the specific area within which the unauthorized connection was made.

Immediate disconnection

- 53.(1) The provision of municipal services may immediately be disconnected if any person –
- (a) unlawfully and intentionally or negligently interfere with infrastructure through which the council or its authorized agent provided municipal services;
- (b) fails to provide information or provide false information reasonably requested by the council or its authorized agent.

CHAPTER 7 : OFFENCES Offences

54. Any person who
- (a) fails to give access required by the council or its authorized agent in terms of these by-laws;
- (b) obstructs or hinders the council or its authorized agent in the exercising of the powers or performance of functions or duties under these by-laws;
- (c) assists any person in providing false or fraudulent information or assists in willfully concealing information;
- (d) uses, tampers or interferes with municipal equipment, service supply equipment and reticulation network or consumption of services rendered;
- (e) fails or refuses to give the council or its authorized agent such information as may reasonably be required for the purpose of exercising the powers or functions under these by-laws or gives such council or its authorized agent false or misleading information, knowing it to be false or misleading;
-) contravenes or fails to comply with a provision of these by-laws;

- (g) fails to comply with the terms of a notice served upon him/her in terms of these by-laws; shall be guilty of an offence and liable upon conviction to a period not exceeding six months imprisonment or community service or a fine not exceeding R6 000,00 or a combination of the aforementioned, subject to prior discussion with the Chief Magistrate of the Bethlehem Magistrate's Court first.

CHAPTER 8 : DOCUMENTATION Signing of notices

and documents

55. A notice or document issued by the council in terms of these by-laws and signed by a duly-authorized staff member of the council or its authorized agent, shall be deemed to be duly issued and must on its mere production be accepted by a court as evidence of the fact.

Notices and documents

- 56.(1) A notice or document issued by the council or its authorized agent in terms of these by-laws shall be deemed to be duly authorized if an authorized agent signs it.
- (2) Any notice or other document that is served on an owner, customer or any other person in terms of these by-laws is regarded as having been served –
- (a) if it has been delivered to that person personally;
 - (b) when it has been left at that person's village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided in sub-section (a)-(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 property or premises, if any, to which it relates.
- (3) When any notice or other document must be authorized or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of that person.
- (4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

Authentication of documents

- 57.(1) Every order, notice or other document requiring authentication by the council shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorized officer of the council or the authorized agent of the council; such authority being conferred by resolution of the council, written agreement or by-law.

Prima facie evidence

58. In legal proceedings by or on behalf of the council or its authorized agent, a certificate reflecting the amount due and payable to the council or its authorized agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorized by the municipal manager or the Manager of the

council's authorized agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

CHAPTER 9 : GENERAL PROVISIONS Power of entry

and inspection

59. The council or its authorized agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

Exemption

- 60.(1) The council may, in writing exempt an owner, customer, any other person or category of owners, customers, rate payers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if it is of the opinion that the application of operation of that provision would be unreasonable, provided that the council or its authorized agent shall not grant exemption from any section of these by-laws that may result in –
- (a) the wastage or excessive consumption or municipal services; (b) the evasion or avoidance of water restrictions;
 - (c) significant negative effects on public health, safety or the environment; (d) the non-payment for services;
 - (e) the Act, or any regulations made in terms thereof, is not complied with
- (2) The council at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of sub-section (1).

Availability of by-laws

- 61.(1) A copy of these by-laws shall be included in the municipalities Municipal Code as required in terms of legislation.
- (2) The council or its authorized agent shall take reasonable steps to inform customers of the contents of the credit control by-laws.
- (3) A copy of these by-laws shall be available for inspection at the municipal offices or at the offices of its authorized agent at all reasonable times.
- 4) A copy of the by-laws may be obtained against payment as determined by Council from the council or its authorized agent.

Conflict of laws

- 62.(1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 of Credit Control and Debt Collection, must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between these by-laws and any other by-laws of the Council, these by-laws will prevail.

Repeal of existing municipal credit control by-laws

63. The provisions of any by-laws relating to the control of credit by the council are hereby repealed in so far as they relate to matters provided for in these by-laws; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

Short Title and Commencement

- 64.(1) These by-laws are called the Credit Control and Debt Collection By-laws of the Dihlabeng Local Municipality.
- (2) The council may, by notice in the Provincial Gazette, determine that provisions of these by-laws, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in sub-section (2) is issued, these by-laws are binding

ANNEXURE A : APPLICATION FOR MUNICIPAL SERVICES DIHLABENG LOCAL

MUNICIPALITY

APPLICATION FOR MUNICIPAL SERVICES

Type of application

Domestic

Commercial

Institution

Type of Customer

Individual

CC

Partner

Pty(Ltd)

Lessee

Owner

Particulars of Application

Name of corporate entity

Registration number of corporate entity

Surname

Initials

ID Number

Marital Status

If married – in/out of community of property

Occupation

Tel No.

Cell No.

Address of Applicant (for purposes of account delivery)

Physical Address

Postal Address

Next of Kin

1.	Name	Tel No.
Address		
2.	Name	Tel No.
Address		
Employer's Details		
Name		Tel No.
Physical Address		Period in
Credit References		
1.	Name of Company	Account
Address		Tel. No.
2.	Name of Company	Account
Address		Tel. No.
Particulars of Owner (if not Applicant)		
Name of corporate entity		
Surname		Initials
ID Number		
Occupation		

Tel. No.	
Cell No.	
Physical Address	Postal Address
Suburb	
Zone	
Street name	
Number of persons over the age of 18 years living on the property	
Type of municipal services to be provided	
Water Supply Services	Communal Standpipe
Yard Connection	
In-house connection	
Sanitation Services	Night Soil Removal
Water borne sewerage	
Electricity Services	Pre-paid
Other	
Refuse removal Services	
Date on which provision of services should commence	
Payment Details	
Cash (including cheque & credit card)	
Debit Order	
Stop Order	

Other method of electronic transfer	
Bank Details	Branch
Account No.	
A CERTIFIED COPY OF THE APPLICANT'S IDENTITY DOCUMENT / POWER OF ATTORNER MUST BE ATTACHED TO THE APPLICATION	
<p>I/We hereby –</p> <p>(a) Apply for the provision of municipal services to be provided to the above property;</p> <p>(b) Accept the conditions applicable to the provision of municipal services as set out the council's by-laws and the conditions of Supply of any service provider of the council;</p> <p>(c) Declare that I was informed that the documents referred to in (b) are available for inspection at the offices of the council during office hours;</p> <p>(d) Declare that this application form and the implications thereof was explained to me;</p> <p>(e) Declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and</p> <p>(f) Declare that the information provided in this application form is true and correct.</p>	

Applicant

Council/Authorized Agent

Date

Date

Signature of Owner (if not applicant) Date

CERTIFICATION BY COUNCIL

The consequences of the above declaration made by the applicant were explained to him/her/it and he/she/it indicated that the contents of the application were understood.

Council/Authorized Agent

FOR OFFICE USE ONLY

Deposit paid

Date

Amount
Receipt Number
Account Number
Commencement date of services
Area Code

ANNEXURE B : APPLICATION FOR REGISTRATION AS INDIGENT CUSTOMER

DIHLABENG LOCAL MUNICIPALITY APPLICATION FOR REGISTRATION AS

INDIGENT CUSTOMER

Note: An application for Municipal Services must be completed or updated on submission of this application.

Particulars of Application
Surname
ID Number
Marital Status
If married – in/out of community of property
Occupation
Tel No.
Cell No.

Address of Applicant

Physical Address

Postal Address

Number of properties owned by applicant and all members of the household

Details of properties, if applicable

Property 1

Physical address

Name of owner

Name of bondholder

Account number	
Deed Registration Number	
Type of structure	
Property 2	Physical address
Name of owner	
Name of bondholder	
Account number	

Deed Registration Number
Type of structure
Is property/properties or a portion thereof leased to a third person? (Yes/No)
If leased, rent received
Number of all members in household
Combined gross Income of all members of the household per month

Details of all members of the household over the age of 18 years resident at the property

ID Number

ID Number

Employed? (Yes/No)

Employed? (Yes/No)

Salary including
benefits if relevant

Salary including benefits if relevant

3.	Surname	4.	Surname
Full Name		Full Name	
ID Number		ID Number	
Employed? (Yes/No)		Employed? (Yes/No)	
Salary including benefits if relevant		Salary including benefits if relevant	

Details of any other income received by household: (i.e such as old age pension disability pension welfare, etc)	
1. Type of income	2. Type of income
Institution	Institution
Amount	Amount
Reference number	Reference number
3. Type of income	4. Type of income
Institution	Institution
Amount	Amount
Reference number	Reference number
5. Type of income	6. Type of income
Institution	Institution
Amount	Amount
Reference number	Reference number
Details of monthly expenses of household:	
1. Groceries	2. School fees
3. Clothes	4.
5.	6.
7.	8.
9.	10.
Details of current debts of the household: (including insurance policies and credit purchases)	
1. Institution	2. Institution

Account number		Account number	
Amount owing		Amount owing	
3.	Institution	4.	Institution
Account number		Account number	
Amount owing		Amount owing	
5.	Institution	6.	Institution
Account number		Account number	
Amount owing		Amount owing	

Details in respect of legal or other actions taken against me in respect of current expenses/debts of the household: (i.e Administration orders sequestration, other court orders, listed with a Credit Agency, etc.)

1.	Institution	2.	Institution
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	
3.	Institution	4.	Institution
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	
5.	Institution	6.	Institution
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	

The following documents must be attached-

1. Documentary proof of income (such as a letter from the customer's employer, a salary advice, a pension care, unemployment fund card, etc.); or
2. An affidavit declaring unemployment or income; and
3. Latest municipal account in the possession of customer; and
4. A certified copy of the applicant's identity document.

- A. I, hereby –
1. apply for registration as an indigent customer for a period of one year;
 2. accept the conditions applicable to this application as set out the council's by-laws and the Conditions of Supply of any service provider of the council;
 3. declare that I was informed that the documents referred to (2) are available for inspection at the offices of the council during office hours;
 4. declare that this application form and the implications thereof was explained to me;
 5. declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and
 6. declare that the information provided in this application form is true and correct.

I further declare and accept that the following specific conditions shall apply to this application-

1. The council or its authorized agent may send authorized representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application or any time thereafter.
2. An application shall be approved for a period of 12 (twelve) months only.
3. The council or its authorized agent may on approval of an application or any time thereafter-
 - 3.1 install a pre-payment electricity meter for the indigent customer where electricity is provided by the council or its authorized agent; and
 - 3.2 limit the water supply services of an indigent customer to a basic supply of not less than 6 (six) kilolitres per month.
4. An indigent customer must annually re-apply for registration as an indigent customer, failing which the assistance will cease automatically.
5. The council or its authorized agent gives no guarantee of renewal.
6. The municipal council may annually as part of its budgetary process determine the municipal services and levels thereof that will be subsidized in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
7. Any other municipal services rendered by the council or its authorized agent or municipal services consumed in excess of the quantities specified in 6 above shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption. Normal credit control procedures shall apply in respect of such excess consumption.
8. Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be suspended, without interest accumulating in respect of such arrears, for the period that a customer remains registered as an indigent customer.
9. suspended arrears shall become due and payable by the customer in monthly installments as determined by the council or its authorized agent, on deregistration.
10. Arrears suspended for a period of two (2) years or longer shall not be recovered from a customer on deregistration.
11. The council or its authorized agent may undertake regular random audits to-
 - 11.1 verify the information provided by indigent customers;
 - 11.2 record any changes in the circumstances of indigent customers; and
 - 11.3 make recommendations on the deregistration of the indigent customer.
12. Any customer who provides or provided false information in the application form and/or any other documentation and information in connection with the application-
 - 12.1 shall automatically, without notice, be deregistered as an indigent customer from the date on which the council or its authorized agent became aware that such information is false; and
 - 12.2 shall be held liable for the payment of all services received;
 - 12.3 in addition to any other legal actions the council or its authorized agent may take against such a customer.
13. An indigent customer must immediately request deregistration by the council or its

- authorized agent if his or her circumstances has changed to the extent that he or she no longer meets the qualifications set out in the by-laws.
14. An indigent customer shall automatically be deregistered if an annual application is not made or if such application is not approved.
15. An indigent customer shall automatically be deregistered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meet the qualifications set out in the by-laws
16. An indigent customer may at any time request deregistration.

Applicant

Council/Authorized Agent

Date

Date

CERTIFICATION BY COUNCIL

The consequences of the above declaration made by the applicant were explained to him/her and he/she indicated that the contents of the APPLICATION were understood.

Council/Authorized Agent

Date

FOR OFFICE USE ONLY

Account Number

Date of receipt of application

First Verification

Date

Site Visit (Yes/No)

Name of verifier

Designation of verifier

Indicate information not verified
Recommendation
APPLICATION APPROVED / NOT APPROVED
Second Verification
Date
Site Visit (Yes/No)
Name of verifier
Designation of verifier

ANNEXURE C : FIDELITY BOND

In consideration of Dihlabeng Local Municipality providing services to

(“the debtor”) in respect of electricity, sewerage, refuse, water and relevant charges, conditions hereinafter set out, I/we the undersigned

Name(s) of surety/ties)

1. Bind and oblige myself/ourselves, jointly as well as severally, as surety/ies and co-principal debtor/s in solidum for the repayment on demand of all or any sum or sums of money which the debtor may now or from time to time hereafter owe or be indebted to the Dihlabeng Local Municipality, its successors or assigns, whether such indebtedness be incurred by the debtor in the debtor's own name or in the name of any firm under which the debtor may be trading and whether solely or jointly with another or others or in partnership or otherwise, and whether such indebtedness arises from money already advanced or hereafter to be advanced, or from promissory notes, or bills of exchange already or hereafter to be made, accepted or endorsed or by virtue of any individual or joint suretyship, or guarantee, or bond, or pursuant to any cession or assignment from third parties or otherwise howsoever, including interest, discount, commission, legal costs incurred or to be incurred on an attorney-client scale, including collection commission, stamps and all other necessary, usual or incidental charges and expenses and I/we further agree and declare that I/we shall be liable to the Dihlabeng Local Municipality in the event of the insolvency/liquidation of either the debtor or myself/ourselves in respect of proving a claim in my/our or the debtor's insolvent estate/liquidation, including all costs and expenses of maintaining, conserving and/or realizing any security which the Dihlabeng Local Municipality may hold for such claim, and all amounts which may become payable by the Dihlabeng Local Municipality to the trustee/liquidator in consequence of its proving such claim, provided nevertheless that the total amount to be recovered from me/us hereunder shall not exceed, in the whole the sum of the debtor's liabilities to the Dihlabeng Local Municipality from time to time, together with such further sum or sums for interest, charges and costs including legal costs on an attorney-client scale as shall from time to time have accrued or become due and payable thereon
2. I/we renounce the beneficium ordinis seu excussionis et divisionis and agree and declare that this suretyship is in

additionandwithout prejudice to any other securities now held or hereafter to be held from or on behalf of the debtor and that it shall remain in force as a continuing covering security, notwithstanding any intermediate settlement of account and notwithstanding my/our death or legal disability. Furthermore this suretyship shall similarly remain in force as a continuing covering security as regards me/us or one or more of us, notwithstanding it may have ceased to bind one or more of the other undersigned, if ny, on account of liquidation, insolvency or otherwise.

- 3 At the opinion of the Dihlabeng Local Municipality claim arising hereunder may be recovered in any Magistrate's Court having jurisdiction in respect of my/our person/s notwithstanding the amount of the claim, and I/we hereby consent to the jurisdiction of any such Magistrate's Court.
4. No variation of this suretyship shall be of any force or effect unless reduced to writing and signed by me/us and confirmed by the Dihlabeng Local Municipality in writing
- 5 is agreed that this suretyship constitutes the whole of the agreement between me/us and the Dihlabeng Local Municipality and that there are no conditions precedent suspending its operation and that no warranties, promises or representations whatsoever have been made or given by the Dihlabeng Local Municipality or by any other person to me/us to sign this suretyship and to bind myself/ourselves to the terms hereof, and any such warranties, promises, representations are hereby expressly excluded
- . This document is and shall at all times remain the property of the Dihlabeng Local Municipality.
7. No alterations or variation of any present or future agreement between the debtor and the Dihlabeng Local Municipality shall in any way release me/us from my/our liability hereunder.
8. I/we acknowledge that I/we may only be released from my/our obligations hereunder by written notice from me/us to the Dihlabeng Local Municipality or from my/our executors, trustees or other legal representatives, as the case may be, requesting the Dihlabeng Local Municipality to release me/us from this suretyship, which shall be terminated only on written notice from the Dihlabeng Local Municipality to me/us acknowledging that such suretyship has been terminated, but such termination shall only come into effect when the sum or sums already due or accruing at the date of receipt of such notice, together with interest and costs thereon, have been paid.
9. I/we acknowledge that this document is an unconditional suretyship.
10. In the event of this suretyship having been prepared on the basis that it is to be signed by more than one surety, then any such surety or sureties signing this suretyship shall be firmly bound hereunder as being the sole surety/sureties.
11. Furthermore for the purpose of the suretyship and of any proceedings which may be instituted by virtue hereof, I/we have chosen domicilium citandi et executandi at:

Signed at----- on -----

This suretyship was complete in all respect at the time of signature thereof .

WITNESSES

1.-----
Signature

Name -----

Adress ----- 1. -----
Surety (signature)

2. -----
Signature

Name -----

Address----- 2. -----

Surety (signature)

FREE STATE PROVINCIAL GAZETTE <i>(Published every Friday)</i>	VRYSTAAT PROVINSIALE KOERANT <i>(Verskyn elke Vrydag)</i>																								
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