

KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI

(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)
(Irejistiwee njengephephandaba eposihhovisi)

PIETERMARITZBURG,

8 JUNE 2011

8 JUNIE 2011

8 kuNHLANGULANA 2011

Vol. 5

No. 589

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS

No.

Page

MUNICIPAL NOTICES

63	Constitution of the Republic of South Africa (108/1996) and Local Government: Municipal Systems Act (32/2000): Mkhambathini Municipality: Mkhambathini By-laws: Outdoor Advertising By-laws.....	3
64	do.: do.: Animal Pound By-Law	16
65	do.: do.: Cemetary and Crematoria By-law	22
66	do.: do.: Credit Control and Debt Collection By-laws	36
67	do.: do.: Property Encroachment By-law	56
68	do.: do.: Fire Prevention By-laws	64
69	do.: do.: Nuisance By-law	91
70	do.: do.: Parking Grounds By-law	96
71	do.: do.: Parks and Open Public Spaces By-law	100
72	do.: do.: Pollution Control By-law	106
73	do.: do.: Public Amenities By-laws	125
74	do.: do.: Public Meetings and Gatherings By-law	133
75	do.: do.: Public Roads By-law	137
76	do.: do.: Standing Rules and Orders of the Council and its Committees	143
77	do.: do.: Stormwater Management By-laws	159
78	do.: do.: Street Trading By-laws	164
79	do.: do.: Public Transport By-law	173
80	do.: do.: Waste Management By-law	182

MUNICIPAL NOTICES

No. 63**8 June 2011****MKHAMBATHINI BY-LAWS**

The Mkhambathini Municipality, acting under the authority of section 160 (4) and section 162 of the Republic of South Africa Act No. 108 of 1996, read with section 12 and 13 of the Local Government: Municipal Systems Act No. 32 of 2000 hereby publishes the by-laws set hereunder as adopted by the Council, which will come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

DA PILLAY
MUNICIPAL MANAGER

OUTDOOR ADVERTISING BY-LAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1 : DEFINITIONS	3
1. Definitions	3
CHAPTER 2 : APPLICATION	4
2. Application of Regulations	4
CHAPTER 3 : TYPES OF ADVERTISEMENTS	5
3. Temporary and portable advertisements	5
4. Display of permanent advertisements prohibited	6
5. Application for display of permanent advertisements	6
6. Consideration of application of display of permanent advertisements	7
7. Sign-boards affixed to buildings	8
8. Advertisement painted on buildings	9
9. Ground sign-boards	9
10. Flashing advertisements	9
11. General prohibitions relating to advertisements	10
12. General prohibitions relating to directional signs	10
13. Construction of sign-boards	10
14. Maintenance of permanent advertisements	11
15. Alterations of and additions to permanent advertisements	12
16. Removal of permanent advertisements	12
17. Delegation of Council's powers	12
CHAPTER 4 : GENERAL PROVISIONS	13
18. Offences	13
19. Repeal of By-laws	13
20. Short title and commencement	13

CHAPTER 1

DEFINITIONS

Definitions

1. In this Bylaw, unless the context otherwise indicates-

"advertisement" means any visible representation of a word, name, object or of an abbreviation of a word or name, or of any sign or symbol which is not intended solely for illumination or as a warning against any danger;

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these bylaws;

"building control officer" means any person appointed or deemed to be appointed as a building control officer by the Council in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"Council" means the council of the Mkhambathini Municipality and 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 Council has delegated any powers and duties with regard to these bylaws;

"display" means, in relation to an advertisement, to display the advertisement within public view;

"flat sign-board" means any sign-board affixed to a wall and which at no point projects more than 230 mm from the surface of the wall;

"ground sign-board" means any sign which is affixed to the ground and is not attached to a building;

"projecting sign-board" means any sign-board affixed to a wall and which at any point projects more than 230 mm from the surface of the wall;

"roof" means any roof of a building but does not include that portion of a roof which is the roof of a verandah or balcony;

"sign-board" means any structure or device used or intended or adapted for the display thereon of an advertisement;

"sky sign-board" means any sign-board affixed to a roof or the top of a parapet of a roof; and

"wall" means any external wall of a building, but does not include a parapet balustrade or railing of a verandah or balcony.

CHAPTER 2

APPLICATION

Application of regulations

2. (1) Subject to the provisions of sub-section (2), this by-law shall apply to all advertisements displayed or to be displayed within the area of jurisdiction of the Council.
- (2) The following categories of advertisements shall be exempted from the provisions of this by-law:
- (a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any erf during the course of building operations including plumbing, electrical wiring, painting and renovations;
 - (b) an advertisement relating to the immediate sale of newspaper within the public road; provided the advertisement does not obstruct vehicle or pedestrian traffic or the lines of sight of drivers or pedestrians;
 - (c) an advertisement required to be displayed by law;
 - (d) an advertisement displayed on any vehicle which is being used on a public road; provided that the main purpose for which that vehicle is being used is not to display such advertisement;
 - (e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following:
 - (i) the name or address of such building;
 - (ii) the name of the occupier or owner thereof;
 - (iii) a general description of the type of business lawfully carried on in such building;
 - (iv) the hours of attendance or business; and

- (v) the telephone number of such business; provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is affixed;
- (f) an advertisement affixed to or painted on any part of any building used as a dwelling-house which merely indicates -
 - (i) the name or address of the dwelling-house; and
 - (ii) the name of the owner or occupier the dwelling house; provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is attached;
- (g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an erf or premises on the erf; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area;
- (h) an advertisement advertising the sale or lease of any erf, or the fact that such erf has been sold; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area; and
- (i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors.

CHAPTER 3

TYPES OF ADVERTISEMENTS

Temporary and portable advertisements

- 3. (1) Any advertisement -
 - (a) intended to be displayed solely for or in connection with a particular event including but not limited to an election or referendum; or

- (b) displayed on any sign-board intended or adapted to be carried or conveyed, shall only be displayed with the prior written consent of the authorised official and subject to the requirements of sub-section (2) and any other conditions which the authorised official may impose.
- (2) Any advertisement displayed in terms of subsection (1) shall –
 - (a) not exceed 0,8 m² in area; and
 - (b) not be displayed for longer than 14 days before or after the event.
- (3) Every application for permission in terms of sub-section (1) shall be accompanied by a fee and a deposit prescribed by the Council, the deposit being refundable when all advertisements concerned have been removed to the satisfaction of the authorised official.
- (4) Any person who, having displayed or caused to be displayed any advertisement in respect of which approval has been given under sub-section (1), fails to remove it or cause it to be removed within the relevant time, shall be guilty of an offence and the authorised official shall be entitled to remove any such advertisement and deduct from any deposit made in terms of sub-section (6) the sum of R50.00 in respect of each and every advertisement so removed; provided that any excess shall be a civil debt due to the Council; provided further that when any advertisement is so removed in terms of these regulations the Council shall be entitled to destroy any such advertisement without giving notice to anyone, after a period of 14 days from the date of such removal.
- (5) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in sub-section (1) shall be presumed to be the displayer until it is proved to the contrary.

Display of permanent advertisements prohibited

- 4. No person shall display or cause to be displayed any permanent advertisement, in the area of jurisdiction of the Council unless any such advertisement was approved in writing by the Council and is displayed in accordance with this by-law.

Application for display of permanent advertisements

- 5.
 - (1) Any person intending to erect, alter or display any permanent advertisement for which the prior written permission of the Council is required, shall apply for such permission to the Council on the prescribed application form attached to this By-law as Schedule 2. Such form shall be signed by the applicant and by the owner

(if he or she is not also the applicant) of the site upon which such advertisement is or is to be located.

- (2) An application referred to in sub-section (1) shall be accompanied by -
- (a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;
 - (b) a drawing indicating –
 - (i) the position of such sign on the site at a scale of not less than 1: 50;
 - (ii) the full text of the advertisement;
 - (iii) the colour of the material;
 - (iv) the construction;
 - (v) the overall dimensions;
 - (vi) the method of attachment, suspension or support; and
 - (vii) any other details required by the Council;
 - (c) in the case of ground signs, information in regard to all calculations upon which such size is based;
 - (d) the prescribed application fee R30.00.
- (3) The Council may refuse or grant such application subject to such conditions as it may think proper.

Consideration of application of display of permanent advertisements

6. (1) The Council may grant, on such conditions as it may determine, or refuse an application referred to in section 5, but the Council shall not grant an application if it is of the opinion that, having regard to –
- (a) the design;

- (b) colour;
- (c) other characteristics of the advertisement in question;
- (d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and
- (e) the neighbouring properties,

such advertisement will detract from or disfigure the appearance of the building or premises concerned or neighbouring properties, or otherwise be unsightly.

Sign-boards affixed to buildings

7. (1) The following sign-boards and no others may, subject to the provisions of this by-law, be affixed to buildings:
- (a) flat sign-board-boards;
 - (b) projecting sign-boards, and
 - (c) sky sign-boards
- (2) No flat sign-board-board shall -
- (a) extend above the top or beyond either side of the wall to which it is affixed;
 - (b) project in any part more than 100 mm from the wall to which it is affixed;
 - (c) exceed 15% of the height of the building to the eaves or 15% of the area of the wall to which it is affixed.
- (3) No projecting sign-board shall -
- (a) be affixed otherwise than at right angles to the road line;
 - (b) be affixed at a clear height of less than 2,5 m;
 - (c) exceed 225 mm in thickness;
 - (d) extend beyond the top of the wall to which it is affixed;

- (e) project in any part more than 1,5 m from the wall to which it is affixed;
- (f) extend over or nearer than 1,2 m to any overhead electricity wires or cables; or
- (g) be affixed otherwise than in a vertical plane.

Advertisement painted on buildings

8. (1) Only the following types of advertisements may be painted on buildings:
- (a) advertisements painted on the walls of buildings; and
 - (b) advertisements painted on the roofs of buildings used in connection with industry or a manufacturing process.
- (2) No advertisement painted on a wall of a building shall exceed 15% of the height of the building from the ground to the eaves or 15% of the area of the wall on which it is painted.
- (3) An advertisement painted on the roof of a building shall contain only the name (or an abbreviation thereof) of the person, firm, company, society or association occupying such building.

Ground sign-boards

9. Every ground sign-board shall -
- (1) be supported by poles or standards or pylons the bases of which are firmly embedded and fixed in the ground and which are entirely self-supporting, rigid and inflexible;
 - (2) not exceed 2 m x 0,3 m (300 mm);
 - (3) not extend or project beyond the road line; and
 - (4) not exceed 6,5m in height.

Flashing advertisements

10. The Council shall only approve flashing illuminated advertisements if it is of the opinion that, having regard to the proposed position and characteristic of the advertisement, the display of the advertisement will not be likely to distract or disturb persons using

any public road or to create the conditions contemplated in section 11(2).

General prohibitions relating to advertisements

11. (1) No person shall display any advertisement so as to obstruct any fire escape or the means of egress to a fire escape or to obstruct or interfere with any window or opening required for ventilation purposes.
- (2) No person shall display any advertisement –
- (a) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;
 - (b) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15 m (measured horizontally) from the vertical line of the road line at the corner of a public road; or
 - (c) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.
12. (a) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the Council, and on payment of the prescribed fee. Such directional signs shall be either 2m long and 0,3 (300 mm) high or 1 m long and 0,3m (300 mm) high and be constructed to the satisfaction of the Council.
- (b) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the Council in writing.

Construction of sign-boards

13. (1) Every sign-board shall be neatly and properly constructed and finished in a workmanlike manner to the satisfaction of the building control officer.
- (2) (a) Every sign-board attached to a building or wall shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented.
- (c) The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the mass of the sign-board in question with the addition of any force to which the sign may be subjected.

- (c) The use of nails or staples for the purpose of the anchorage and support of a sign-board is prohibited.
- (3) Every projecting sign-board shall, unless the building control officer otherwise approves, have not less than four supports –
 - (a) which shall be of metal;
 - (b) any two of which shall be capable of supporting the mass of the sign-board;
 - (c) the designed strength of which acting together shall be calculated on a mass equal to twice the mass of the sign-board with a superimposed horizontal wind pressure of 1,5 kPa; and
 - (d) which shall be neatly constructed as an integral part of the design of the sign-board or otherwise concealed from view.
- (4)
 - (a) All sign-boards which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side.
 - (b) Such bolts shall be of such a size and strength as will ensure effective compliance with sub-section (2) or (3).
- (5) Every illuminated sign-board and every sign-board in which electricity is used shall –
 - (a) be constructed of a material which is not combustible;
 - (b) be provided with an external switch in an accessible position approved by the building control officer whereby the electricity supply to such sign-board may be switched off; and
 - (c) be wired and constructed to the satisfaction of the building control officer.
- (5) All exposed metalwork of a sign-board shall be painted or otherwise treated to prevent rust, decay and insect attack and thereafter painted.

Maintenance of permanent advertisements

14. The person having possession or control of any permanent advertisement shall, while such advertisement is displayed, at all times maintain such advertisement, including any sign-board on which it is displayed, in good repair and safe condition.

Alterations of and additions to permanent advertisements

15. (1) Any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the Council in writing for its approval.
- (2) An application referred to in sub-section (1) shall specify the nature and extent of the proposed alteration or addition.
- (3) A person who has applied in terms of sub-section (2) for the Council's approval shall furnish such additional particulars in connection with his application as the Council may require.

Removal of permanent advertisements

16. (1) When there is a displayed permanent advertisement -
- (a) for which no approval was granted under section 4; or
- (b) which is displayed in contravention of this by-law,
- the Council may, by notice in writing, direct the person having possession or control of the advertisement to remove it or to effect such alterations as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given) as may be specified in the notice.
- (2) If a person to whom a notice has been given in terms of subsection (1) fails to comply with a direction contained in that notice within the period therein specified, the Council may, at any time after the expiration of that period, through the agency of any person authorised thereto by the Council, enter upon the land upon which the advertisement to which the notice relates and remove the advertisement or effect the alterations prescribed in the notice.
- (3) The Council may recover the expenses which it incurred by any action taken under subsection (2) from any person to whom the notice in question was given.

Delegation of Council's powers

17. (1) The Council may by resolution delegate to the building control officer any power

conferred upon it by this by-law on such conditions as the Council may determine.

- (2) Any delegation under sub-section (1) shall not prevent the exercise of the relevant power by the Council itself.

CHAPTER 4 GENERAL PROVISIONS

Offences

18. Any person who contravenes any provision of this by-law shall be guilty of an offence and shall be liable on conviction to a fine not exceeding to be determined by the Council from time to time.

Repeal of existing by-laws

19. The Council's existing Outdoor Advertising by-laws are hereby repealed.

Short title and commencement

20. These by-laws shall be called the Outdoor Advertising by-law, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

No. 64

8 June 2011

ANIMAL POUND BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

Section 1 : Definitions.....	1
Section 2 : Application.....	2
Section 3 : Establishment of pound.....	2
Section 4 : Detention and removal of animals.....	3
Section 5 : Receipt of animals.....	3
Section 6 : Care of animals.....	4
Section 7 : Release of animals.....	4
Section 8 : Disposal of animals.....	4
Section 9 : Indemnity.....	5
Section 10 : Offences and penalties.....	6
Section 11 : Repeal of By-laws.....	6
Section 12 : Short title and commencement.....	6

Definitions

1. In these bylaws, unless inconsistent with the context –

"animal" means any equine or bovine animal or any donkey, sheep, goat, pig or domesticated ostrich, or any hybrid of such animals, or any poultry;

"Council" means the council of the Mkhambathini Municipality;

"impounded animal" means any animal received into a pound as contemplated in section 5;

"owner" in relation to any animal includes the agent of the owner or any other person having lawful custody of the animal;

"owner" in relation to any land includes the registered owner, the lessee and any lawful occupier of such animal;

"pound" means any premises on which a pound has been established by or on behalf of the Council for the impounding of animals under these bylaws; and

"pound manager" means the person appointed from time to time by the Council to manage a pound established by the Council and any other person appointed by such person to act in his or her stead during his absence from the pound.

"public place" any place to which the public has access including, without limiting the generality of the foregoing, any square, park, recreation ground, sports ground, open space, beach, shopping centre on municipal land, unused/vacant municipal land or cemetery; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

Application

2. Nothing prevents any animal detained in terms of these by-laws from being impounded in a pound or any similar facility established by any other municipality, the provincial government or other lawful authority.

Establishment of pound

- 3 (1) The Council may establish a pound at any convenient place within its area of jurisdiction and, whenever the Council deems it necessary, may disestablish such pound.
- (2) The Council shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Council.

Detention and removal of animals

- 4(1) Any animal –

- (a) found trespassing on land; or

- (b) straying or wandering unattended in a public road or other public place, may be removed and taken to a pound by the owner of such land, an official of the Council, a member of the South African Police Services or the pound manager.
- (2) Any person who has detained an animal for the purpose of impounding shall -
- (a) remove such animals to a pound within 24 hours after seizure; and
 - (b) ensure that proper care is taken of the seized animal until the animal is received at the pound.

Receipt of animals

- 5(1) Any person removing an animal to a pound shall provide the pound manager with-
- (a) his or her name and permanent residential address;
 - (b) the time and place of detention of the animal; and
 - (c) the capacity in which he or she detained the animal.
- (2) The pound manager shall, upon receipt of a detained animal -
- (a) record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose;
 - (b) furnish the person delivering the animal with a receipt reflecting –
 - (i) his or her name;
 - (ii) a description of the animal; and
 - (iii) the date and time of receipt of the animal at the pound; and
 - (c) keep a copy of each receipt issued in terms of section 5(2)(b).
- (3) No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal which has been received at a pound.

Care of animals

- 6.(1) The pound manager shall take proper care of any animal impounded in terms of these bylaws.
- (2) The pound manager shall not use or cause or permit to be used any animal impounded in terms of these bylaws.
- (3) In the event of the injury or death of any impounded animal, the pound manager shall record the cause of such injury or death and shall retain any veterinary certificate issued.
- (4) The pound manager shall keep records of any expense incurred in respect of an impounded animal including, but not limited to, the feeding and veterinary care of the animal.

Release of animals

7. The pound manager shall release an impounded animal to any person who has –
- (1) satisfied the pound manager that he or she is the owner of the impounded animal;
- (2) paid the conveyance and pound fees prescribed by resolution of the Council from time to time; and
- (3) paid any veterinary or other expenses incurred in the impounding of the animal.

Disposal of animals

- 8(1) The pound manager may sell by public auction and for cash any impounded animal which has not been claimed within 30 days of being impounded, and in respect of which –
- (a) the Council has taken all reasonable steps to locate and notify the owner;
- (b) the owner has not been located or, despite having been given 10 day's notice, has failed to remove the impounded animal; and

- (c) 10 days prior notice of the proposed sale has been given in terms of section 8(2).
- (2) The sale of an impounded animal shall be advertised by placing a notice on a public notice board at a place designated by the Council for that purpose –
- (a) describing the animal, its sex, its approximate age and any particular brands or marks; and
 - (b) stating that the animal will be sold by public auction if not claimed within 10 days.
- (3) The proceeds of any sale shall be applied in defraying the fees and expenses referred to in section 7 and the balance, if any, shall be forfeited to the Council if not claimed within one month by a person who establishes to the satisfaction of the pound manager that he or she is the owner of the impounded animal.
- (4) If the pound manager is for any reason unable to sell any impounded animal or if, in the opinion of the pound manager the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound manager may cause the animal to be destroyed subject to any applicable law relating to the protection of animals or otherwise dispose of the animal in a manner approved by the Council.
- (5) Any shortfall between the proceeds of sale, if any, and the fees and expenses referred to in section 7, or the costs of destruction as contemplated in clause 8(4), may be claimed by the Council from the owner.

Indemnity

9. The Council, the pound manager and any officer, employee, agent or councillor of the Council shall not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

Offences and penalties

10. Any person who contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and liable for a fine not exceeding R2 000 or imprisonment for a period not exceeding two months or for both such fine and imprisonment.

Repeal of existing By-laws

11. All Council's existing by-laws that relate to pounding are hereby repealed and replaced by this by-law.

Short title and commencement

12. This by-law shall be called the Animal Pound by-law and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

No. 65

8 June 2011

CEMETARY AND CREMATORIA BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, Funeral, Burial and Cremation Services Act of 2002 in the Province of KwaZulu- Natal, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

INDEX

CHAPTER 1 : GENERAL	3
1. Definitions	3
CHAPTER 2 : ESTABLISHMENT AND MANAGEMENT OF CEMETERIES	5
2. Establishment of cemeteries	5
3. Official hours	6
4. Register	6
5. Numbering of graves	6
6. Reservation of graves	6
7. Transfer of reserved rights	6
8. Number of corpses in a grave	7
9. Number of Corpses in a coffin	7
CHAPTER 3 : BURIALS	7
10. Application for a burial	7
11. Burial of a corpse	8
12. Burial of ashes	9
13. Burial of a cadaver	10
14. Persons dying outside the municipal area	10
15. Grave measurements	10
CHAPTER 4 : RE - OPENING OF GRAVES AND EXHUMATIONS	11
16. Conditions of exhumations	11
17. Exhumation and reburial	12
18. Screening of exhumation	12
CHAPTER 5 : MISCELLANEOUS	13
19. Injuries and damages	13
20. Fire-arms and traditional weapons	13
21. Offences and penalties	13
22. Complaints	13
23. Charges	14
24. Rights on Graves	14

25. Consents, Notices and Orders	14
26. Religious Ceremonies	14
27. Hearses and vehicles at Cemeteries	14
28. Exposure of Bodies	14
29. Instruction of Caretaker	14
30. Music Inside Cemetery	14
31. Interments Attended by large Numbers of People	15
CHAPTER 6 : GENERAL PROVISIONS	15
32. Repeal of By-laws	15
33. Short title and commencement	15

CHAPTER 1

GENERAL

1. Definitions

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

“adult” means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;

“after-hours fee” means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

“ashes” means the cremated remains of a body;

“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 order” means an order issued in terms of the Births and Deaths Registration Act;

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

“cemetery” means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

“child” means a deceased person who is not an adult;

“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);

“Council” means the Mkhambathini Municipal Council

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

“crematorium” means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which the ceremony is conducted and the cremation carried out;

“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;

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

“garden of remembrance” means a section of a cemetery or crematorium set aside for the erection of memorial work, placing or scattering of ashes, but does not include a columbarium;

“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;

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

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

“medical officer of health ” means the officer appointed by 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, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“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;

“officer-in-charge” means the person in the employ of the Council who, from time to time, is in control of any cemetery.

“prescribed” means prescribed by the Council;

“prescribed fee” means a fee determined by the Council by resolution of that Council or its successor.

“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)

“stone mason” means a person carrying on business as a stone mason;

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

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 management of a cemetery. The Council may consider and approve an application for the establishment and maintaining 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 a particular religion or denomination, or for the burial of adults, children, security forces or war heroes, or for the creation and management of the following sections:
 - (a) Berm-section where memorial work of a restricted size may be erected only on a concrete base provided by the Council at the top or bottom end of a grave the top surface of graves are level and the Council will cut planted as well as natural grass as part of its maintenance program;
 - (b) Monumental-section where memorial work erected shall cover the entire grave area,
 - (c) Semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Council;
 - (d) Natural-grass section where the surface of graves are levelled. Graves are identified by numbers affixed on top of the graves in such a way that lawnmowers can be used to cut the natural grass without damaging the numbers:

- (e) Traditional-section where memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the Berm-section. The surfaces of graves are level;
- (f) Columbarium-section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Council;

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 of the caretaker shall be open from Monday to Friday.
- (2) Burials shall take place on the days and during the hours as 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 before or after the official 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 by the caretaker.
- (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 or for which a burial has been authorised in terms of the provisions of this by-law shall be numbered by the Council.
- (2) The number shall be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

6. Reservation of graves

- (1) No reservation of a grave in a cemetery shall be allowed.
- (2) Reservation of graves made and recorded in the official records of the Council in terms of any previous by-laws 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 right shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder.
- (4) The reserved right may be cancelled on request of the holder and if the request is approved by the 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) Only one corpse may be buried in a grave with measurements as contemplated in this by-law.
- (2) Only two corpses may be buried in a grave with measurements as set out in sub-section 15(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting the required application form before the first corpse is buried.
- (3) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.
- (4) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

9. Number of Corpses in a coffin

- (1) A deceased stillborn child and his or her deceased mother may be buried in the same coffin at the fee for a single interment of an adult.
- (2) Still-born twin babies may be buried in the same coffin at the fee for a single interment of a stillborn child.

CHAPTER 3**BURIALS****10. 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 application 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 approval of the Council, execute, cause, or allow a burial in any other place in the municipality than in a cemetery established and managed by the Council. This includes the burial of a corpse, of ashes and of a cadaver.
- (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 or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date, and time for the burial has been arranged with the caretaker.
- (5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives 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 or her to select the section of his choice, but not the individual grave of his or her 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 by him or her.
- (7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.
- (9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.
- (10) Except with the permission of the Council, no person shall place or cause any coffin constructed of any material other than natural wood or other perishable material to be placed in any grave.

11. Burial of a corpse

- (1) All graves shall be provided by the caretaker with the exception of brick-lined or concrete-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 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses 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 provisions of this by-law, for the use of some other denomination.
- (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 or 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.
- (9) Every coffin or body upon being placed in any grave shall, at once, be covered with 500 mm of earth.
- (10) No person shall disturb any human remains or any soil adjacent thereto in any cemetery, except where such disturbance is expressly permitted by this bylaw or by an order of court.

12. Burial of ashes

- (1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave; provided that a coffin does not exceed the average body weight of 70 kg, and further-more 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 purposes 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 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 the 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 contained 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 a prescribed application form.
- (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 from Council;
 - (b) approval for the erection of the memorial work has been obtained from Council; and,
 - (c) the prescribed fees have been paid which shall be determined by Council from time to time.
- (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 office hours of the cemetery.
- (11) No permanent wreaths, sprays, flowers, or floral tributes may be placed in or on a columbarium.
- (12) The columbarium may be visited daily during the official cemetery hours as determined by Council.
- (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.

13. Burial of a cadaver

The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 15(4) : 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.

14. Persons dying outside the municipal area

The provisions of these by-laws shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the municipality

15. Grave measurements

- (1) The excavation of a grave for an adult shall be at least 1820 mm deep, 2300 mm long, and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1370 mm deep, 1520 mm long, and 610 mm wide.
- (3) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep 2300 mm long and 760 mm wide.
- (5) Deviations from measurements of graves shall be as follows:

Extra wide	: 2300 mm long
	: 840 mm wide
Extra long	: 2530 mm long
	: 760 mm wide
Rectangular small	: 2300 mm long
	: 900 mm wide
Brick-nogging	: 2600 mm long
	: 1050 mm wide
- (6) The area of a rectangular grave for an adult shall be 1500 mm wide by 2600 mm long.
- (7) The area of a grave for an adult shall be 1210 mm wide by 2430 mm long.
- (8) The area of a grave for a child shall be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave shall be used.

CHAPTER 4

RE - OPENING OF GRAVES AND EXHUMATIONS

16. Conditions of exhumations

- (1) No person may exhume or cause to be exhumed a body without the written consent of the -
 - (a) Premier of the Provincial Government;
 - (b) the Council;
 - (c) the provincial Department of Health;
 - (d) the Administrator of cemeteries;
 - (e) the Council's Medical Officer of Health or
 - (f) by an order of a court having jurisdiction over such matters.

- (2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.
- (3) A member of the South African Police Services must always be present when an exhumation is being conducted.
- (4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.
- (5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;
- (6)
 - (a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and
 - (b) The authority referred to in paragraph (1)(d) of this Section and the prescribed fee must accompany such notice.
- (7) 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, to the Administrator of Cemeteries.
- (8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (9) The South African Police Services must -
 - (a) if there is proof of illegal burial immediately exhume the body; and
 - (b) take it to a government mortuary for investigation.
- (10) 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.
- (11) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

17. Exhumation and reburial

- (1) 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.
- (2) The relatives of the deceased must be -
 - (a) notified of the intended exhumation and re-burial; and
 - (b) allowed to attend.

18. Screening of exhumation

- (1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.
- (2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

CHAPTER 5**MISCELLANEOUS****19. Injuries and damages**

- (1) A person using a cemetery do so at his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the 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 or she accordingly indemnifies the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his or her dependants 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.

20. Fire-arms and traditional weapons

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

21. Offences and penalties

- (1) Any 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 not exceeding R 60 000, 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.

22. Complaints

Any person wishing to lodge a complaint shall lodge such complaint, in writing with the Director.

23. Charges

The charges set forth in "the tariff" in respect of the various items therein contained, shall be paid to the Council in advance.

24. Rights on Graves

No person shall acquire any right to or interest in any ground or grave in any cemetery.

25. Consents, Notices and Orders

Any written consent, notice or other order issued by the Council in terms of these by-laws, with the exception of consent by the Director or any officer authorised by him and shall be prima force evidence of the contents of such a signed consent, notice or other order.

26. Religious Ceremonies

- (1) The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.
- (2) No animal may be slaughtered on the premises of the cemetery regardless of any religious ceremony which may require an animal to be slaughtered.

27. Hearses and vehicles at Cemeteries

- (1) No person shall cause any hearse or vehicle, as defined by the Road Traffic Act, while within a cemetery to depart from the carriage drives or certain any hearse within any cemetery after the removal of the body from such hearse or vehicle. Every hearse or vehicle such removal shall leave the cemetery by the route indicated by the caretaker.
- (2) The cemetery is a public place and all laws applicable to the driving of a vehicle and the use of a public road will be applicable inside the premises of the cemetery.

28. Exposure of Bodies

No person shall convey a dead body, which is not covered, or whose any such body or any part thereof in any street, cemetery or public place.

29. Instruction of Caretaker

Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker while such person is within a cemetery.

30. Music Inside Cemetery

Only sacred singing shall be allowed in any cemetery, except in the case of police and military funerals.

31. Interments Attended by large Numbers of People

In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment shall notify the caretaker the day before the funeral.

CHAPTER 6**REPEAL OF BY-LAWS****Repeal of existing By-laws**

32. All Council's existing by-laws that relate to cemetery and crematoria are hereby repealed and replaced by this by-law.

Short title and commencement

33. This by-law shall be called the Cemetery and Crematoria by-law and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette

CREDIT CONTROL AND DEBT COLLECTION BY-LAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1 : DEFINITIONS AND APPLICATION.....	3
Section 1 : Definitions.....	3
Section 2 : Application of By-laws.....	6
CHAPTER 2 : SERVICE AGREEMENTS AND TERMS AND CONDITIONS OF THE PROVISIONS OF MUNICIPAL SERVICES.....	7
Section 3 : Provision of municipal services to applicants.....	7
Section 4 : General terms and conditions for the provision of municipal services.....	8
Section 5 : Estimated consumption.....	8
Section 6 : New service agreements and deposits or security by existing customers...	8
Section 7 : Termination of service agreements.....	8
Section 8 : Notices of compliance.....	9
CHAPTER 3 : ACCOUNT ADMINISTRATION.....	9
Section 9 : Accounts.....	9
Section 10 : Account information.....	10
Section 11 : Account Administration.....	10
Section 12 : Queries or complaints in respect of accounts.....	11
Section 13 : Appeals against decision by service providers on queries and complaints.....	12
Section 14 : Arrear accounts.....	12
Section 15 : Action to secure payment.....	13
Section 16 : Power to terminate or restrict provision of municipal services.....	13
Section 17 : Reinstatement of municipal services.....	15
Section 18 : Interest charges.....	15
Section 19 : Collection charges.....	15
Section 20 : Full and final settlement of an amount.....	15
Section 21 : Accounts outstanding after the due date.....	16
Section 22 : Agreements for the payment of arrears in instalments.....	16

Section 23 : Disputes as to amounts owing.....	17
Section 24 : Dishonoured cheques.....	18
CHAPTER 4 : INDIGENT HOUSEHOLDS.....	18
Section 25 : Registration as indigent person.....	18
CHAPTER 5 : MISCELLANEOUS.....	19
Section 26 : Council's right of access to premises.....	19
Section 27 : Conflicting laws.....	19
Section 28 : Preservation of rights consequent on non-compliance.....	19
Section 29 : Transmission of documentation.....	19
Section 30 : Prima facie evidence of documentation.....	20
CHAPTER 6 : APPEALS.....	20
Section 31 : Appeals.....	20
CHAPTER 7 : GENERAL.....	21
Section 32 : Offences.....	21
Section 33 : Repeal of By-laws.....	21
Section 34 : Short title and commencement.....	21

CHAPTER 1

DEFINITIONS AND APPLICATION

Definitions

1. In these By-laws any word or expression to which a meaning has been assigned in the Act bears the same meaning, and unless the context otherwise indicates -

"account" means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following:

- (a) Electricity consumption or availability fees based on a meter reading or estimated consumption;

- (b) water consumption or availability fees based on a meter reading or estimated consumption;
- (c) refuse removal and disposal~
- (d) sewerage services and sewer availability fees;
- (e) rates;
- (f) interest; and
- (g) miscellaneous and sundry fees and collection charges;

"Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"authorised official" means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of these By-laws;

"availability fee" means a fee as contemplated in sections 81(1), 83(1)(c) and 141(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), or any other law;

"by-law" means a by-law adopted and promulgated by the Council;

"Municipal Manager" means —

- (a) the person appointed by the Council as the Municipal Manager in terms of section 82 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or
- (b) in relation to a service provider referred to in paragraph (d) of the definition of "Council", the chief executive officer of that service provider.

"collection charges" means charges which may be recovered by the Council in terms of section 75A of the Act, and includes the cost —

- (a) of reminding customers of arrears;
- (b) for the termination, restriction and reinstatement of municipal services;
- (c) of any notice rendered, sent or delivered in terms of these By-laws; and
- (d) all legal costs, including attorney and client costs, incurred in the recovery of arrear amounts;

"Council" means —

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

"customer" means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal service, or if there is no occupier, the owner of the premises concerned;

"fee" means a fee prescribed for or in respect of any municipal service;

"municipal service" means any or all of the services specified in subparagraphs (i) to (iv), inclusive, of section 2(1)(b);

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

"owner" —

- (a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in favour of whom the right is registered;
- (c) in relation to a right referred to in paragraph (c) of the definition of "property", means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure, and includes a person who the Council may for the purpose of these By-laws regard as the owner of a property in the following cases:
 - (i) A trustee, in the case of a property in a trust excluding state trust land;
 - (ii) an executor or administrator, in the case of a property in a deceased estate;
 - (iii) a trustee or liquidator, in the case of a property in an insolvent estate or the

- owner of which is in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or
- (viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“Policy” means the Credit Control and Debt Collection Policy adopted by the Council;
“prescribed” means prescribed by the Council from time to time, by resolution;

“premises” means any piece of land, with or without any building or structure thereon, 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 No. 9 of 1927), or in terms of the Deeds Registry 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),

which is situated within the area of jurisdiction of the Council;

“property” means —

- (a) immovable property registered in the name of a person, including, in the case of a Sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in favour of a person or granted to a person in terms of any law; or
- (d) public service infrastructure;

“rates” means a municipal rate on property levied in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), or any prior law;

Application of By-law

2. (1) This By-law only apply in respect of amounts of money due and payable to the Council for —

- (a) rates;
 - (b) fees, surcharges on fees in respect of the following municipal services:
 - (i) The provision of water and the availability thereof;
 - (ii) refuse removal and disposal;
 - (iii) sewerage and the availability thereof; and
 - (iv) electricity consumption and the availability thereof;
 - (c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and
 - (d) collection charges;
- (2) This By-law also apply to any municipal service provided through pre-paid meters, in so far as the By-laws may be relevant.

CHAPTER 2

SERVICE AGREEMENTS AND GENERAL TERMS AND CONDITIONS OF PROVISION OF MUNICIPAL SERVICES

Provision of municipal services to applicants

3. (1) No municipal service may be provided to any applicant, unless and until —
- (a) application for the service has been made in writing on a form substantially similar to the form prescribed;
 - (b) any information and documentation required by the Council have been furnished;
 - (c) a service agreement, in the form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and
 - (d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.
- (2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which the account is in arrears —
- (i) such arrears must be paid; or
 - (ii) an agreement for payment of the arrears in terms of section 22 must have been entered into and payment in terms thereof must not be in arrears, before an application for a new service in terms of this section may be considered.

- (3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);
- (4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

General terms and conditions for the provision of municipal services

- 4. The general terms and conditions for the provision of any municipal service set out in a service agreement contemplated in section 3(1)(c) are deemed to be incorporated in these Bylaws and apply to the provision of such service to any customer.

Estimated consumption

- 5. The Council may have an estimate made of the consumption of water or electricity for any relevant period if —
 - (a) no meter reading could be obtained in respect of the period concerned; or
 - (b) no meter has been installed to measure the consumption on the premises concerned, and the customer concerned is liable for payment of the prescribed fee in respect of such estimated consumption.

New service agreements and deposits or security by existing customers

- 6. (1) Any existing customer, or the trustee, liquidator, judicial manager or curator of such customer, may be required by the Council to enter into a new service agreement to replace an existing agreement of the customer concerned, and to pay a deposit or furnish security contemplated in section 3, notwithstanding the fact that a service agreement was previously entered into in respect of the municipal service concerned and the provisions of section 3(3) apply in respect of such new agreement.
- (2) The provisions of section 3(4) apply to a deposit referred to in subsection (1).

Termination of service agreements

- 7. (1) Subject to the provisions of sections 14 and 22 —
 - (a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven days' to the Council, of his or her intention to do so;

(b) the Council may, subject to compliance with the provisions of these By-laws and any other applicable law, by notice in writing of not less than 14 days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer -

- (i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement; or
- (ii) has, in relation to the municipal service concerned, failed to comply with any provision of these By-laws and has failed to rectify such failure after the service on him or her of a notice of compliance in terms of section 8;
- (iii) has failed to pay any prescribed fee, collection charge or interest due and payable in respect of the municipal service concerned; or
- (iv) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or
- (v) has vacated the premises to which the agreement concerned relates.

(2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 14 days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may only be terminated if the decision on such representations justifies it.

Notices of compliance

8. If a customer fails or refuses to comply with any provision of these By-laws, a notice of compliance must be served on that customer, requesting him or her, subject to the provisions of section 7(2), to forthwith comply with the provision concerned to avoid the termination of his or her agreement in terms of section 7(1)(b)(ii).

CHAPTER 3

ACCOUNT ADMINISTRATION

Accounts

- 9. (1) Accounts must be rendered and administered in accordance with the Policy, other prescribed requirements and any other law.
- (2) Failure by the Council to render an account does not relieve a customer of the obligation to pay any amount that is due and payable in terms of these By-laws.
- (3) The Council may, in accordance with the provisions of section 102 of the Act —

- (a) consolidate any separate accounts of a customer liable for payments in terms of these by-laws to the Council;
 - (b) credit any payment by such customer against any account of that customer; and
 - (c) implement any of the debt collection and credit control measures provided for in these y-laws in relation to any arrears on any of the accounts of a customer.
- (4) 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, subject to the provisions of section 20(1), be allocated in reduction of the consolidated debt in the order prescribed.
- (5)
 - (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 15(b).
 - (b) No interest is payable on any amount contemplated in paragraph (a)

Account information

10. Accounts must contain the following —

- (a) the consumption or estimated consumption as determined for the measuring or consumption period;
- (b) the measuring or consumption period;
- (c) the applicable prescribed fee;
- (d) the amount due based on the estimated consumption;
- (e) the amount due and payable for any other municipal service;
- (f) the amount in arrears, if any;
- (g) the interest payable on any arrears, if any;
- (h) collection charges insofar as they may be relevant;
- (i) the final date for payment; and
- (j) the methods, places and approved agents where payment may be made.

Account administration

11. The Council must, subject to the provisions of section 5, endeavour to ensure —

- (a) accurate metering of consumption at fixed intervals with the minimum delay between service connection and first and subsequent rendering of accounts;
- (b) accurate and up-to-date information in accounts;
- (c) accurate monthly accounts with the application of the appropriate and correct

- prescribed fees, rates and other related amounts due and payable;
- (d) the timely dispatch of accounts;
- (e) adequate provision and the efficient operation of facilities for payment throughout the municipal area;
- (f) the appointment of agents to accept payments on behalf of the Council; and
- (g) appropriate hours of business in order to facilitate account payments.

Queries or complaints in respect of accounts

12. (1) A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of these Bylaws.
- (2) A query or complaint must be lodged with the Council before or on the due date for payment specified in the account concerned, or as soon as reasonably possible thereafter.
- (3) If a query or complaint is lodged after the due date for payment specified in the account concerned, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount per month that was due and payable in respect of the service concerned during the preceding three months.
- (4) An authorised official must register the query or complaint and provide the customer 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 received; and
 - (b) inform the customer, in writing, of its finding as soon as possible after conclusion of the investigation, instructing that any amount found to be due and payable must, subject to the provisions of section 22, be paid within 21 days from the date on which the customer is notified thereof, unless an appeal is lodged within that period in terms of subsection (6) or section 13.
- (6) A customer may, subject to the provisions of section 13, lodge an appeal with the Municipal Manager in terms of section 62 of the Act against a decision referred to in subsection (5), within 21 days of the date of the notification of the decision.
- (7) The Council must inform the customer concerned in writing of the decision on the appeal, instructing that any amount found to be due and payable, must be paid within seven days from the date on which the customer is notified thereof.

Appeals against decision by service providers on queries and complaints

13. (1)* If a decision contemplated in section 12(5) has been made in respect of a municipal service provided by a service provider referred to in paragraph (d) of the definition of Council in section (1), a customer may lodge an appeal against that decision by giving written notice of the appeal and reasons to the chief executive officer of the service provider concerned, within 21 days of the date of the notification of the decision.
- (2) The chief executive officer must promptly submit the appeal to the appropriate appeal authority specified in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation may detract from any rights that may have accrued as a result of the decision.
- (4) If an appeal is against a decision taken by —
- (a) a staff member, other than the chief executive officer, the chief executive officer is the appeal authority;
 - (b) the chief executive officer or any committee of the service provider —
 - (i) the board of directors of the service provider; or
 - (ii) a committee of directors who were not involved in the decision concerned and appointed by the board of directors for this purpose, is the appeal authority.
- (5) An appeal authority contemplated in subsection (4), must commence with an appeal within 42 days and decide the appeal within a reasonable period.
- (6) A service provider must comply with the provisions of section 12(7).

Arrear accounts

14. (1) If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.
- (2) Failure by the Council to send a final demand notice does not relieve a customer from paying the arrears concerned.
- (3) A final demand notice referred to in subsection (1), must contain the following

- (a) the amount in arrears and any interest payable, and a statement that payment must be made within 14 days of the date of the final demand notice;
- (b) that the customer may in terms of section 22, conclude a written agreement with the Council for payment of the amount in arrears in installments within the period contemplated in paragraph (a);
- (c) that if no such agreement is entered into within the period stipulated in paragraph (b), that the water or electricity services may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;
- (d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 21(1)(a);
- (e) that the account may be handed over to a debt collector or attorney for collection;
- (f) that proof of registration as an indigent person in terms of section 25 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);
- (g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and
- (h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

Action to secure payment

15. The Council may, in addition to the normal civil legal steps to secure payment of any in arrear amount of accounts, take the following action to secure payment of such amount:

- (a) The termination or restriction of the provision of any municipal service in terms of section 16; and
- (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 9(5)(a), as payment for arrear municipal service fees or rates, in terms of section 20.

Power to terminate or restrict provision of municipal services

16. (1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 12(5)(b), 12(7), 13(6) and 14(1).
- (2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the prescribed termination and restriction procedures, to any premises if the customer in respect of the municipal service concerned —
- (a) fails to make full payment of arrears specified in a final demand notice sent to

the customer concerned, before or on the date for payment contemplated in sections 12(5)(b), 12(7), 13(6) or 14(1), whichever is applicable, and no circumstances have arisen which requires the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer —

- (i) fails to enter into an agreement in terms of section 22, in respect of the arrears concerned before termination or restriction of the service concerned; or
 - (ii) fails to submit written proof of registration as an indigent person in terms of section 25, before such termination or restriction;
 - (b) fails to pay any installment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;
 - (c) fails to comply with any condition of provision in respect of electricity or water, as the case may be, imposed by the Council;
 - (d) obstructs the efficient provision of electricity or water to another customer;
 - (e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;
 - (f) causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;
 - (g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;
 - (h) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.
- (3) The Council may send a termination notice to a consumer informing him or her —
- (a) that the provision of the service concerned will be, or has been terminated on the date specified in such notice; and
 - (b) of the steps which can be taken to have the service reinstated.
- (4) Any action taken in terms of subsections (1) and (2) is subject to compliance with:
- (a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;
 - (b) the relevant provisions of the Electricity Act, 1987 (Act No. 41 of 1987), if the provision of electricity is involved;
 - (c) the relevant provisions of the Health Act, 1977, (Act No. 63 of 1977), and any

- regulations made in terms of that Act; and
- (d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

Reinstatement of municipal services

17. (1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 16(1) after —
- (a) the full amount of arrears, including interest and collection charges, if any, have been paid; or
 - (b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 22; or
 - (c) the full amount of arrears in respect of any agreement referred to in paragraph (b), including interest and collection charges if any, and any increase deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with.
- (2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

Interest charges

18. All arrears in respect of accounts for rates and municipal services bear interest at a rate prescribed.

Collection charges

19. A prescribed collection charge may be levied against the account of a customer, in respect of any relevant action taken in terms of, or for the purposes of, these By-laws.

Full and final settlement of an amount

20. (1) The Council may appropriate monies received in respect of any debt contemplated in these By-laws at its sole discretion, unless the customer otherwise instructs in writing.
- (2) If any amount due and payable to the Council in terms of these By-laws has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, does not constitute payment in full and final settlement of the full amount, unless the lesser amount was accepted in full and final settlement in writing, under a power delegated or sub-delegated to such employee in terms of section 59 of the Act.

Accounts outstanding after the due date

21. (1) If an account for assessment rates or any municipal service is rendered to a customer remains unpaid, wholly or in part, after the due date for payment stipulated in the account concerned —
- (a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and
 - (b) may be handed over to a debt collector or an attorney for collection.
- (2) A customer is liable for any interest and collection charges and in addition payment of a higher deposit or the provision of additional security, if required by the Council.
- (3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears, any interest thereon, collection charges, and higher deposit, if required by the Council, have been paid in full or, instead of a higher deposit, additional security has been provided, if so required.

Agreements for the payment of arrears in installments

22. (1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in installments.
- (2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.
- (3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.
- (4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.
- (5) (a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.

- (b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.
- (6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's —
 - (a) credit record;
 - (b) consumption;
 - (c) ability to afford the proposed installments, taking into account the customer's financial situation;
 - (d) level of service;
 - (e) previous breaches of agreements for the payment of arrears in installments; and
 - (f) any other relevant factor.
- (7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.
- (8) If a customer fails to comply with an agreement contemplated in subsection (1), the total outstanding amount, including the arrears, any interest thereon, any collection charges, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.
- (9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination notice for water or electricity services, or both, as the case may be, the municipal service concerned may be terminated without further notice, in addition to any other action taken against or which may be taken against the customer concerned.
- (10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in installments, unless the Council otherwise decides.
- (11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

Disputes as to amounts owing

23. If any dispute arises as to any amount owing by a customer, the customer must, pending resolution of that dispute, continue to make regular monthly payments in respect of rates, if applicable, and in respect of any municipal service concerned based on the average monthly fees for the preceding three months prior to the dispute arising, plus interest if applicable, until the resolution of that dispute.

Dishonoured cheques

24. If any payment is made to the Council by a negotiable instrument, and such negotiable instrument is dishonoured, the Council may levy costs and administration fees against the account of the defaulting customer at a prescribed rate.

CHAPTER 4**INDIGENT PERSONS****Registration as indigent person**

25. (1) A person who wishes to receive assistance in terms of the Council's policy for the provision of municipal services to indigent persons, must make application for registration as an indigent person on a prescribed form at any of the Council's offices.
- (2) An application in terms of subsection (1), must be considered by the Council which must adhere to the principles of transparency, equity, consistency, non-discrimination, accessibility, empathy, integrity, confidentiality and objectivity during the evaluation process.
- (3) An applicant, contemplated in subsection (1), must, at the request of the Council, furnish any further information to enable the Council to arrive at a decision and the Council may, for the purpose of properly evaluating the application, also conduct any investigation which it considers appropriate.
- (4) An applicant must be informed that he or she will automatically be disqualified from receiving any assistance contemplated in subsection (1), and be liable to-
- (a) refund the amount of any such assistance received from the Council, if the application or information contemplated in subsection (3), contains any false information; and
- (b) prosecution if any false information as contemplated in paragraph (a) is furnished by the applicant.
- (5) If the Council finds an applicant to be indigent, such applicant is entitled to assistance in terms of the Policy referred to in subsection (1), and his or her personal particulars must be recorded in a prescribed register of indigent persons.
- (6) The position of every indigent person so recorded, must be reviewed annually by an

authorised official in accordance with the directives of the Council.

- (7) A successful applicant must be informed in writing that he or she must immediately notify the Council when his or her indigent status has changed.

CHAPTER 5

MISCELLANEOUS

Council's right of access to premises

26. The Council may exercise its right of access to premises in terms of section 101 of the Act through the City Manager or any authorised official or any duly appointed agent of the Council, authorised thereto in writing.

Conflicting laws

27. If there is any conflict between a provision in these by-laws and a provision of any other by-law, the provision in these By-laws must prevail.

Preservation of rights consequent on non-compliance

28. A failure by the Council to comply with any provision of these By-laws does not in any way affect the liability of any person to pay any amount due and payable to the Council as contemplated in these By-laws, nor the Council's right to recover such amount.

Transmission of documentation

29. Subject to the provisions of any law, if in terms of or for the purposes of these By-laws any written communication must or may be rendered, sent or delivered —
- (a) by the Council to any person, such communication must be —
- (i) delivered by hand —
- (aa) to that person's *domicilium citandi et executandi*, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(1); or
- (bb) in the absence of such agreement, to that person's most recently recorded address; or
- (cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or
- (ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).

- (b) by any person to the Council, such communication must be —
 - (i) delivered by hand to —
 - (aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or
 - (bb) another address, if the Council in writing furnished such an address to the person concerned; or
 - (ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

Prima facie evidence of documentation

30. For the purposes of the recovery of any amount due and payable to the Council in terms of these By-laws —
- (a) a copy of any relevant account; and
 - (b) an extract from the Council's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service,
- certified by an authorised official as being correct, constitute prima facie evidence of the information contained in such documents.

CHAPTER 6

APPEALS

Appeals

- 31(1) A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
 - (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
 - (4) 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 mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

CHAPTER 7

GENERAL

Offences

32. Any person who -

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any lawful instruction given in terms of these by-laws; or
- (c) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws -

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

Repeal of existing by-laws

33. The Council's existing Credit Control and Debt Collection by-laws are hereby repealed.

Short title and commencement

34. This by-law shall be called the Credit Control and Debt Collection by-law and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

No. 67

8 June 2011

PROPERTY ENCROACHMENT BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

INDEX

CHAPTER 1: DEFINITIONS	2
1. Definitions	2
2. Council permission required	3
3. Rules for the construction of encroachments	4
4. Columns	4
5. Balconies and bay windows	6
6. Plinths, pilasters, corbels and cornices	7
7. Verandas around corners	7
8. Pavement openings	7
9. Encroachment erected in front of building	8
10. Maintenance, removal and tenancy of projections	8
11. Encroachments	9
12. Offences and penalties	9
13. Repeal of existing by-law	9
14. Short title and commencement	9

CHAPTER 1**DEFINITIONS****Definitions**

1. In this by-law, any word or expression that 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 the Council of the Mkhambathini Municipality;

"council property" means any property, including but not limited to public roads –

- (a) which is owned by the Council;
- (b) over which the Council has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Council;

"encroachment" means any physical object which intrudes on Council property;

"prescribed" means determined by resolution of the Council made from time to time;

"prescribed fee" means a fee determined by the Council by resolution from time to time;

"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.

Council permission required

2.(1) No person may, without prior written permission, make or construct any encroachment into, over or under any Council property.

(2) The Council may -

- (a) refuse the permission required in terms of subsection (1); or

- (b) grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case.
- (3) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these by-laws for each encroachment.
- (4) The owner of any existing encroachment must within three months after the date of commencement of these by-laws make application to the Council on the prescribed form for permission for the existence of the encroachment in terms of these by-laws.

Rules for the construction of encroachments

- 3.(1) The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over Council property, 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 boundary where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person may place any veranda column -
 - (a) over any pavement where such pavement is less than 2,6 m wide;
 - (b) more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre;

- (c) over any pavement at the corner of a public road that is beyond the alignment of the building lines; and
 - (d) at a distance lesser 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) Where verandas are supported on columns-
 - (a) the columns may not have square arris;
 - (b) no base may project more than 50 mm beyond the bottom diameter of the column; and
 - (c) the maximum horizontal axial dimensions of such base may not exceed 350 mm.
- (8) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
- (9) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.
- (10) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- (11) A 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.
- (12) 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 observed.

Balconies and bay windows

5.(1) Balconies, bay windows or other similar encroachments may not –

- (a) overhang a public road if they are at a height of less than 3 m above the pavement;
 - (b) encroach more than 1,35 m over any public road; or
 - (c) encroach more than 900 mm over any public road.
- (2) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
 - (3) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
 - (4) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where 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.
 - (5) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.
 - (6) A balcony over any public road may not be the sole means of access to any room or apartment.
 - (7) 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.

- (8) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

Plinths, pilasters, corbels and cornices

- 6.(1) No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.
- (2) Any pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following level of 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 bay windows 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 where 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. Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

Pavement openings

- 8.(1) No pavement opening may –
- (a) be the sole means of access to any vault or cellar; and
 - (b) extend more than 1,2 m beyond the building line.

- (2) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.
- (3) Flap openings 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.
- (4) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.
- (5) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

Encroachment erected in front of building

9. Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense –
 - (1) 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
 - (2) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

Maintenance, removal and tenancy of projections

10.
 - (1) The owner of any encroachment must maintain the encroachment in good order and repair.
 - (2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.
 - (3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of

them and restore the public road or pavement to its former conditions, and must do so within a reasonable time.

Encroachments

- 11.(1)(a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture 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 provided by the Council for that purpose.
- (b) Where 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 the building in connection with which any encroachment or fixture 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.

Offences and penalties

12. A person who contravenes any provision of this by-law shall be guilty of an offence and be liable on conviction to a fine not exceeding R500.00 or to imprisonment not exceeding 6 months or to both that fine and that imprisonment.

Repeal of existing By-laws

13. The Council's existing by-laws are hereby repealed.

Short title and commencement

14. This by-law shall be called the Property Encroachment by-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

FIRE PREVENTION BY-LAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1 : DEFINITIONS	4
Section 1 : Definitions	4
CHAPTER 2 : FIRE PROTECTION OF BUILDINGS	10
Section 2: Reporting a fire hazard and other threatening danger	10
Section 3 : Access for emergency vehicles	10
Section 4 : Division and occupancy separating elements	11
Section 5 : Fire doors and assemblies	11
Section 6 : Escape Routes	11
CHAPTER 3 : FIRE SAFETY EQUIPMENT	12
Section 7 : Fire extinguishers	12
Section 8 : Testing and maintenance of fire protection systems	13
Section 9 : Interference with fire protection systems and fire extinguishers	13
CHAPTER 4 : PUBLIC SAFETY	14
Section 10 : Attendance of a service	14
Section 11 : Formulation of an emergency evacuation plan	14
Section 12 : Displaying of escape route plans	15
Section 13 : Barricading of vacant buildings	15
CHAPTER 5 : HOUSEKEEPING	15
Section 14 : Combustible waste and refuse	15
Section 15 : Combustible or flammable substances and sweeping compounds	15
Section 16 : Accumulations in chimneys, flues and ducts	16
Section 17 : Sources of ignition	16
Section 18 : Smoking	16
Section 19 : Electrical fittings, equipment and appliances	17
Section 20 : Flame-emitting device	17

CHAPTER 6 : FIRE HAZARDS	17
Section 21 : Combustible material	17
Section 22 : Lighting of fires and burning of combustible material	17
CHAPTER 7 : FLAMMABLE SUBSTANCES	18
Section 23 : Storage and use of flammable substances	18
Section 24 : Flammable substance certificate	19
Section 25 : Permanent or temporary above ground storage tank for a flammable liquid	20
Section 26 : Underground storage tank for a flammable liquid	21
Section 27 : Bulk storage depot for flammable substances	21
Section 28 : Small installations for liquefied petroleum gas	21
Section 29 : Liquid petroleum gas installation in mobile units and small non-permanent buildings	21
Section 30 : The fuelling of forklift trucks and other LP gas operated vehicles	22
Section 31 : The storage and filling of refillable liquid petroleum gas containers	22
Section 32 : Bulk storage vessel for liquid petroleum gas	22
Section 33 : Termination of the storage and use of flammable substances	22
Section 34 : Reporting accidents	23
Section 35 : Flammable stores	23
Section 36 : Container handling and storage	25
Section 37 : Spray rooms and booths	27
Section 38 : Liquid petroleum gas containers	27
CHAPTER 8 : GENERAL PROVISIONS	27
Section 39 : Indemnity	27
Section 40 : Offences and penalties	27
Section 41 : Enforcement provisions	28
Section 42 : Authority to investigate	28
Section 43 : Failure to comply with provisions	28
Section 44 : Repeal of existing By-laws	29
Section 45 : Short title and commencement	29

CHAPTER 1

DEFINITIONS

Definitions

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

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

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

"building" means any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with:

- (i) the accommodation or convenience of human beings or animals;
 - (ii) the manufacture, processing, storage or sale of any goods;
 - (iii) the rendering of any service;
 - (iv) the destruction or treatment of combustible refuse or combustible waste;
 - (v) the cultivation or growing of any plant or crop;
- (a) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
 - (b) any fuel pump or any tank used in connection therewith;
 - (c) any facilities or system, or part or portion thereof, within or outside or incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of the building;

"bund wall" means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 100% of the contents of the tank;

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

"combustible refuse" means any combustible rubbish, litter or other material that has been discarded;

"combustible waste" means any combustible waste material which is salvageable, retained or collected for scrap or reprocessing;

"dangerous goods" means a flammable gas, liquid or solid as contemplated in SABS 0228;

"division separating element" means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400;

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) detect, control or extinguish a fire, or
- (b) alert occupants or the fire service, or both, to a fire, but excludes portable and mobile fire extinguishers;

"fire wall" means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations (T1) read with SABS 0400;

"flammable gas" as contemplated in SABS 0228, means a gas that at 20 degrees centigrade and at a standard pressure of 101,3 kilopascals:

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

"flammable liquid" means a liquid, or mixtures of liquids, or a liquid containing solids in solution or in suspension that give off a flammable vapour at or below 60,5 degrees centigrade;

"flammable solid" means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitised (wetted) explosives that can explode if not diluted sufficiently;

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

"flammable store" means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 46 of this by-law;

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

"National Building Regulations" means the regulations promulgated in terms section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and:

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

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

"non-combustible" means a substance or material classified as non-combustible when tested in accordance with SABS 0177: Part 5;

"occupancy separating element" means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400;

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

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

"owner" means:

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

"person in charge" means:

- (a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, or utilisation of the premises;
- (b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;
- (c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of the installation; provided that such a person is not the

person mentioned in (a), and

- (d) in the event of the Council being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the Council deemed to be in charge of such premises, building or installation;

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

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

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

"storage vessel" means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

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

"tank" means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

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

"vehicle" means a vehicle as defined in the National Road Traffic Act.

and any reference to an SABS Code shall refer to the relevant Code published by the South African Bureau of Standards and issued in terms of the Standards Act.

CHAPTER 2

FIRE PROTECTION OF BUILDINGS

Reporting a fire hazard and other threatening danger

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

Access for emergency vehicles

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

Division and occupancy separating elements

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

• **Fire doors and assemblies**

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

Escape Routes

6. (1) No part of a fire escape route shall be obstructed or rendered less effective in any way.
- (2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Council.
- (3) Where required by the Council, an escape route must be clearly indicated with signage, which complies with SABS 1186, indicating the direction of travel in the event of fire or any other emergency.

CHAPTER 3

FIRE SAFETY EQUIPMENT

Fire extinguishers

7. (1) Fire extinguishers must be provided and installed on premises as required by the National Building Regulations (T1) and (T2).
- (2) Fire extinguishers must be maintained in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part I.
- (3) No person may fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part I, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.
- (4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or certificate mentioned in subsection (3).
- (5) Where a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the Council must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.
- (6) When, in the opinion of the Council, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Council must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.
- (7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.
- (8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

Testing and maintenance of fire protection systems

8. (1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.
- (2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test, and where applicable, the parties who monitor the fire protection system.
- (3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2).
- (4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- (5) The owner or person in charge of the premises must immediately notify the Council when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Council as soon as the system is restored.
- (6) The owner or person in charge of the premises must take all steps deemed necessary by the Council to provide alternate equipment to maintain the level of safety within the premises.

Interference with fire protection systems and fire extinguishers

9. No person shall tamper or interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

CHAPTER 4

PUBLIC SAFETY

Attendance of a service

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

- (2) Where the entertainment or public assembly is taking place on Council property, the costs of the attendance of the representatives of the fire brigade service shall be recoverable from the organizers

Formulation of an emergency evacuation plan

- 11. (1) The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons (including staff), must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (2) The Council may order the owner or person in charge of the premises, other than those contemplated in subsection (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (3) The plan mentioned in subsections (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.
- (4) The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.
- (5) The register mentioned in subsection (4) must contain the following information:
 - (a) the date and time of the test;
 - (b) the number of participants;
 - (c) the outcome of the test and any corrective actions required, and
 - (d) the name and signature of the person supervising the test.
- (6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the Council.
- (7) The Council may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

Displaying of escape route plans

12. The escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

Barricading of vacant buildings

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

CHAPTER 5**HOUSEKEEPING****Combustible waste and refuse**

14. (1) The owner or person in charge of the premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- (2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other danger.

Combustible or flammable substances and sweeping compounds

- 15 (1) Only water-based solutions, detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.
- (2) The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

Accumulations in chimneys, flues and ducts

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

Sources of ignition

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

Smoking

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

Electrical fittings, equipment and appliances

19. No person may cause or permit –
 - (1) an electrical supply outlet to be overloaded; or
 - (2) an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

Flame-emitting device

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

CHAPTER 6

FIRE HAZARDS

Combustible material

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

Lighting of fires and burning of combustible material

22. (1) The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.
- (2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.
- (3) Burning may take place on State land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes provided that the prior approval is obtained from the Council.

CHAPTER 7

FLAMMABLE SUBSTANCES

Storage and use of a flammable substance

23. (1) Prior to the construction of a new installation or the alteration of an existing

installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Council, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.

- (2) Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1), SABS 0131: Parts 1 and 2, SABS 089: Part 3 and SABS 087: Parts 1,3 and 7 (whichever is applicable) in the presence of the Council.
- (3) Notwithstanding subsection (2), the Council may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).
- (4) The Council must be notified at least 48 hours prior to the pressure test.
- (5) The owner or person in charge of the premises may not store or use:
 - (a) a flammable gas in excess of 19 kilogram, or
 - (b) a flammable liquid of a danger group (i), (ii), (iii) or (iv) in excess of 200 litres, unless he or she has obtained a flammable substance certificate from the Council.

Flammable substance certificate

24. (1) The owner or person in charge of the premises, who requires a flammable substance certificate mentioned in section 23(5), must submit an application to the Council.
- (2) The Council must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this by-law, and where the Council is of the opinion that the non-compliance of the premises can be remedied, the Council must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises and the issuing of the certificate.
- (4) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever

the quantity or class of the flammable substance requires to be changed.

- (5) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Council, a flammable substance is stored or utilised for any process in a manner which is hazardous to life or property, or an installation is unauthorised, an order may be issued for the removal of the flammable substance or installation from the premises.
- (6) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the Council.
- (7) A flammable substance certificate is valid only:
 - (a) for the installation for which it was issued;
 - (b) for the state of the premises at the time of issue, and
 - (c) for the quantities stated on the certificate.
- (8) The flammable substance certificate must be available on the premises for inspection at all times.

Permanent or temporary above ground storage tank for a flammable liquid

- 25(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Council, on the merit of the situation, provided that the following requirements are complied with:
- (a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40 degrees centigrade;
 - (b) to be on the premises for a period not exceeding six months;
 - (c) the entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2 whichever is applicable, and
 - (d) written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the Council for the erection of the tank.

- (2) Notwithstanding section 28(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Council for approval in terms of the National Building Regulations (T1).
- (3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognised codes.
- (4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.
- (5) A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.
- (6) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- (7) A permanent or temporary tank must have a bund wall.
- (8) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- (9) Sufficient fire extinguishers, as determined by the Council, must be provided in weatherproof boxes in close proximity to a tank.
- (10) Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank, and the signs must comply with SABS 1186: Part 1.
- (11) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
- (12) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- (13) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

Underground storage tank for a flammable liquid

26. The installation of underground storage tanks, pumps, dispensers and pipework at service stations and consumer installations must be in accordance with National Building Regulations (T1) read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.

Bulk storage depot for flammable substances

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

Small installations for liquefied petroleum gas

28. Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3 000 litres per installation must be installed and handled in accordance with SABS 087: Part 1.

Liquid petroleum gas installation in mobile units and small non-permanent buildings

29. A liquid petroleum gas installation in mobile units and small non-permanent buildings shall be in accordance with SABS 087: Part 2.

The fuelling of forklift trucks and other LP gas operated vehicles

30. The fuelling of forklift trucks and other LP gas operated vehicles shall be in accordance with SABS 087: Part 8.

The storage and filling of refillable liquid petroleum gas containers

31. Storage and filling sites used for refillable liquid petroleum gas containers of capacity not exceeding 9kg must be in accordance with SABS 087: Part 7.

Bulk storage vessel for liquid petroleum gas

32. The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 087: Part 3.

Termination of the storage and use of flammable substances

33. (1) If an above ground or underground tank installation, liquid petroleum gas installation or associated pipework is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must:
- (a) within seven days of the cessation, notify the Council in writing thereof;
 - (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
 - (c) within six months of the cessation, remove the installation including any associated pipework, from the premises entirely, unless the controlling authority otherwise instructs, and
 - (d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Council within a period of seven days of the completion of the removal of the installation.
- (2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the Council to fill the tank with liquid cement slurry.

Reporting accidents

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

Flammable stores

35. (1) The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SABS 0400.
- (2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
- (3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the

quantity mentioned on the certificate.

- (4) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400:
- (a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance when it forms part of another building;
 - (b) the ventilation of a flammable store must be achieved by the use of bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5 m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
 - (c) the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1 100 meshes per metre, and
 - (d) the wire gauze must be held in position by metal straps, a metal frame or cement.
- (5) When required by the Council, the flammable store must be ventilated by a mechanical ventilation system approved by the Council and must comply with the following requirements:
- (a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
 - (b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6 metres above ground level, whichever is the greater;
 - (c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store, and
 - (d) the ducting must be as short as possible and must not have sharp bends.
- (6) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are

complied with, and the door must open outwards.

- (7) When required by the Council, a flammable store door must be a D-class fire door, which complies with SABS 1253.
- (8) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.
- (9) No other electrical apparatus may be installed in the flammable store.
- (10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipework leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.
- (11) Racking or shelving erected in the flammable store must be of non-combustable material.
- (12) The flammable store must be identified by the words, "Flammable Store-Bewaarplek vir Vlambare Vloeistowwe-Isitoro Indawo Yokugcina Izixhobo Ezithatha Lula Umlilo", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.
- (13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.
- (14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- (15) Sufficient fire extinguishers, as determined by the Council, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- (16) Any hand tool used in the flammable store must be intrinsically safe.
- (17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the Council has been notified in terms of the following procedure:
 - (a) within seven days of the cessation, notify the Council in writing

thereof;

- (b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe, and
 - (c) within 30 days of the cessation, remove all signage.
- (18) Subject to the provisions in this section, the Council may call for additional requirements to improve the fire safety of a flammable store.

Container handling and storage

36. (1) All flammable substance containers must be kept closed when not in use.
- (2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.
 - (3) Flammable liquid containers must be labelled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.
 - (4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
 - (5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.
 - (6) An empty flammable liquid container must be placed in a flammable store.
 - (7) Where a flammable store is not available for the storage of empty flammable liquid containers, the Council may permit such storage in the open, provided that:
 - (a) the storage area must be in a position and of sufficient size which in the opinion of the Council, will not cause a fire hazard or other threatening danger;
 - (b) the storage area is well ventilated and enclosed by a wire mesh fence and:
 - (i) the fence supports are of steel or reinforced concrete;

- (ii) has an outward opening gate that is kept locked when not in use, and
 - (iii) when the floor area exceeds 10 m² an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;
 - (c) the storage area is free of vegetation and has a non-combustible firm level base;
 - (d) a two metre distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
 - (e) when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
 - (f) open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1, and
 - (g) fire-fighting equipment is installed as determined by the Council.
- (8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

Spray rooms and booths

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

Liquid petroleum gas containers

38. (1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.
- (2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.
- (3) A liquid petroleum gas container of a capacity not exceeding nine kilogram must be filled and stored in accordance with SABS 087: Part 7.

CHAPTER 8

GENERAL PROVISIONS

Indemnity

39. The Council is not liable for damage or loss as a result of, but not limited to, bodily injury, loss of life or loss of or damage to property or financial loss, or consequential loss, which is caused by or arises out of or in connection with anything done or performed or omitted in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this by-law.

Offences and penalties

40. Any person who -

- (a) contravenes or fails to comply with any provisions 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 any authorised official in the execution of his or her duties under these by-laws –

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

Enforcement provisions

41. Any authorized official of the Council may –

- (1) enter any premises at any reasonable time to inspect the premises for compliance with this by-law;
- (2) summarily abate any condition on any premises which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger and to this end may-
 - (a) call for the immediate evacuation of the premises;

- (b) order the closure of the premises until such time as the violation has been rectified;
- (c) order the cessation of any activity, and
- (d) order the removal of the immediate threat.

Authority to investigate

42. The Council has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

Failure to comply with provisions

43. (1) When the Council finds that there is non-compliance with the provisions of this by-law a written notice must be issued and include the following:

- (a) confirmation of the findings;
- (b) provisions of this by-law that are being contravened;
- (c) the remedial action required, and
- (d) set forth a time for compliance.

- (2) Nothing in this by-law prevents the Council or any authorized official from taking immediate action to take immediate corrective action in respect of any fire or other threatening danger found on any premises and to recover any costs incurred from the owner.

Repeal of existing By-laws

44. All Council's existing Fire Prevention by-laws are hereby repealed and replaced by this by-law..

Short title and commencement

45. This by-law shall be called the Fire Prevention By-law, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

No. 69

8 June 2011

NUISANCE BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

CHAPTER 1

1. DEFINITIONS

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

"Council" means the Council of the Mkhambathini Municipality;

"council property" means any property, including but not limited to public roads –

- (a) which is owned by the Council;
- (b) over which the Council has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Council;

"nuisance" means any act, condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace, or quiet of the public or which adversely affect one's peace.

"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

any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

"Offensive material" means any material that obstructs the safe movement of persons

"Permit" means a periodic authority by the Council to carry out an activity

2. Disturbance of Peace

- 2.1 No person may disturb public peace in any public place by making unseemly noises or shouting, wrangling or quarrelling or by hooting or playing loud music or by collecting a crowd or by fighting or challenging to fight or by striking with or bandishing or using in a threatening manner any stick or weapon or any other riotous, violent or unseemly behaviour at any time of the day or night.
- 2.2 Subject to obtaining prior approval of the Council, no person shall advertise any wares in or services in any public place by means of any megaphone loudspeakers or other similar device or ringing of bells in such a manner to constitute a public nuisance in the neighbourhood.
- 2.3 No person being in or any private premises, shall disrupt the public peace in the neighbourhood of such premises by making any unseemly noise, shouting, singing or playing continuous musical instruments, radios or the like or by the continuous or over loud use of loud speakers or the like.
- 2.4 No one shall discharge fireworks or light any bonfire in any public space without prior written permission of the Council.
- 2.5 No person shall, without lawful cause, discharge any firearm or airgun within the Municipality, provided that this by-law shall not apply to any person engaged in authorised target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.
- 2.6 No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this by-law shall not apply to the following:

- (a) Any person in the Military or Police service when on duty.
 - (b) Any security officer or police officer
 - (c) Any person who shall have obtained from police a written exemption from the operation of this by-law, which exemption the police are hereby authorised to grant.
- 2.8 No persons armed with lethal weapons shall be permitted to congregate in any part of the Municipality for any purpose or in any manner liable or calculated to cause a breach of peace.
- 2.9 No person shall, in any public place, use any abusive language or threatening language or commit any act which is liable or calculated to cause a breach of peace.
- 2.10 No person who shall erect or authorize the erection of any barbed wire alongside a street without the prior written consent of the Council.
- 2.11 Any person who shall keep within the Municipality any animal or poultry which causes a nuisance to any of the residents in the neighborhoods shall be guilty of an offence.

3 ROADS AND STREETS

3. (1) Where in the opinion of the Council any hedge tree or other growth hedges and is so placed or in such condition as:-
- Trees (a) to be a danger to any person or vehicle using a street; or
- (b) to interfere with-
- (i) the view along any street or from one street into another; or
 - (ii) the use of the street by pedestrian or vehicular traffic;
- the Council may serve a notice on the owner or occupier of the land on which such hedge tree or other growth is situated requiring him, within such period of time, not being less than fourteen days as shall be specified in such notice to cause the hedge, tree or other growth to be chopped, trimmed or removed.

- (2) Any person who fails to comply with the requirements of a notice served in accordance with paragraph (1) of this by-law shall be guilty of an offence.
- (3) Without prejudice to any prosecution which may be instituted under paragraph (2) of this by-law, the Council may on expiry of the period of time specified in a notice served execute any of the work specified in the said notice and any expenses incurred by the council in so doing shall be recoverable from the said person as a civil debt.
- (4) Any person who shall without statutory authority or the consent of the Municipality given in writing erect or permit the erection of any structure in such a position that it is sited in or protrudes over a street shall be guilty of an offence.
- (5) For the purpose of this by-law "structure" includes a machine, pump, post, billboards or other object, capable of causing an obstruction to a passenger or a vehicle in a street;
- (6) The provisions of this by-law shall not apply to any structure approved by the Council under any by-law of the council for the time being in force;
- (7) No person shall attach, hang, erect or permit the erection of any object from or alongside any street in such a manner as it protrudes over or into a street without a permit so to do from the Council or otherwise than in accordance with any condition attached to any such permit;
- (8) Any person who contravenes or fails to comply with the provisions of this by-law or any conditions attached to a permit issued there under or a notice served under the provisions of paragraph (4) of this by-law shall be guilty of an offence.
- (9) Any person who shall, without lawful authority, deface any buildings building by writing, signs or other marks thereon shall be guilty of an offence.
- (10) Any person who, without statutory authority, shall break up or authorize the breaking up of the surface of a public road, without the permission of the Municipality, shall be guilty of an offence.

- (11) Any person who contravenes or fails to comply with any condition attached to a permit granted under this by-law shall be guilty of an offence.
- (12) Any person who shall place or leave or allow or cause to be placed or left any vehicle or article or material in a street in such a manner that it causes or is likely to cause an obstruction to persons or vehicles using the street shall be guilty of an offence.
- (13) The council may remove any vehicle or article or material which has been placed or left in a street in contravention of this bylaw and impound the same.
- (14) The owner of a vehicle, article or material removed from a street in pursuance of this by-law shall not be entitled to recover the same until he has paid to the council the amount to be determined by the council, within 24 hours.

Provided that if such owner does not pay the fees and expenses due within a period of sixty days from the date the vehicle, article or material was impounded the council may sell or otherwise dispose of the same and the proceeds of such sale or disposal, if any, shall be set off against the outstanding fees and expenses, if any, incurred by the council in removing or disposing of the vehicle or article or material.

- (15) A person shall not deposit or cause to be deposited or have materials or harbor or store on any land, any building material, road Materials, earth, stones or soil other than for the purpose of erection of approved buildings thereon;

4. Repeal of existing By-laws

- 4.1 The Council's existing by-laws are relating to nuisance hereby repealed and replaced by this by-law.

5. Short title and commencement

- 5.1. This by-law shall be called the Nuisance by-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

PARKING GROUNDS BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

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

"Council" means the Council of the Mkhambathini 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.

"Charge" includes fees;

"Clamp" means a metallic instrument used to lock the wheels of a vehicle;

"Council motor vehicle" means a vehicle owned by the Municipal council of Mkhambathini and registered in the council numbers;

"Government motor vehicle" means a vehicle owned by the Government of South Africa and registered as a Government of South Africa vehicle;

"Inspector" means an officer of the Council authorized by the Municipality to control and supervise the designated parking places and includes any authorized assistant;

“Owner” means the person in whose name a vehicle is registered under part II of the Traffic Act, and in relation to a vehicle which is subject of a hire purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“Parking space” means a space in a parking place, which is provided for parking of a single vehicle;

“Parking permit” means a permit issued by the Council authorizing the owner of a vehicle to use a designated parking place;

“vehicle” includes any motor vehicle, motor cycle, tractor, trailer, wagon or cart;

2. Number and situation of parking spaces

2.1 The number and situation of parking places shall be such as are determined by the Council;

2.2 Marking of parking spaces. The limits of each parking place and the limits of each parking space in it shall be marked on the road, by line studs or other indication in such manner as the Council may determine;

2.3 Duration of parking place payments. No vehicle shall park in a designated parking place for a duration exceeding the time stipulated or paid for.

2.4 No reserved parking. No person shall put a signpost or any other sign in a parking space stating that the parking is reserved without the prior consent of the Council and payment of the fees to be determined by the council.

2.5 Manner of parking. No person shall park in, or drive into or drive out of a designated parking place, a vehicle in such a manner that the vehicle stands in, or passes over part of one parking space and part of another, or any line, stud or other indication making the limits of a parking space.

- 2.6 Charges of parking. No vehicle shall be driven into or parked within the limits of a parking place without the owner or the driver first paying to the Council in advance the charges prescribed in the second schedule to these By-laws.
- 2.7 Charges for clamping. Where a vehicle is parked in a place or space where it is not permissible to do so, a Council officer shall clamp the vehicle after which the motor vehicle shall be towed by the enforcement officer or a Police Officer for safe custody;
- 2.8 Where a vehicle has been clamped or removed in pursuance of this By-law the owner of such vehicle shall pay, or cause to be paid to the Council the fee to be determined by the Council.
- 2.9 Where the owner of a vehicle which has been removed according to the provisions of this By-law does not pay the fees and expenses due within a period of sixty days from the day on which the vehicle was removed, the Council may sell or otherwise dispose of such vehicle by public auction;
- 2.10 Notice of the intended auction shall be placed in the print media, and the proceeds of such sale or disposal, if any, be used to recover the cost incurred by the Council in removing, storage and disposing of the vehicle.
- 2.11 Permit for Parking Business. Any person having a commercial private parking place within the City shall obtain a permit from the Council to carry on such business under the provisions of the single business permit.
- 2.12 Any person who contravenes the provisions of these By-laws commits an offence and shall on conviction be liable to a fine to be determined by the Council
- 2.13 Obstruction. Any person who willfully obstructs, hinders, or otherwise interferes with any officer of the Council in the execution of his/her duties under this by-law shall be guilty of an offence.
- 2.14 Where a vehicle has been removed in pursuance of this By-law the owner of such vehicle shall pay, or cause to be paid to the Council, pounding charges, together with

the towing fees in respect of the expenses incurred by the Council in removing and keeping such vehicle in safe custody before he can recover the vehicle.

- 2.15 Damage or loss. Where a vehicle has been clamped or has been removed in pursuance of this by-law, the Council shall not be held responsible for any damage or loss, which may occur during the clamping or removal of such vehicle.
- 2.16 Changes in this by-law. The council shall from time to time determine the charges for parking, clamping and towing charges and fines for offences under this by-law by giving a notice not exceeding 30 days in the local newspapers by way of advertisement.

3. Repeal of existing By-laws

- 3.1 The Council's existing by-laws are hereby repealed and replaced by this by-law.

4. Short title and commencement

- 4.1 This by-law shall be called the Parking Grounds By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

PARKS AND OPEN PUBLIC SPACES BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

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

"Council" means the Council of the Mkhambathini Municipality;

"parks" means any open space managed by the council for recreation purposes;

"open space" means a street, road, pathway, open ground;

"management board" means the Board at that time managing any of the parks on behalf of the Council;

2. Parks

2.1 For the purpose of this by-law, parks will include any open spaces that is managed by the council for recreational purposes any open space managed by the council of recreation purposes.

3 Opening

3.1 The parks shall be opened daily at and closed to the public at the time determined by the Council. Provided that this By-law shall not be deemed to require the parks to be opened and closed at the hours heretofore prescribed on any day when in pursuance of any statutory or other provision in that behalf the council may close such park to the public.

3. Prohibition

3.2 A person other than an officer of the council or a person or a servant of a to entry before person employed by the council in or about any work in connection with the opening time or laying out, planting, improvement or maintenance of the park shall not on any or after closing time day on which the park may be open to the public enter the park before to time hereinbefore appointed for the opening thereof, or enter the park or remain therein after the time hereinbefore appointed for the closing thereof.

4. Entry or exit

4.1 A person shall not enter or exit the park otherwise than through any one of through appointed the gates, wickets, passages or openings appointed by the gates, wickets gates passages or openings appointed by the council as the authorised means of entrance to or egress from the park.

5. Interference

5.1 A person shall not wilfully or improperly remove or displace any board, plate with notices, or tablet used or constructed or adapted to be used for the exhibition of any signs or boards etc By-law or notice and fixed or set up by the council in any part of the parks or in or on any building or structure therein or at or near to any of the appointed means of entrance to or egress for the park or in or on any wall or fence enclosing the park.

6. Defacing

6.1 . A person shall not carelessly or negligently deface, injure or destroy any part destroying or of any wall or fence in or enclosing the park, or any part of any building, damaging within the barrier or fitting, or of any fixed or movable seat, or of any other structure or park erection in the park.

7. Removal

7.1 A person shall not wilfully, carelessly or negligently remove or displace any displacement barrier, failing of post, or any fixed or movable seat or any part of any

building, structure or erection, or any appliance or article provided for use of used or adapted to be used or in the care, cultivation or protection of any tree, shrub under wood or other plant in the parks.

8. Riding

8.1 A person, other than an officer of the council or person or a servant of a driving of breast person employed by the council in or about any work in connection with the briden prohibited laying out, planting, improvement or maintenance of the park shall not at any time ride, drive or cause or permit to be ridden, driven or brought into the park any beast of draught or burden.

9. Restriction

9.1 A person shall not drive or bring, or cause or permit to be driven or brought domestic into the park any bull, ox, cow, heifer, steer, calf, sheep, lamb, hog, sow, goat animals or any other animal. Provided that this By-law shall not be deemed to prohibit any person from taking a dog in the parks provided such dog be on a lead and continue to be under proper control.

10. Management

10.1 The council may enter into an agreement with a person, association or of the parks company for the purpose of management of the parks.

10.2 The person association or company may form a management board to oversee the day to day running of the parks.

11. Trading

11.1 The council may authorise, in any park, not more than 5 persons to engage in soft drinks & trade of soft drinks and cakes provided:

(a) the authorised person pays to the council a permit fee to be determined by council

(b) the authorised person ensures the area of trade is free of litter

(c) the authorised person does not engage in any offensive trade

(d) the authorised person operates only on the areas designated by the council

12. Fixing of bills

12.1 A person, other than an officer of the council or a person acting in placards, notices etc pursuant of their directions in that behalf shall not affix or post any bill, placard or notice to or upon any or fence in or enclosing the parks or to or upon any tree, wall or other plant or to or upon any part of any building, barrier or railing, or of any fixed or movable seat or any other structure or erection in the park.

13. Destruction

13.1 A person shall not injure or deface any tree or shrub or grass or remove vegetation any tree shrub, plant or flowers, or pluck any bud, blossom, flower or leaf of any tree, sapling, shrub, under wood or other plant.

14. Depositing

14.1 A person shall not wilfully, carelessly or negligently throw or deposit any litter filth, rubbish, paper bottles or other refuse of any kind in any part of the parks or defile any wall or fence in or enclosing the park, or any buildings, barrier or railing or of any other structure or erection in the park.

15. Fire

15.1 A person shall not kindle a fire or smoke in the parks.

16. Climbing

16.1 A person shall not climb any wall, fence or enclosed in the park, or any tree, or any barrier, railing, post or other erection in the park.

17. Harming birds

- 17.1 A person shall not in any part of the park take, injure, or destroy any bird or or butterflies butterfly or spread or use any net or set or use any snare, instrument or any other means for the taking, injuring or destruction of any bird or butterfly.

18. Interference

- 18.1 A person shall not in any part of the park wilfully displace or disturb in there or with birds destroy any birds nest, or take injure or destroy any birds.
- 18.2 A person shall not except under the authority of the council interfere with switches with any fixture, fitting, lamp switch or meter in the parks and meters
- 18.3 A person shall not create any disturbance or disorderly or be guilty of any disorderly or quarrelsome, violent or indecent behaviour in the parks.

19. Driving

- 19.1 A person shall not drive or take within the park any tractor or trailer, motor hire lorry or any vehicle which is used for plying for hire and is licensed to carry seven or more passengers or freight cart drawn by oxen or mules, except he shall have obtained the written authority of the town clerk to do so.

20. Residence

- 20.1 No person other than an officer of the council or a person or a servant of a person employed by the council to work in the parks shall dwell in the parks or be in the parks beyond the specified times.

21. Penalty

- 21.1 Any person who contravenes the provisions of this by-law shall be guilty of an offence and liable on conviction.

22. Repeal of existing By-laws

- 22.1 The Council's existing by-laws are hereby repealed and replaced by this by-law.

23. Short title and commencement

- 23.1 This by-law shall be called the Parks and Public Open Spaces By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

POLLUTION CONTROL BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1: DEFINITIONS.....	2
1. Definitions.....	2
CHAPTER 2: NOISE POLLUTION.....	6
2. Control of noise.....	6
3. Notices	6
CHAPTER 3: POLLUTION OF WATER COURSES.....	7
4. Pollution of water courses.....	7
5. Boats on water courses.....	7
6. Equipment on craft.....	8
CHAPTER 4: LITTERING AND DUMPING.....	8
7. Littering.....	8
8. Dumping.....	8
CHAPTER 5: AIR POLLUTION.....	9
9. Air pollution control zone.....	9
10. Smokeless zone.....	10
CHAPTER 6: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS	10
11. Prohibition	10
12. Installation of fuel-burning equipment.....	11
13. Operation of fuel-burning equipment.....	11

14. Installation and operation of obscuration measuring equipment.	12
15. Monitoring and sampling.....	13

CHAPTER 7: SMOKE EMISSIONS FROM DWELLINGS.....13

16. Smoke emissions from dwellings	13
--	----

CHAPTER 8: SMOKE EMISSIONS FROM OPEN BURNING.....13

17. Smoke emissions from open burning.....	13
--	----

CHAPTER 9: SMOKE EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES.....15

18. Prohibitions.....	15
19. Stopping vehicles for inspection and testing.....	15
20. Testing procedure.....	16
21. Repair notice.....	17

CHAPTER 10: GENERAL PROVISIONS.....18

22. Offences.....	18
23. Appeals.....	18
24. Repeal of existing By-laws.....	19
25. Short title and commencement.....	19

CHAPTER 1: DEFINITIONS

Definition

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

"adverse effect" means any actual or potential impact on the environment that impairs or could impair human health or well-being or the environment to an extent that is more than trivial or insignificant;

"air pollutant" means any substance that causes or may cause air pollution including, without limiting the generality of the foregoing, dust, smoke, fumes and gas;

"air pollution" means any change in the environment caused by any air pollutant where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of any natural or managed ecosystem, or on materials useful to people, or will have such an effect in the future;

"air pollution control zone" means the geographical area to which section 9 of these by-laws is declared to apply;

"ambient sound level" means the reading of an integrating impulse sound level meter measured at the end of a total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a disturbing noise is absent;

"atmosphere" means air that is not enclosed by a building, machine, chimney or other such structure;

"authorised official" means a person authorised by the Council to perform the functions of an authorised official in terms of these by-laws;

"chimney" means any structure or opening of any kind from or through which air pollutants may be emitted;

"compressed ignition powered vehicle" means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

"Council" means the Council of the Mkhambathini Municipality;

"dark smoke" means dark smoke as defined in the Atmospheric Pollution Prevention Act No. 45 of 1965;

- "disturbing noise" means the a noise level which exceeds the ambient sound level by 7dB(A) or more, and "disturbing" in relation to a noise shall have a corresponding meaning;

"dust" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

"dwelling" means any building or other structure, or part of a building or structure, used for residential purposes, and any outbuildings ancillary to it;

"fuel-burning equipment" means any furnace, boiler, incinerator, or other equipment, including a chimney-

- (a) designed to burn, or capable of burning, liquid, gas or solid fuel;
- (b) used to dispose of any material or waste by burning; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

"light absorption meter" means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

"littering" means the discarding or leaving behind of any object or matter whether gaseous, liquid or solid by the person in whose control or possession it was;

"municipal manager" means the person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"noise level" means the reading on an integrating sound level meter taken at the measuring point at the end of a reasonable period after the integrating sound meter has been put into operation during which period the noise level alleged to be disturbing noise is present, to which reading 5dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature;

"obscuration" means the ratio of visible light attenuated by suspended air pollutants to incident visible light, expressed as a percentage;

"open burning" means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and "burning in the open" has a corresponding meaning;

"operator" means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

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

"premises" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

"proclaimed township" means any land unit zoned and utilized for residential purposes;

"public road" means a road which the public has the right to use;

"smoke" means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

"vehicle" means any motor car, motor cycle, bus, truck or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;

"water course" includes-

- (a) a spring;

- (b) a natural channel in which water flows regularly or intermittently; and
- (c) a wetland, lake or dam into which, or from which, water flows; and

and a reference to a water course includes, where relevant, its bed, banks and mouth.

CHAPTER 2: NOISE POLLUTION

Control of noise

2. No person shall on any premises or land make, produce cause or permit to be made or produced by any person, machine, animal, device or apparatus or combination of these, a noise which is a disturbing noise.

Notices

- 3.(1) The Municipality may by written notice instruct the person causing or responsible for a disturbing noise or the owner of such building or premises on which a disturbing noise is caused or both of them, within a period specified in such notice, immediately to stop such noise or have it stopped or take the necessary steps to reduce the disturbing noise level to a level below that of a disturbing noise; provided that if the Municipality is satisfied that the disturbing noise is due to or caused by-

- (a) the working of:
 - (i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;
 - (ii) garden equipment;
 - (iii) a machine or device,

the noise level of which has in the opinion of the Municipality been reduced or muffled according to the best practicable methods;

- (b) a sports meeting; or
- (c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise,

the Municipality may, whether generally or specifically, permit the working of such machine or apparatus, or such sports meeting or circumstances or activities to continue, subject to such conditions as the Municipality may deem fit.

CHAPTER 3: POLLUTION OF A WATER COURSE

Pollution of a water course

- 4. Except with the permission of the Council or in terms of the provisions of the Sea-Short Act, 1935 (Act No. 21 of 1935), a person may not cause –
 - (a) waste water;
 - (b) any toxic or harmful substance; or
 - (c) any litter or waste,to run into or be dumped in a water course.

Boats on water courses

- 5. No person may operate a boat on a water course while it is leaking oil, petrol or any toxic or noxious substance.

Equipment on craft

6. A person may not use a motor-driven boat on a water course unless it is equipped with an effective silencer affixed to the exhaust pipe of the motor.

CHAPTER 4: LITTERING AND DUMPING**Littering**

7. No person shall discard or leave any litter on any land or water surface, street, road or any site in or on any place to which the public has access, except in a container or at a place which has been specifically indicated as having been provided or set aside for such purpose.

Dumping

- 8.(1) No person may dump, or cause or permit to be dumped, on any land or premises any waste.
- (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice, that -
 - (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
 - (b) the owner of the land or premises where the contravention took place;
 - (c) 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; or
 - (d) any person who negligently failed to prevent the contravention from taking place,

cease the contravention in a specified time, take steps to prevent a further contravention or the continuation of the contravention, and/or

take whatever steps Council considers necessary to clean up or remove the waste, to lawfully dispose of the waste and to rehabilitate the affected area.

- (3) If a person fails to comply with subsection (1), or if a person fails to comply with directions given in a notice issued under subsection (2), Council may itself take whatever steps it considers necessary to clean up or remove the litter, to rehabilitate the affected area 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 reasonable costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefor.

CHAPTER 5: AIR POLLUTION CONTROL

Air pollution control zones

- 9.(1) The whole area within the jurisdiction of the Council is hereby declared an air pollution control zone.
- (2) Within the air pollution control zone, the Council may from time to time by resolution-
- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
 - (b) prohibit or restrict the combustion of certain types of fuel;
 - (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted; or
 - (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
 - (i) different geographical areas;
 - (ii) specified premises;

- (iii) classes of premises; or
 - (iv) premises used for specified purposes.
- (3) The Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the provisions of this by-law.

Smokeless zones

- 10.(1) Council may by resolution declare certain areas to be smokeless zones from a date indicated in that resolution.
- (2) No owner or occupier of any premises within a smokeless zone shall cause or permit the emission from such premises of smoke of such a density or content as will obscure light to an extent greater than 10 per cent.
- (3) If, on the written application of any person, the Council is satisfied that there are adequate reasons for the temporary exemption of any premises from the provisions of this section, the Council may, by notice in writing to the applicant, grant such exemption for a period specified in such notice.

CHAPTER 6:

SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

Prohibition

- 11.(1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.

Installation of fuel-burning equipment

- 12.(1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
- (a) the owner or occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence; and
 - (b) the Council may, on written notice to the owner or occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner or operator within a period stated in the notice.

Operation of fuel-burning equipment

- 13.(1) No person shall use or operate any fuel-burning equipment on any premises contrary to an authorisation referred to in section 12.
- (2) Where fuel-burning equipment has been used or operated in contravention of subsection (1):
- (a) the owner and occupier of the premises concerned and the operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) the Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 12; and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Installation and operation of obscuration measuring equipment

14.(1) The Council may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:

- (a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
- (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
- (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely in the opinion of an authorised official to emit dark smoke;
- (d) the Council considers that the nature of the air pollutants emitted from the relevant premises are reasonably likely to create a hazard to human health or the environment.

(2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:

- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
- (b) that person's right of appeal under section 28;
- (c) that person's right to request written reasons for the issuing of the notice; and
- (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

- 15.(1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 16(1) must:
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorised official, produce the record of the monitoring and sampling results for inspection; and
 - (c) if requested to do so by an authorised official, provide a written report (in a form and by a date specified by the authorised official) of part or all of the information in the record of the monitoring and sampling results.

**CHAPTER 7:
SMOKE EMISSIONS FROM DWELLINGS**

- 16.(1) No person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.

**CHAPTER 8:
EMISSIONS CAUSED BY OPEN BURNING**

- 17.(1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.

- (2) The Council may not authorize open burning under subsection (1) unless -
- (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing, recycling or removing the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;
 - (c) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
 - (d) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region; .
 - (e) the land on which that person intends to open burn the material is not land within a proclaimed township;
 - (g) the open burning is conducted at least 100 metres from any buildings or structures;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
 - (i) that person has notified in writing the owners and occupiers of all adjacent properties of-
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.

- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
 - (a) recreational outdoor barbecue or braai activities on private premises; or
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes.

CHAPTER 9:

EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

Prohibition

- 18.(1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and driver of the vehicle shall each be guilty of an offence.

Stopping of vehicles for inspection and testing

- 19.(1) In order to enable an authorised official to enforce the provisions of these by-laws, the owner of a vehicle must comply with any reasonable direction given by an authorised official-
 - (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised official may:
 - (a) inspect and test the vehicle at the roadside, in which case

inspection and testing must be carried out:

- (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
- (b) conduct a visual inspection of the vehicle and, if the authorised official reasonably believes that an offence has been committed under section 18, instruct the owner or driver of the vehicle in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 20.

Testing procedure

- 20.(1) An authorised official must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 18.
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised official, the owner or driver must start the vehicle, place it in neutral gear and engage the clutch;
 - (b) while the vehicle is idling; the authorised official must conduct a visual inspection of the emission system of the vehicle;
 - (c) when instructed to do so by the authorised official, the owner or driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorised official may do so him/herself or herself if the owner or driver fails or refuses to comply with the authorised official's reasonable instructions;

- (d) while the throttle pedal is depressed, the authorised official must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke; and
 - (e) the owner or driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorised official.
- (3) If, having conducted the free acceleration test, the authorised official is satisfied that the vehicle-
 - (a) is not emitting dark smoke, then the authorised official must furnish the owner of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 18; or
 - (b) is emitting dark smoke, the authorised official must issue the owner of the vehicle with a repair notice in accordance with section 21.

Repair notice

- 21.(1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.
- (2) The repair notice must contain *inter alia* the following information:
 - (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and
 - (c) if the driver is not the owner, the name and address of the vehicle owner.
- (3) A person commits an offence if that person fails to comply with the notice referred to in subsection (1).

CHAPTER 10: GENERAL PROVISIONS

Offences

22. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R20 000 or imprisonment for a period not exceeding 2 years.

Appeals

- 23.(1) Any person may appeal against a decision taken by an authorised official under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the Municipal Manager must:
- (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
 - (b) take all reasonable measures to ensure that all persons whose

rights may be significantly detrimentally affected by the granting of the appeal application are notified in writing of the appeal application and advised of their right to:

- (i) obtain a copy of the appeal application;
 - (ii) submit written objections to the application to the municipal manager within 30 days of date of notification.
- (4) After the expiry of the 30-day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by-
- (a) an authorised official other than the municipal manager, then the municipal manager is the appeal authority; or
 - (b) the municipal manager, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

Repeal of existing By-laws

24. All Council's existing Pollution Control by-laws are hereby repealed and replaced by this by-law.

Short title and commencement

25. This by-law shall be called the Pollution Control By-law, and shall come into operation on date of publication in KwaZulu Natal Provincial Gazette.

No. 73

8 June 2011

PUBLIC AMENITIES BYLAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1: DEFINITIONS	3
1. Definitions	3
CHAPTER 2: ENTRANCE TO PUBLIC AMENITIES	4
2. Opening times	4
3. Entrance fees	4
4. Entrance and exit	4
5. Maximum number of visitors	4
6. Closing of public amenities	4
CHAPTER 3: PROHIBITED CONDUCT	5
7. Personal behaviour	5
8. Damage	6
9. Animals	6
10. Fishing	7
11. Vehicles	7
12. Games and play areas	7
CHAPTER 4: GENERAL PROVISIONS	8
13. Authorised officials	8
14. Directives	8
15. Penalties	8
16. Repeal of existing bylaws	9

17. Short title and commencement

9

CHAPTER 1 DEFINITIONS

Definitions

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

"authorised official" means an official of the Council who is authorised to manage or assist in the management of a public amenity;

"Council" means the Municipal Council of the Municipality;

"motor vehicle" includes a motor cycle, motor quadracycle, motor tricycle and a trailer;

"notice" means an official notice of the Council displayed at entrances to or at conspicuous places in a public amenity;

"public amenity" means any outdoor or indoor amenity which is vested in or controlled by the Council and to which the public have access, and includes, without limiting the generality of this definition –

- (a) a park, botanical or zoological garden, pleasure resort, nature reserve, hiking trail, sports ground or swimming pool; and
- (b) any building situated within a public amenity; and

"the Municipality" means the Municipality.

CHAPTER 2

ENTRANCE TO PUBLIC AMENITIES

Opening times

- 2.(1) A public amenity shall be open to the public during times determined by the Council and indicated by notice.
- (2) No person shall enter or be present in a public amenity other than during the opening times determined by the Council in terms of subsection (1).

Entrance fees

3. Council may determine entrance fees to a public amenity
 - (1) No person shall enter a public amenity unless he or she has paid the entrance fee determined by the Council in terms of subsection (1).
 - (2) The Council may suspend the payment of entrance fees on any specific day or days as it deems fit.

Entrance and exit

4. No person shall enter or leave a public amenity except through the gates provided for that purpose.

Maximum number of visitors

5. The Council may determine, and display by notice, the maximum number of visitors who may be admitted to or be present in any public amenity during specific times or on specific days.

Closing of public amenities

6. The Council may –
- (1) for any special purpose by notice close a public amenity or part thereof for such time as it may from time to time consider necessary or expedient; and
 - (2) for any purpose related to the operation and maintenance of the public amenity by notice close any part of public amenity to the public.

CHAPTER 3
PROHIBITED CONDUCT

Personal behavior

7. No person in a public amenity shall:
- (1) do anything which endangers or is likely to endanger another person;
 - (2) do anything which constitutes a nuisance or interferes with another person in the proper enjoyment of the public amenity;
 - (3) use profane, indecent or improper language;
 - (4) consume alcohol or any other intoxicating substance, or be intoxicated;
 - (5) use, intrude upon or attempt to intrude upon any toilet, urinal or other place of convenience provided for the opposite sex;
 - (6) enter any part of a public amenity determined by council and indicated by notice to be closed to the public;
 - (7) pollute, through the washing of clothes or otherwise, any stream, river, lake, dam, pond, fountain or ornamental water feature;

- (8) swim in any stream, river, lake, dam, pond, fountain or ornamental water feature unless a notice specifically permits swimming in that place; or
- (9) launch a boat, canoe, raft or any other floating object on any stream, river, lake, dam, pond, fountain or ornamental water feature except with the written consent of the Council.

Damage

8. No person in a public amenity shall-

- (1) place or leave any placards or notices;
- (2) damage or remove any vegetation, including any grassed area;
- (3) light any fire, except at designated braai facilities;
- (4) litter;
- (5) erect any structure or tent of any kind without the consent of Council in writing; and
- (6) damage any building or other structure erected by or with the consent of the Council.

Animals

9.(1) No person in a public amenity shall -

- (a) take a dog or any other animal into a public amenity in contravention of a notice;
- (b) bathe or wash a dog or any other animal, or allow a dog or any other animal to swim, in any stream, river, lake, dam, pond, fountain or ornamental water feature; and

- (c) interfere with or harm any bird or wild animal.
- (2) In any public amenity where dogs are allowed, the owner or person having custody of a dog shall ensure that –
 - (a) the dog is kept on a leash;
 - (b) the dog does not attack, terrify or interfere with any person, animal or bird; and
 - (c) any faeces left by the dog are removed.
- (3) The Council may impound any dog or other animal which is found in a public amenity and which appears not to be in the custody of a person.

Fishing

10. No person shall-
- (1) fish without a permit issued by the Council; or
 - (2) fish in contravention of any notice or conditions of permit.

Vehicles

11. No person in a public amenity shall –
- (1) drive or park a motor vehicle in contravention of a notice;
 - (2) clean, maintain or carry out repairs on any motor vehicle; or
 - (3) ride a bicycle, skateboard, roller skates or other similar device in contravention of a notice.

Games and play areas

12. No person in a public amenity shall-

- (1) play soccer, cricket or rugby or any other similar game, except in the allocated places and at times determined by the Council; and
- (2) enter play areas, or use play apparatus, designated by notice as being for the use of children under a particular age.

CHAPTER 4 GENERAL PROVISIONS

Authorised officials

13. An authorised official may-

- (1) require any person to produce proof of payment of any applicable entrance fee; and
- (2) instruct any person to comply with the provisions of these bylaws or a notice.

Directives

14. The Council may –

- (1) set aside areas within a public amenity for specified activities and prohibit other specified activities within those areas;
- (2) issue directives regarding any aspect of the use of a public amenity.

Penalties

15. Any person who –

- (1) contravenes or fails to comply with any provision of these by-laws
- (2) fails to comply with any notice issued in terms of these by-laws; or

(3) fails to comply with any lawful instruction given in terms of these by-laws; or

(4) who obstructs or hinders any authorised official 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 not exceeding R1000, 00 or in default of payment to imprisonment for a period not exceeding 3 months.

Repeal of existing By-laws

16. The Council's existing Public Amenities by-laws are hereby repealed.

Short title and commencement

17. These by-laws shall be called the Public Amenities By-laws, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

No. 74

8 June 2011

PUBLIC MEETINGS AND GATHERINGS BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

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

"Council" means the Council of the Mkhambathini Municipality and its successors in law, and includes the Executive Committee;

"Municipality" means Mkhambathini Municipality

2. Permission Required

2.1 No person shall hold or organise or cause to be convened or organised any public meeting, public gathering, procession, exhibition, performance or public address in any public street or public place or deliver or cause to be delivered any public address in any public street or public place unless-

2.1 (a) the Council has under the hand of the Municipal Manager granted its permission in writing for holding or delivery thereof; and

(b) it is held or delivered in compliance with any condition, requirements or restriction imposed by the Council; and

(c) it complies with all the laws in force in the Republic of South Africa

3. Application for Permission

3.1.1 Any person wishing to obtain the Council's permission as in subsection (2) required shall deliver to the Council not less than seven days or such lesser period as the Council may in its discretion permit before the day on which the public meeting or gathering or procession or exhibition or public address concerned is to be held or delivered, a written application specifying-

- (a) the nature thereof;
- (b) the full names, addresses, and telephone numbers of every holder, convenor and of every person intending to deliver an address;
- (c) the date on which, the time at which, and place at, or route along which it is to be held or delivered;
- (d) the expected maximum duration thereof;
- (e) in case of a procession the expected number of persons expected to take part; and
- (f) particulars regarding any hand, musical instruments, device for the application of sound, vehicle or temporary structure to be used in conjunction therewith.

The Council may require such person any additional information which it may consider necessary for the purpose of dealing with such application.

4. Grant or Refusal of Permission

4.1 The Council may grant permission if all information required has been supplied in full if it is satisfied at the holding or delivery of the public meeting or gathering or procession or exhibition or public address concerned is not likely to-

- (a) Endanger, obstruct or interfere with-
 - i. Pedestrian or vehicular traffic

- ii. Any public market, auction or fair; and
- iii. Any other public meeting, gathering, procession, exhibition or public address or
- iv. Lawful use by the public of any street or public place; or

(b) Endanger or be injurious to the public health.

4.2 The Council may when granting its permission for the holding of any public meeting, gathering, procession, exhibition or performance or the delivery of any public address under this chapter, impose such conditions, the requirements and restrictions as it may deem necessary in the public interests and may, without derogating from the generality of the foregoing in particular, limit the holding or delivery thereof to specified times or periods and to specify places or routes and prohibit or restrict the use of any band, musical instrument, device for the application of sound, vehicle or temporary structure in conjunction therewith.

5. Exemption

5.1 The provisions of this chapter shall not apply to any funeral, wedding, military or police procession.

6. Offences

6.1 Any person who-

- (a) Contravenes or fail to comply with any provisions of this by-law or notice or order Imposed or issued in terms thereof;
- (b) Resists, hinders, obstructs, molests or interferes with any officer or employee of the Council in the performance of his/her duties or the execution of his/her powers under this by-law; or
- (c) Causes or permit any other person to commit any of the aforesaid-

Shall be guilty of an offence and shall be liable for prosecution.

7.Damages

- 7.1 Notwithstanding the stipulations contained in (6) above, the Council shall hold any person or organiser of a public meeting and gathering or participant in such a gathering procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organiser.

8. Repeal of existing By-laws

- 8.1 The Council's existing by-laws that relate to public meetings and gatherings are hereby repealed and replaced by this by-law.

9. Short title and commencement

- 9.1 This by-law shall be called the Public Meetings and Gatherings By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

No. 75

8 June 2011

PUBLIC ROADS BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

Chapter 1 : Definitions.....	1
Section 1 : Definitions.....	1
Chapter 2 : Obstructions.....	2
Section 2 : Obstruction of public roads.....	2
Section 3 : Removal of obstructions.....	2
Chapter 3 : Encroachments.....	3
Section 4 : Excavations.....	3
Section 5 : Hoardings.....	3
Chapter 4 : Dangerous Fencing.....	4
Section 6 : Barbed wire, dangerous and electrical fencing.....	4
Chapter 5 : Protection and Cleanliness of Public Roads.....	4
Section 7 : Protection of public road.....	4
Section 8 : Cleanliness of public roads.....	5
Section 9 : Defacing, marking or painting public roads.....	5
Chapter 6 : Races, Sports Events and Games.....	5
Section 10 : Races and sports events.....	5
Section 11 : Games on public roads.....	5
Chapter 7 : General.....	6

Section 12 : Offences.....	6
Section 13 : Repeal of By-laws.....	6
Section 14 : Short title and commencement.....	6

CHAPTER 1 : Definitions

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

"authorised official" means a person authorised by the Council to perform the functions of an authorised official in terms of this by-law;

"Council" means the Council of the Mkhambathini Municipality;

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

"prescribed fee" means a fee determined by the Council by resolution; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

CHAPTER 2: OBSTRUCTIONS

Obstruction of public roads

2. No person may cause any obstruction of any public road.

Removal of obstructions

- 3.(1) If any person causes an obstruction on any public road, an authorised officer, may order such person to refrain from causing or to remove the obstruction.
- (2) Where the person causing an obstruction cannot be found, or fails to remove or to cease causing such obstruction, an authorised officer may take such steps as may be necessary to remove the obstruction and the Council may recover the cost of the removal of the obstruction from that person.

CHAPTER 3: ENCROACHMENTS

Excavations

- 4.(1) No person may make or cause to be made any hole, trench, pit, tunnel or other excavation on or under any public road or remove any soil, tar, stone or other materials from any public road without the prior written consent of the Council.
- (2) Any person who requires the consent referred to in subsection (1) must -
- (a) comply with any requirements prescribed by the Council; and
 - (b) pay the prescribed fee.

Hoardings

- 5.(1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure referred to in subsection (1) will project onto any portion of a public road, the person must -
- (a) obtain prior approval from the Council;
 - (b) pay the prescribed fee; and
 - (c) if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may grant a permit in writing specifying -
- (a) the area and position at which the enclosure is permitted; and
 - (b) the period for which the enclosure is permitted.

CHAPTER 4: DANGEROUS FENCING

Barbed wire, dangerous and electrical fencing

6. No owner or occupier of land -

- (1) other than an owner or occupier of agricultural land, may along any public road erect or cause or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road; and
- (2) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause or permit to be erected along such public road any electrified fence, railing or other electrified barrier unless –
 - (a) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; or
 - (b) the fence, railing, or other barrier is separated from the public road by another, non-electrified fence.

CHAPTER 5: PROTECTION AND CLEANLINESS OF PUBLIC ROADS

Protection of public road

7. No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to the road.

Cleanliness of public roads

- 8.(1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.
- (2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

Defacing, marking or painting public roads

9. No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

CHAPTER 6: RACES, SPORTS EVENTS AND GAMES**Races and sports events**

- 10.(1) An application for consent to hold a race or sports event on any public road must be submitted in writing to the Council on the prescribed form at least 60 days prior to the event.
- (2) The applicant must pay the prescribed fee and deposit to the Council at the time of making application for consent.

Games on public roads

11. No person may –
- (1) play cricket, football or any other game; or
 - (2) by any means discharge any missile;
- upon, over or across any public road.

CHAPTER 7: GENERAL**Offences**

12. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

Repeal of existing By-laws

- 13 All Council's existing Public Roads by-laws are hereby repealed and replaced by this by-law.

Short title and commencement

- 14 These by-laws shall be called the Public Roads by-law, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

No. 76

8 June 2011

MKHAMBATHINI MUNICIPALITY
STANDING RULES AND ORDERS OF THE COUNCIL AND ITS COMMITTEES

INDEX

CHAPTER 1: DEFINITIONS	3
1. Definitions	3
 CHAPTER 2: FREQUENCY AND NOTICE OF MEETING	 4
2. Council meetings	4
3. Special meetings	4
4. Notice to attend a council meeting	5
5. Service of notices	5
6. Non-receipt of notice	5
 CHAPTER 3: QUORUM	 5
7. Quorum	5
8. Adjournment in absence of quorum	5
 CHAPTER 4: ATTENDANCE	 6
9. Attendance register	7
10. Leave of absence	7
11. Sanctions for non-attendance	8
 CHAPTER 5: ADJOURNMENT	 8
12. Adjourned a meeting	8
13. Continuation meeting	8
 CHAPTER 5: PROCEEDINGS	 8
14. Chairperson of meetings	8
15. Minutes	9
16. Order of business	9
17. Confirmation of minutes of previous meeting	9
18. Deputations	9
19. Reports	10
20. Motions	10

21. Questions	11
22. General matters of an urgent nature	11
23. Order of business	11
24. Interpretation	11
CHAPTER 7: VOTING	12
25. Decision by voting	12
26. Method of voting	12
27. Casting vote	12
28. Dissenting vote	12
CHAPTER 8: DEBATE	12
29. Opportunity to speak	12
30. Relevance	12
31. Length of speeches	13
32. Councillors to speak only once	13
33. Precedence of the Chairperson	13
34. Points of order	13
35. Explanations	13
CHAPTER 9: CONDUCT	14
36. General conduct	14
37. Misconduct	14
CHAPTER 10: COMMITTEES	14
38. Rules	14
39. The Chairperson	14
CHAPTER 11: PECUNIARY INTEREST	15
40. Declaration of pecuniary interest	15
41. Debate of pecuniary interest	15
CHAPTER 12: GENERAL PROVISIONS	15
42. Repeal of existing by-laws	15
43. Short title and Commencement	15

CHAPTER 1

DEFINITIONS

Definitions

1. In these Standing Rules, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise—

"Chairperson" means the Speaker in relation to any meeting of Council, the Mayor in relation to the Executive Committee and the elected chairperson in relation to any meeting of any committee of the Council;

"Council" means the Council of the Mkhambathini Municipality;

"Code of Conduct" means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

"Executive Committee" means the Council's executive committee established in terms of section 42 of the Structures Act;

"Mayor" means the councillor of the Executive Committee elected by the Council as the Mayor;

"meeting" means a meeting of the Council or any one of its Committees;

"Councillor" means a councillor of the Council;

"Municipal Manager" the person appointed as administrative head of the Municipality or a person acting in such a capacity;

"notice of motion" means the instrument by which councillors may bring items on to the agenda of a Council meeting in terms of rule 20 of these Standing Rules and Orders;

"explanation" means the clarification of some material part of a councillor's former speech which may have been misunderstood;

"point of order" means the pointing out any deviation from, or anything contrary to, in

the conducting of proceedings or any other irregularity in the proceedings; and

"Speaker" means the chairperson of the Council elected in terms of section 36 of the Structures Act;

"the Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and

"the Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

CHAPTER 2

FREQUENCY AND NOTICE OF MEETINGS

Council meetings

2. The Council shall hold an ordinary meeting of the Council not less than once in every two months. The council meetings shall be open to the public, (who will only have an observer status) provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted as provided for in section 20 of the Municipal Systems Act, No 32 of 2000.

Special meetings

3. (1) The Speaker may at any time and shall, at the request of a majority of the councillors of the Municipality, call a special meeting of the Council.
- (2) A request for the calling of a special meeting, as contemplated in sub-rule (1), shall—
 - (a) be signed by no less than 50% (fifty *per centum*) plus one of all councillors of the municipality; and
 - (b) be accompanied by—
 - (i) a duly signed notice of motion; and
 - (ii) a statement giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the Council.

Notice to attend a Council meeting

- 4.(1) The Speaker convenes the meetings of the Council through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.
- (2) Notice to attend a meeting in terms of sub-rule (1) shall be given at least seven days prior to an ordinary meeting.

Service of notices

- 5.(1) A notice to attend a meeting, specifying the business proposed to be transacted thereat and signed by the speaker shall be delivered at a place of abode of every member of the Council or at such place which is reasonably accessible as such councillor may designate.
- (2) In addition, the notice to attend a meeting shall be displayed on the public notice board at the municipality's head office.

Non-receipt of notice

6. Non-receipt (unintentional) of a notice to attend a meeting shall not affect the validity of any meeting or proceedings of council or any of its committees.

CHAPTER 3**QUORUM****Quorum**

7. A majority of the councillors must be present at a meeting of the Council before a vote may be taken on any matter.

Adjournment in absence of quorum

- 8.(1) No meeting shall take place, if there is no quorum at the expiry of ten minutes after the time at which a meeting is due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding ten minutes for a quorum to be there.

- (2) If during any meeting of Council or any of its committees the attention of the chairperson is called to the number of councillors present, he or she shall—
- (a) count the councillors present; and
 - (b) if it is found that there is no quorum present, the Chairperson shall allow an interval of ten minutes and if there is still no quorum, the Chairperson shall forthwith adjourn the meeting, unless it is decided with a unanimous consent of the members present to allow further time not exceeding an additional ten minutes in order to enable a quorum to assemble.
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be convened as a continuation meeting in terms of rule 5 of these Standing Rules and Orders.

CHAPTER 4 ATTENDANCE

Attendance register

9. Each councillor attending any meeting of the Council or a committee of the Council shall sign an attendance register provided for that purpose.

Leave of absence

- 10.(1) If a councillor—
- (a) is unable to attend a meeting of which notice had been given; or
 - (b) is unable to remain in attendance at a meeting;
 - (c) will arrive after the stipulated time for a meeting,
- he or she shall, at least forty-eight hours before the commencement of the meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned.
- (2) The municipal manager must as soon as possible inform the chairperson of the meeting concerned of any application for leave of absence received in terms of sub-rule (1).
- (3) The chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons.
- (4) The municipal manager must as soon as possible inform a councillor who has applied for

leave of absence of the chairperson's decision.

- (5) A councillor shall be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she—
- (a) failed to attend a meeting; or
 - (b) failed to remain in attendance at a meeting.

Sanctions for non-attendance

- 11.(1) Subject to compliance with the procedure set out in sub-rule (2), a councillor who is absent from a meeting, of which notice has been given, without good cause shall be disciplined accordingly.

- (2) Where a councillor has been absent without leave from a meeting—
- (a) the chairperson of the meeting concerned shall invite the councillor to provide a written explanation of his or her absence;
 - (b) the chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
 - (c) the councillor may appeal in writing within seven days of receipt of the chairperson's decision to—
 - (i) the council, in respect of his or her absence from a council or executive committee meeting; and
 - (ii) the executive committee, in respect of his or her absence from any other meeting; and
 - (d) the council or executive committee, as the case may be, shall—
 - (i) consider the councillor's appeal, together with any comments from the chairperson of the meeting concerned;
 - (ii) allow the councillor an opportunity to make representations; and
 - (iii) make a finding as to whether the councillor was absent with good cause.

- (3) The municipal manager shall keep a record of all incidents in respect of which councillors have been found to be absent without leave and without good cause and shall submit a written report thereon to the speaker at least once during every three month period.

- (4) Whenever a report submitted to the speaker in terms of sub-rule (3) identifies a councillor

as having been absent from three or more consecutive meetings which the councillor was required to attend, the speaker must–

- (a) submit the report to council;
- (b) allow the councillor an opportunity to make any representations; and
- (c) recommend to council that the Member of the Executive Council responsible for local government whether or not the councillor should be removed from the council.

- (5) The councillor ceases to be a councillor on the date that the Member of the Executive Council informs the municipal manager that the councillor had been removed from office.

CHAPTER 5

ADJOURNMENT

Adjourned meetings

12. A Council meeting or a meeting of any committee of Council may be adjourned to any day or hour.

Continuation meeting

- 13.(1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of rule 2 of these Standing Rules.
- (2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting which was adjourned.

CHAPTER 6

PROCEEDINGS

Chairperson of meetings

- 14.(1) At every meeting of the Council, the Speaker, or if he or she be not present, an Acting Speaker, shall be Chairperson.
- (2) Meetings of the Executive Committee shall be chaired by the Mayor and if he/she is not

present, the Deputy Mayor.

Minutes

15. Minutes of the proceedings of every meeting shall be recorded and be duly kept by the Manager: Corporate Services. He or she shall be responsible for the correctness of the same.

Order of business

16. The order of business at every ordinary meeting of the Council or its Executive Committee is as follows:

- (a) notice of meeting;
- (b) applications for leave of absence;
- (c) confirmation of minutes of previous meeting;
- (d) announcements by the chairperson;
- (e) deputations;
- (f) reports;
- (g) notices of motion;
- (h) questions of which notice has been given; and
- (i) general matters of an urgent nature.

Confirmation of minutes of previous meeting

- 17.(1) The minutes of every meeting shall be confirmed at the next ordinary meeting and shall be signed by the Chairperson.

- (2) No motion or discussion shall be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

Deputations

- 18.(1) A deputation wishing to address the Council or a committee of Council shall submit a memorandum to the Municipal Manager in which is set out the representations it wishes to make.

- (2) The Municipal Manager shall submit the memorandum contemplated in sub-rule (1) to the committee, which may receive the deputation, if it is authorised to do so.

- (3) Any matter requiring consideration arising from a deputation, shall not be further considered by the committee until the deputation has withdrawn.

Reports

- 19.(1) A report of the Executive Committee or any other committee shall, with the exception of a report accepted by the Chairperson as a matter of urgency, be served in the manner provided in rule 17 of these Standing Rules and Orders.
- (2) The chairperson of a committee shall move the recommendations contained in the report, expressing if appropriate, his or her disagreement therewith.

Motions

- 20.(1) No subject shall be brought before Council or a committee of Council by a councillor except by way of notice of motion.
- (2) Every notice of motion must be—
- (a) in writing; and
 - (b) signed by the councillor submitting it and by another councillor acting as seconder.
- (3) A notice of motion shall be lodged with the Municipal Manager before 12:00 seven days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) The Municipal Manager shall—
- (a) date and number each notice of motion;
 - (b) enter each notice of motion lodged in a register, which shall be open to inspection by any councillor and the public; and
 - (c) enter each notice of motion on the agenda in the order received.
- (5) The chairperson shall—
- (a) read out the number of every motion and the name of the mover and seconder;
 - (b) ascertain which motions are unopposed and these shall be passed without debate; and
 - (c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion shall move such motion and shall have the right of reply.
- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.

- (8) A councillor shall be allowed not more than three notices of motion on the same agenda.
- (9) The Speaker or Chairperson shall reject a motion which, in his or her opinion—
- (a) relates to a matter over which Council has no jurisdiction;
 - (b) has no bearing on the administration of or conditions in the municipality; and
 - (c) will lead to discussion of a matter already dealt with in the agenda.

Questions

21. A councillor may, at a meeting, put a question—

- (a) on a matter arising out of or connected with any item of any report serving before the Council or a committee of Council, as the case may be, when such item has been called or during discussion thereon;
- (b) concerning any matter not arising out of or connected with any item of the report of the Executive Committee: Provided that—
 - (i) such question shall only be put if at least seven days' written notice has first been lodged with the Municipal Manager; and
 - (ii) the Municipal Manager shall forthwith furnish a copy thereof to the Speaker and the Chairperson of the Executive Committee; and
- (c) concerning any matter which, in the opinion of the chairperson, is urgent and cannot wait for the lodging of a question in terms of sub-rule (2).

General matters of an urgent nature

22. General items of an urgent nature may be placed on the agenda by the Municipal Manager with the prior consent of the chairperson.

Order of business

23. The chairperson may, in his or her discretion, at any stage bring forward any business that is on the agenda paper.

Interpretation

24. An interpreter will be used in meetings of the Council and the Executive Committee, unless the majority of councillors present decide otherwise.

CHAPTER 7

VOTING

Decisions by voting

25. All matters shall be decided by a vote which—

- (a) vote of a majority of councilors.
- (b) Council shall have power to rescind any resolutions taken if it is in best interest of the Municipality to do as such.

Method of voting

26.(1) Voting shall be by a show of hands, unless a councillor requests a secret, written ballot.

(2) The Municipal Manager or his or her nominee, shall count the votes cast and shall record the result of voting, but the Speaker shall announce the result.

Casting vote

27. The Chairperson shall have a second or casting vote in cases of an equality of votes.

Dissenting votes

28. A councillor may request that his or her dissenting vote be minuted as evidence of how he or she voted on the motion.

CHAPTER 8

DEBATE

Opportunity to speak

29.(1) A councillor can only speak when so directed by the chairperson.

(2) A councillor may indicate a desire to speak by raising his or her hand and await the direction of the chairperson.

- (3) Councillors and officials shall stand or remain seated when speaking and shall direct their address to the chairperson.

Relevance

30. Every speaker must restrict him or herself strictly to the matter under consideration.

Length of speeches

31. Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech shall exceed ten minutes in length without the consent of the meeting.

Councillors to speak only once

32. A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the chairperson.

Precedence of the Chairperson

33. Whenever the Chairperson rises during a debate, any councillor then speaking or offering to speak shall seat himself and the councillor shall be silent, so that the Chairperson may be heard without interruption.

Points of order

- 34.(1) Any councillor may raise a point of order at any time by standing to draw the attention of the chairperson.

- (2) The point of order takes precedence over everything else in the meeting and the chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.

- (3) The ruling of the Chairperson on a point of order or on the shall be final and shall not be open to discussion.

Explanation

35. Any councillor may speak in explanation, provided that such explanation is confined to such explanation shall be confined to some material part of the discussion which may have been misunderstood.

CHAPTER 9

CONDUCT

General conduct

36. Councillors and officials—

- (a) must conduct the business of the Council in the highest decorum and integrity that the occasion deserves;
- (b) must be dressed appropriately for the dignity of the meeting of the Council;
- (c) must not use an offensive or objectionable language, use a cellphone during, or bring a firearm into, a meeting of Council or any of its committees.

Misconduct

37.(1) If a councillor commits misconduct during a meeting of Council or any of its

committees, the Chairperson shall direct the councillor to conduct himself properly and, if speaking, to stop speaking and take his or her seat.

- (2) In the event of persistent disregard of the directions of the Chairperson, the Chairperson shall direct such councillor to retire from the meeting until the item under discussion has been finalised and, if necessary, shall cause him or her to be ejected therefrom.

- (3) Any misconduct by a councillor may be dealt with in terms of Council's Code of Conduct and the Code of Conduct attached as Schedule 1 to the Systems Act.

CHAPTER 10

COMMITTEES

Rules

38. The Council shall appoint Committees that are required by law and determine where required the terms of reference. The Council's Standing Rules and Orders shall apply *mutatis mutandis* to all committees.

The Chairperson

- 39.(1) The chairperson of a committee shall—

- (a) preside at every meeting of the committee at which he or she is present; and
- (b) be entitled to vote in the first instance and in the case of an equality of votes, shall give a second or casting vote.

(2) In his or her absence, the Acting or Deputy Chairperson shall have the same powers and rights of voting as those possessed by the Chairperson.

CHAPTER 11

PECUNIARY INTEREST

Declaration of pecuniary interest

40. A councillor wishing to declare a pecuniary interest in respect of any item before Council or any committee of Council, shall do so forthwith after the item or motion in respect of which such interest exists, has been called.

Debate of pecuniary interest

41. No councillor shall speak for more than five minutes on the question of whether his pecuniary interest as contemplated in section 40, is so small or remote as to render a clash of interests unlikely, unless the Speaker or Chairperson allows the councillor to continue his or her speech for a further five minutes.

CHAPTER 12

GENERAL PROVISIONS

Repeal of existing Standing Rules and Orders

42. The Council's existing Standing Rules and Orders are hereby repealed and replaced by these Standing Rules and Orders.

Commencement

43. These Standing Rules shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

STORMWATER MANAGEMENT BY-LAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as follows:

INDEX

CHAPTER 1: DEFINITIONS

Definitions

1. In this bylaw, unless the context indicates otherwise—

"Council" means the Council of the Mkhambathini Municipality;

"non-stormwater discharge" means any discharge into the stormwater system which is not composed entirely of stormwater;

"occupier", in relation to any premises, means any person —

- (a) occupying the premises;
- (b) leasing the premises; or
- (c) who is not occupying the premises but is entitled to do so;

"owner", in relation to any premises, means —

- (a) the person in whose name the title to the premises is registered; or
- (b) if the person referred to in (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

"premises" means any privately-owned land or land on which buildings or other structures are situated;

"stormwater" means any storm water runoff, surface water runoff, sub-soil or spring water;

"stormwater drain" means any closed or open drain used or intended to be used for carrying stormwater within any premises to the stormwater system; and

"stormwater system" means the system of conduits, the ownership of which is vested in the Council, and which is used or intended to be used for collecting and carrying stormwater, including without limiting the generality of the foregoing, any road with a drainage system and any gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, drainage channel, reservoir or other drainage structure.

CHAPTER 2

PROHIBITED ACTIVITIES

Unauthorised discharge

2.(1) Subject to subsection (2), no person shall, without the prior written consent of the Council, which consent may be conditional or unconditional, directly or indirectly lead or discharge any non-stormwater discharge into the stormwater system without the prior authority of the Council.

(2) Nothing prevents the discharge into the stormwater system of flow from -

- (a) potable water sources;
- (b) natural springs or wetlands;
- (c) diverted streams;

- (d) rising groundwater;
- (e) fire fighting activities;
- (f) individual residential car washing;
- (g) swimming pools, provided that the water has been allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; and
- (h) street sweeping.

Unauthorised connection

3. No person shall construct, use, allow, maintain or continue any unauthorized drain or conveyance which allows discharge into the stormwater sewer.

Obstruction of flow

4. No person shall obstruct or interfere with the normal flow of stormwater into, through or out of the stormwater sewer without the prior written approval of the Council.

CHAPTER 3

SUSPENSION OF ACCESS AND NOTIFICATION

Suspension of access

5.(1) The Council may issue a notice suspending access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge of any pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.

(2) In the event that any owner or occupier fails to comply with a suspension notice, the Council may, at the cost of the owner or occupier of the premises, as the case may be, take all reasonable steps required to prevent or minimize harm to the public health, safety or the environment.

Notification of spills

6. As soon as the owner or occupier of any premises becomes aware of any discharge of any pollutants into the stormwater system, the owner or occupier shall -

- (1) take all immediate steps necessary to ensure containment and cleanup of the discharge;
- (2) notify the Council as soon as reasonably possible of the discharge.

CHAPTER 4

CONSTRUCTION AND MAINTENANCE

Construction and maintenance of stormwater drains and connections

7. The owner or occupier, as the case may be, of any premises shall be responsible for the construction and maintenance, at his or her expense of any stormwater drains on the premises and any connection between such drains and the stormwater system.

CHAPTER 5

GENERAL PROVISIONS

Offences

8. Any person who -

- (a) contravenes or fails to comply with any provisions 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 any authorised official in the execution of his or her duties under these by-laws –

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

Repeal of existing by-laws

9. All Council's existing by-laws that relate to stormwater management are hereby repealed and replaced by this by-law.

Short title and commencement

10. This by-law shall be called the Stormwater Management By-law, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette

STREET TRADING BY-LAWS

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1: DEFINITIONS	2
1. Definitions.....	2
CHAPTER 2: PROHIBITIONS.....	4
2. Prohibitions.....	4
CHAPTER 3: RESTRICTIONS.....	6
3. Restrictions.....	6
CHAPTER 4: GENERAL DUTIES OF STREET TRADERS.....	8
4. Cleanliness and public health.....	8
5. Display of goods.....	8
CHAPTER 5: REMOVAL AND IMPOUNDMENT.....	9
6. Removal and impoundment.....	9
7. Disposal of impounded goods.....	10
CHAPTER 6: GENERAL OFFENCES AND PENALTIES.....	11
8. General offences and penalties.....	11

CHAPTER 7: REPEAL OF BY-LAWS.....12

9. Repeal of by-laws.....12

CHAPTER 8: SHORT TITLE AND COMMENCEMENT.....12

10. Short title and commencement.....12

CHAPTER 1: DEFINITIONS**1. Definitions**

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

"approval" means approval by an authorized official and "approve" has a corresponding meaning;

"authorised official" means an official of the Council to whom it has delegated a duty, function or power under this bylaw, in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

"Council" means the Council of the Municipality and in relations to the exercise of a power, the performance of a duty or the carrying out of a function includes any committee or official of the Council to whom such power, duty or function has been delegated;

"demarcated stand" means stand demarcated by Council for the purposes of street trading in terms of section 6(A)(3)(b) of the Act;

"goods" means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

"public place" means a public place as defined in section 1 of the Local Authorities Ordinance No. 25 of 1974;

"public road" means a public road as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act No. 93 of 1996 but excludes a public place;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

"street trader" means a person who sells, barter, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar in a public road or in a public place, but does not include any person who sells newspapers only;

"the Act" means the Businesses Act No. 71 of 1991 and includes the regulations made there under; and

"verge" means a verge as defined in section 1 of the Road National Traffic Act No. 93 of 1996.

CHAPTER 2: PROHIBITIONS

2. Prohibition

No street trader shall carry on or undertake street trading –

(1) 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, or

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

- (2) on any 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 similar nature to, goods being sold by the street trader or who offers services of the same nature as, or of a similar nature to, a service offered by the street trader concerned without the consent of such person;
- (3) 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;
- (4) at any place where the carrying on of such business causes an obstruction to-
 - (a) the entrance to or exit from a building, or
 - (b) a fire hydrant;
- (5) in any declared area identified as such in terms of section 6A (2) of the Act in respect of which the carrying on of the business of street trader has been –
 - (a) prohibited by the Council, or
 - (b) restricted by the Council, unless such business is carried on in accordance with such restrictions;
- (6) at any place which has been set apart and demarcated as stands or areas by the Council in terms of section 6A (3) (b) of the Act for the purposes of the carrying on of the business of street trader, unless such business is carried on in accordance with –
 - (a) an agreement with the Council, or
 - (b) the allocation by the Council to the street trader of any area or stand;
and
- (7) in any public garden or park except with prior written consent of the Council.

CHAPTER 3: RESTRICTIONS

3. Restrictions

No person engaging in street trading shall -

- (1) sleep overnight at the business site;
- (2) erect any permanent structure in a public place or public road for the purpose of providing shelter, or
- (3) place or store any goods in such a manner or position as to constitute a danger to any person;
- (4) carry on such business in such a manner as to-
 - (a) create a nuisance;
 - (b) damage or deface any public road or public place or any public or private property; or
 - (c) create a traffic hazard;
- (5) obstruct access to a service or to service works of the Council or of the State or any statutory body;
- (6) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (7) obstruct access to a pedestrian arcade or shopping centre;
- (8) carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;

- (9) place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (10) attach any of his or her goods by any means to the building structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
- (11) make an open fire on a public road or public place;
- (12) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop displayed window, or obscure such goods from view;
- (13) obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; and
- (14) obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

CHAPTER 4: GENERAL DUTIES OF STREET TRADERS

4. Cleanliness

Every street trader shall-

- (1) keep the area used by him or her for the purposes of street trading, as well as any goods used by him or her, in a clean and sanitary condition;
- (2) at the request of any authorised official of the Council, move or remove his or her goods so as to permit the cleansing of the area where he or she is trading, or for the purpose of effecting Council services;
- (3) if his or her activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure; and

- (4) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter.

5. Display of goods

A street trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods-

- (1) is maintained in a good state of repair and in a clean and sanitary condition;
and
- (2) is not so placed or stored so as to constitute a danger to any person.

CHAPTER 5: REMOVAL AND IMPOUNDMENT

6. Removal and impoundment

- (1) An inspector may remove and impound any goods -
 - (a) which he reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and
 - (b) which he finds at a place where the carrying on of such business is prohibited or restricted in terms of these bylaws,

whether or not such goods are in the possessions or under the control of any person at the time of such removal and impoundment.

- (2) An inspector removing and impounding any goods shall -
 - (a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating-

- (i) the place where the goods shall be kept;
 - (ii) the amount payable in respect of expenses incurred by the Council in impounding and removing the goods; and
 - (iii) the date on or after which the goods will be sold or destroyed unless claimed; and
- (b) forthwith place such goods in safe custody.
- (3) Neither the Council nor any inspector, officer or employee of the Council shall be liable for any loss or theft of or damage to any goods removed and impounded in terms of these bylaws

7. Disposal of impounded goods

- (1) Any goods impounded in terms of these by-laws shall be dealt with as follows -
 - (a) if the goods are claimed, the street trader shall pay the expenses incurred by the Council for impoundment; and
 - (b) if the goods are not claimed within the period specified on the receipt issued in terms of these by-laws, the goods shall be sold to defray expenses incurred by Council in impounding and removing the goods.
- (2) In the event that the goods-
 - (a) are not capable of being sold, they shall be destroyed after the proper specification on the receipt issued in terms of these by-laws;
 - (b) any perishable goods may be sold or destroyed as soon as may be necessary.
- (3) If the proceeds contemplated by this section are insufficient to pay expenses incurred by Council, the owner shall be liable for any excess.

CHAPTER 6: GENERAL OFFENCES AND PENALTIES

8. General offences and penalties

(1) Any person who-

- (a) contravenes any provision of these by-laws;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purposes of these by-laws;
- (c) for the purposes of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorised official; or
- (d) threatens, resists, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his or her powers, duties or functions under these by-laws,

shall be liable on conviction to a fine not exceeding R 1000-00 or imprisonment for a period not exceeding three months.

CHAPTER 5

GENERAL PROVISIONS

Repeal of existing By-laws

9. The Council's existing by-laws are hereby repealed.

Short title and commencement

10. These by-laws shall be called Street Trading By-Laws. They shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

No. 79

8 June 2011

PUBLIC TRANSPORT BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, National Road Act No 93 of 1996 , as amended, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

INDEX

CHAPTER 1: DEFINITIONS	3
1. Definitions	3
CHAPTER 2: TAXI METER CAB	4
2. Driver to take shortest route	4
3. Driver to keep engagement	3
4. Operation of taxi meter cab	3
CHAPTER 3: BUSES	5
5. Stopping places	5
6. Entering and alighting from a bus	5
7. Driver to stop at stopping places	5
CHAPTER 4 : PERMIT FOR BUSES, TAXI METER CAB AND TAXI	6
8. Permits	
9. Period of validity of a rank permit ant token	6
10. Suspension of rank permit	7
11. Restrictions relating to rank permit and token	7
CHAPTER 5: GENERAL	7
12. Parking of taxi meter cab, taxi, bus	7
13. Entering and alighting from the taxi meter cab, taxi, bus	8
14. Stopping places	8
15. Engagement of passengers	8
16. Conveyance of filthy or diseased persons	8
17. Property left in taxi meter cab, taxi, bus	9
18. Queue marshal	9
19. Rank managers	10
20. Offence and penalties	10
CHAPTER 6: GENERAL PROVISIONS	10
21. Repeal of By-laws	10
22. Short title and commencement	10

CHAPTER 1

DEFINITIONS

Definitions

1. (1) In this by-law, unless the context indicates otherwise, any word or expression defined in the Act shall bear the meaning so given to it .

"authorised official " means any official of the Council who has been authorised by it to administer, implement , and enforce the provisions of these by-law;

"bus rank" means any place designated or any area demarcated for the exclusive parking of busses;

"Bus stop " means any place or area designated or demarcated as a bus stop, by a road traffic sign, for the purposes of loading and off loading passengers;

"Chief Traffic Officer " means the person appointed as such by Council, or during his or her absence, the officer acting in that capacity and includes any employee of the Council acting under control of the Chief Traffic Officer;

"Council" means Council of Mkhambathini Municipality;

"Lift club "means any club of which every member shall, for no direct or indirect reward, have a turn to convey or cause to be conveyed by means of a motor car, the members of such a club or the other persons designated by such members , to or from specified places for a specified purpose;

"Medical Officer of Health" means a person appointed as such under section 22 or 25 of the Health Act No 63 of 1977;

"notice" means an adequate notice in words or in sign, erected or posted in a prominent position;

"Parking bay" means any portion of a public demarcated as a parking bay or parking place for the by a road traffic sign or marking;

"Prescribe fee" means a fee determined by the Council by resolution in terms of section 10 G (7) (a) (ii) of the Local Council Government Transition Act No. 209 of 1993 or any applicable legislation.;

"Prescribe tariff " means the fares and charges prescribed by in any journey undertaken in a taxi or a bus;

"Public car park" means any land reserved as a park as indicated in the town planning maps of the Municipality

"Public road" means a public road as defined in the National Road Traffic Act No.93 of 1996 as amended;

"road carrier permit " means a public road permit issued in terms of the Road Traffic Transportation Act no 74 of 1977;

"Road Traffic Act " means the National Road Traffic Act No 93 of 1996 (as Amended);

"Taxi" means a public motor vehicle (other than a public bus) used for the conveyance of passengers or of passengers and goods;

"Taxi meter cab" means a motor vehicle licensed to transport passengers in return for payment of a fare;

"Taximeter" means a device used in taxis that automatically records the distance traveled and the fare payable;

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

"Traffic offer" means the same as the meaning in the Road Traffic Act ;

CHAPTER 2

TAXI METER CAB

Driver to take shortest route

2. (1) A driver of any taxi meter cab must, while the taxi meter cab is hired, drive to the passenger's destination along the shortest route, unless another route is agreed on or directed by the passenger;
- (2) A taxi meter cab driver must have a current map of the municipal area in his or her possession, which must be made available by the driver to a passenger on request.

Driver to keep engagement

3. (1) A driver of any taxi meter cab must convey a passenger and his or her personal effects to the destination agreed upon between the passenger and the driver;
- (2) Should the driver of a taxi meter cab for any reason whatsoever, be unable to convey the passenger and the passenger's personal effects to the agreed destination, such driver must take all reasonable steps to arrange another taxi meter cab, or let the passenger arrange for the transport to get to his or her destination.

Operation of taxi meter cab

4. (1) The driver of a meter taxi cab fitted with the taximeter must, as soon as the driver arrives at the point where his or her hiring commences and not sooner, set the taxi meter in motion, and must upon the termination of hiring immediately stop the taximeter from recoding;
- (2) Upon the occurrence of any stoppage not caused by traffic congestion or by the action or request of any passenger, the said driver must for the duration of such stoppage stop the taxi meter from recording..

CHAPTER 3**BUSES****Stopping places**

5. No driver of a bus, as defined in the National Land Transition Act No. 22 of 2000, may stop the bus for the purpose of picking up or setting down any passenger, except at a stopping place designated by the Council.

Entering and alighting from a bus

6. A prospective passenger of a bus, as defined in the National Transport Land Transition Act No. 22 of 2000, may only enter or alight from a bus at a stopping place designated by the Council.

Driver to stop at stopping places

7. The driver of a motor vehicle engaged in a public passenger road transport service, which at the time is not carrying the maximum number of passengers the vehicle is lawfully entitled to carry, must stop at any designated stopping place if a prospective passenger is waiting at such stopping place.

CHAPTER 4**RANK PERMIT FOR BUSES, TAXI METER, TAXIS**

Permits

8. (1) Bus, taxi, taxi meter shall hold a rank permit which shall be obtained from the offices of Chief Traffic Officer within its jurisdiction;
- (2) Any person wishing to obtain a rank permit shall submit an application to the Chief of Traffic Officer on the prescribed form obtainable from the offices of Chief Traffic Officer within his/her jurisdiction;
- (3) The Chief Traffic Officer may grant the rank permit if he or she is satisfied-
- (a) that the motor vehicle concerned -
 - (i) complies with the provisions of this chapter and any law applicable to the testing of motor vehicles prescribe by the Road Traffic Act No 93 of 1996 as amended;
 - (ii) that the taxi meter cab has been fitted with the taximeter;
 - (b) that it is permitted to operate as a motor vehicle use for hire;
 - (c) that the taxi rank fee or fees determined by Council from time to time , have been paid; and
 - (d) that the applicant is in possession of a valid certificate from the Local Road Transportation Board to operate the said motor vehicle in the area of jurisdiction of the Council.
- (4) the Council may when granting rank permit, impose conditions, restrictions and requirements in respect of the motor vehicle concerned, its equipage and the use of the taxis and buses rank ;
- (5) the Council shall, with every rank permit issued , issue a token specifying-
- (a) the year for which such permit has been granted;
 - (b) the registration mark allocate to the motor vehicle;
 - (c) the make of such motor vehicle;
 - (d) the area, taxi or bus rank from which the motor vehicle may ply for hire; and
 - (e) the number of the taxi, taxi meter cab and bus approved for use by such motor vehicle;
- (6) the owner of the taxi, taxi meter cab and bus in respect of which a rank permit has been issued under this by-law , shall advise the Chief Traffic Officer-
- (a) of any change of his or her residential and or postal address during the validity of such permit; or

- (b) when disposing of or otherwise ceasing to be the owner of motor vehicle during the said year, the name and address of the person to whom the motor vehicle is being disposed to or other cause of his or her ceasing to be the owner, within 31 days of the event.

Period of validity of rank permit and token

9. A rank permit and token shall be valid from the date of issue until the date agreed upon in terms of the applicable law.

Suspension of rank permit

10. (1) The Chief Traffic Officer may by notice in writing suspend the operation of the current rank permit issue in respect of any motor vehicle if it fails to comply with the requirements or restriction imposed under this by-law;
- (2) The owner shall within 7(seven) days, upon receipt of such notice , deliver the token to the Chief Traffic Officer within his or her jurisdiction;
 - (3) The suspension shall be withdrawn by the Chief Traffic Officer on condition that the owner has complied with provisions of these by-laws within 7 (seven) days and the Chief Traffic Officer is satisfied with same.

Restrictions relating to rank permit and token

- 11.(1) No person shall-
- (a) affix a token to any other motor vehicle other than the motor vehicle the token was issued for;
 - (b) operate the motor vehicle -
 - (i) unless the token of that taxi, taxi meter cab and bus is affixed on the left hand side of the windscreen thereof so that its face is clearly visible from the outside;
 - (ii) while any token has ceased to be valid is affixed to such motor vehicle;
 - (iii) while the operation of the rank permit in respect of such motor vehicle issued is suspended under section 10 above

CHAPTER 5

GENERAL

Parking of taxi meter cab, taxi, bus

12. No person may park a taxi meter cab, taxi, bus on any public road or any property for the purpose of providing a transport service, except in an exclusive parking bay, marked by a road traffic sign as prescribed in terms of the National Road Traffic Act No. 93 of 1996 as amended , for that motor vehicle.

Entering and alighting from the taxi meter cab, taxi, bus

13. A prospective passenger of a taxi meter cab, taxi, bus, as defined in the National Land Transport Transition Act No 22 of 2000, may only enter or alight from a bus, taxi meter cab and taxi, at a stopping place designated by the Council.

Stopping places

14. (1) No driver of a public motor vehicle, as defined in the National Land Transport Transition Act No 22 of 2000 may stop it for the purpose of picking up or settling down any passenger, except at a stopping place designated by the Council;
- (2) The driver of a public motor vehicle engaged in a public passenger road service, which at the time is not carrying the maximum number of passenger the motor vehicle is lawfully entitled to carry, must stop at any designate place if a prospective passenger is waiting at such stopping place.

Engagement of passengers

15. (1) No driver of taxi meter cab, taxi, bus, may by using force or threat, or any other offensive manner prevent or seek to prevent any person from hiring any other taxi meter cab, taxi or seek to prevent the driver of such other taxi meter cab, taxi, bus from obtaining or conveying a passenger or a load;
- (2) No person may use force, a threat or any clandestine or other method, to prevent or attempt to prevent any person from participating in a lift club;

Conveyance of filthy or diseased persons

16. (1) A driver of a motor vehicle engaged in a public passenger road transport may refuse to convey or carry-
- (a) any person who is obviously in a state of filth or obviously suffering from any contagious disease; or
- (b) any dead animal except animal or poultry intended for human consumption if the animal or poultry is properly wrapped
- (2) No person who has another person in his or her care, who to his knowledge has been exposed to, or contaminated with, any contagious disease, may place such person in any taxi meter cab, taxi, bus;
- (3) No person who is obviously in a state of filth or obviously suffering from any contagiously disease may enter any taxi meter cab, taxi, bus or having entered, remain upon such motor vehicle after being requested by the driver or conductor thereof to leave the motor vehicle;
- (4) The owner, driver, conductor or any person in charge of a motor vehicle in a public passenger road transport service must immediately take steps as soon as it comes to his or her knowledge that-
- (a) any person scuffing from a contagious disease; or

- (b) the body of person who has died of such disease; or
- (c) anything which has been exposed to or contaminate with such disease;

has been conveyed in or upon such public motor vehicle engaged in a public passenger road transport service to report the matter to the Medical Officer of Health;

- (2) The owner, driver, conductor or other person must carry out the instructions issued by the Medical Officer of Health with regard to the disinfection of such motor vehicle engaged in a public passenger road transport services.

Property left in taxi meter cab, taxi, bus

- 17. (1) If any property is left in a public motor vehicle engaged in a public road transport service is not claimed within 24 hours after it has been discovered in such public motor vehicle, the driver or conductor of the public motor vehicle must-

- (a) if he or she belongs to a taxi association, take such property to the nearest office of such association;
- (b) if he or she uses a bus depot for the purposes of the business in which he or she is engaged, take such property to such depot; or
- (c) if he or she does not belong to a taxi association or use a bus depot for the purpose of the business concerned, take such property to the referent South African Police Station which have jurisdiction,

and obtained a receipt from the person with whom the property is deposited, or the officer on duty at the referent South African Police Services which has jurisdiction, as the case may be;

- (2) if the property referred to is not claimed within seven (7) days of its receipt in the office of the offices of the referent taxi association or bus depot, the person with whom it was deposited must take it to the South African Police Services.

Queue marshal

- 18. (1) A queue marshal at any rank must be clearly identifiable and must display his or her name in a conspicuous manner on his or her clothing bellow left shoulder;
- (2) A queue marshal must discharge his or her duties in a courteous and polite manner and show respect to every passenger;
- (3) Where a queue marshal is controlling the entry onto taxi meter cab, taxi, bus, he or she must not allow more than the number of passengers permitted by law, to enter such taxi meter cab, taxi, bus.

Rank managers

- 19.(1) The Taxi Association may appoint rank manager/s to ensure passengers alight to taxis and there is no shortage of taxis in taxi ranks;

- (2) The rank manager/s may also assist in any manner which ensure a smooth operation of taxis in their areas which shall be stipulated by the Taxi Association;
- (3) A remuneration shall be paid by the Taxi Association to the rank managers for their assistance at the tax rank;
- (4) The rank managers shall be clearly identifiable and will take upon any grievance from the passengers about a complaint about a certain taxi or queue marshal.

Offences and penalties

20. Any person who-

- (a) contravenes or fails to comply with any provisions of this by-law;
- (b) fails to comply with any notice issued in terms of this by-law;
- (c) fails to comply with any lawful instruction given in terms of this by-law;
- (d) who obstructs or hinders any authorised official of the Council in the execution of his or her duties under this by-law,

is guilty of an offence and liable to a fine of R1000.00 and or imprisonment for a period not exceeding one year

CHAPTER 6

GENERAL PROVISIONS

Repeal of existing By-laws

21. The Council's existing Transport by-laws are hereby repealed and replaced by this by-law.

Short title and commencement

22. This by-law shall be called the Public Transport By-law and shall come into operation on the date of publication in the KwaZulu-Natal Provincial Gazette.

WASTE MANAGEMENT BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

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

“Council” means the Council of the Mkhambathini Municipality;

“Bulk waste” includes large appliances, machines, furniture, and other solid waste (other than construction or demolition debris or dead animals with weights or volumes greater than those allowed for bundle waste or dustbins);

“bundle waste” includes tree plants, shrubs, bush trimmings, newspapers, magazines, cartons or solid waste securely tied as a package not exceeding one meter in length or 15 kilograms in weight;

“clinical waste” includes any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or dressings or syringes, needles or other sharp instruments and any other waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice or the collection of blood for transfusion being waste which may prove hazardous to any person coming into contact with it;

“council” means Municipal Council of Mkhambathini

“Domestic waste” means normal household waste produced in a residential building used wholly as a private dwelling. If any trade is carried on in a residential building or any part thereof the whole of the waste arising there- from shall be considered as trade waste;

"hazardous waste" means waste which is toxic, flammable, corrosive, radioactive, explosive or otherwise dangerous, and shall also include motor oil, diesel fuel gasoline (petrol), paint, solvents, dry cells and vehicle batteries, pesticides, and infectious or medical wastes from hospitals and clinics, metallic and / or oily sludge's or solvents from commercial and industrial establishments, asbestos materials, radioactive wastes, and any such like waste which possess characteristics that make them hazardous to human beings or to the environment.

"Hazardous waste audit" means verification of records of hazardous waste disposal by an authorized institution or authority;

"Municipal waste" means waste which is the responsibility of the Council whether under these By-Laws or under any other law to collect, treat and otherwise dispose of.

"Occupier" includes any person in actual occupation of premises or residential dwelling subdivided and let to lodgers or various tenants each lodger or tenant thereof,

"Owner" means title holder and includes any person lawfully claiming title under him or his agent or any person receiving rent or proceeds on his behalf.

"Person" means a natural person but also includes a corporation whether aggregated or sole.

"premises" includes land, building, vehicles, railway carriage or other conveyances and tents, vans, structures of any kind, drains, or places open, covered or enclosed, whether maintained or not under statutory authority, of any place within the limits of the Municipal Council of Mkhambathini;

“Residential dwelling” means building, flat or any structure used as a private dwelling and includes undeveloped or partially developed land allotted for residential purposes;

“Solid waste” means municipal waste material generated by domestic households, institutions, commercial establishments, and industries, and all litter and clandestine piles of such wastes;

“street” includes any street, road, highways, path, sanitary lane, sand lane, thoroughfare or public space to which the public have access and includes a bridge over which a roadway runs;

“trade waste” means all commercial and industrial waste arising from trading of industrial or industrial output or business or in the provision of services and includes all waste which is not domestic refuse within the meaning of these By-Laws;

“waste” includes any substance which constitutes a scrap material or an unwanted surplus substance arising from the application of any process and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt and for the purposes of these By-laws anything which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved.

“Waste management” includes cleansing, removal, collection, transport, separation, treatment and or disposal of waste in accordance with these By-laws;

“Waste operator” means an entity licensed by the Council to carry out waste management operations within the Municipality;

"Waste management services charge" means the charge determined by the Council from time to time either of its own motion or on a proposal from a Waste manager as a waste management services charge;

"Waste treatment" includes sorting, separation, recycling, bulking, or other activity formal or informal which changes the quantity and or composition of waste pending final disposal whether or not carried out with a view to extracting useable elements;

"Permit" means a document issued by the Council to an entity to conduct business within its jurisdiction.

2. Duty of care

2.1 The Council has the primary duty to regulate waste and its management within the area of jurisdiction and for this purpose all waste generated or otherwise arising within the area of the Municipality shall be subjected to this By-Law and shall be regulated by the Council accordingly.

2.2 The Council shall prepare a waste management plan of its arrangements for managing waste arising within its area of jurisdiction.

2.3 The plan shall include information as to, among other things, the kinds and quantities of waste likely to be present within the area of the council during the plan period; the methods by, and arrangements under, which the waste should be treated or disposed of; the sites and equipment which the Council and other persons are providing or propose to provide for treating and disposing of the waste; and an investment plan for implementing the plan.

2.4 The Council shall establish and maintain schemes and/ or arrangements for the removal and destruction of, or otherwise dealing with, all kinds of waste generated or

otherwise arising within its area of jurisdiction however arising and may establish different schemes or arrangements for different parts or zones of its area of jurisdiction or for different categories of waste and, where such schemes or arrangements are established or otherwise exists, to compel the use of such schemes or arrangements by persons residing in or carrying on business and / or other activities within its area of jurisdiction.

2.5 It shall be the duty of any person who produces carries, keeps, treats, disposes of or otherwise handles waste or who otherwise has control of waste from his control or that of any other person and, on the transfer of waste, to ensure that the transfer is made only to an authorized person or to a person for authorized transport purposes and that there is transferred with the waste such a written description of the waste By-Law and also to enable other persons to comply with this duty as respects the escape of the waste.

2.6 The occupier or owner of any residential dwelling or trade premises within the area of jurisdiction of the Council shall deal with waste arising from the premises in accordance with directions issued by the Council either specifically or under the scheme or arrangement established by the Council under this By-law for the management of domestic and / or trade waste arising in the area where the particular occupier or owner resides or carries on business or other activities.

3. Waste Operators

3.1 The Council shall issue permit to waste operators who satisfy such requirements as to technical and financial capability as it shall stipulate.

3.2 The Council shall determine categories of waste operation for which an application may be made and may from time to time alter such categories.

- 3.3 Any person who, in an application for a waste operator's permit makes any statement which he knows to be false or reckless in any material fact shall be guilty of an offence under this By-Law.
- 3.4 A waste operator's permit shall include such terms and conditions as the Council sees fit to specify in the permit including a description of the activities which may be undertaken under the permit; the duration of the permit; the supervision by the holder of the permit of activities to which the permit relates;
- 3.5 The Council shall from time to time review the performance of waste operators and may suspend or cancel a waste operator's permit if the permit holder has breached the terms and conditions of the permit or has been guilty of negligence in managing waste whose management is authorized by the permit; or if there is some other reason which, the council, seems to justify such action.
- 3.6 The council may on its own initiative, or on the application of the permit holder, modify the terms and conditions of the permit but any such modification shall be of no force and effect unless published in a local daily and representations from members of the public dealt with as if it were a new application.
- 3.7 Where it appears to the Council that the continuation of activities to which a waste operator's permit relates is causing or would cause pollution of the environment, danger to the public health or serious detriment to the amenity of the locality affected by the activities and the pollution, danger or detriment cannot be avoided by modifying the conditions of the permit the Council may revoke the permit with effect from a specified date after serving notice on the permit holder and hearing any representations that the permit holder may wish to make as to why the permit should not be revoked.

3.8 The holder of a permit may transfer the permit to another person but such a transfer shall be of no force and effect until the council has notified the holder that it does not object to the proposed transfer.

3.9 The holder of a permit may relinquish the permit by giving notice to the Council that he no longer requires the permit and delivering the permit to the Council.

Relinquishment shall be of no force and effect until the permit holder receives notification that the Council does not object to the relinquishment and in any case shall not absolve the permit holder from any liabilities or obligations whether civil or criminal incurred during the period when he held the permit.

4. Transporters

4.1 It shall be an offence for any person who is not a registered transporter of solid waste or a permit holder in the course of any business of his or otherwise with a view to profit to transport any solid waste within the area of jurisdiction of the Council unless he belongs to a category of transporters who have been exempt by the Council from registration.

4.2 The Council shall make provision for the registration of waste transporters.

Applicants shall provide information regarding their physical address and their financial and technical capability to transport waste.

4.3 The Council may require registered waste transporters to execute a bond as a condition for registration.

4.4 In determining whether it is desirable for any individual to be or to continue to be authorized to transport waste the Council shall have regard, in a case in which a person other than the individual has been convicted of an offence under these By-laws, to whether that individual has been party to the carrying on of business in a

manner involving the commission of an offence under these By-laws.

4.5 The Council may revoke the registration of a person who has been convicted of an offence under this By-law.

4.6 If it appears to a duly authorized officer of the Council that any waste is being or has been transported in contravention of this by-law he may, in the presence of a police officer, stop any person appearing to him to be or to have been engaged in transporting that waste and require that person to produce his authority or, as the case may be, his employer's authority, for transporting that waste and search any vehicle that appears to him to be a vehicle which is being or has been used for transporting waste.

4.7 For the purposes of 4.6 of this By-law a person's authority to transport waste is his certificate of registration as a transporter of waste or a certified copy thereof or evidence that he is not required to be registered as a waste transporter.

5. Registers

5.1 The Council shall maintain a register containing prescribed particulars of all waste operator's permits and registrations of transporters which are for the time being in force.

5.2 The Council shall ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours.

5.3 The Council shall accord members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

6. Collection

- 6.1 It shall be the duty of the Council to arrange for the collection, treatment and disposal of, or otherwise dealing with, all domestic waste and street and other litter generated or otherwise arising within its area of jurisdiction and to take all necessary and reasonably practicable measures to maintain all places falling within its area of jurisdiction in a clean and sanitary condition at all times.
- 6.2 For the purposes of carrying out its duty under 6.1 above the council may enter into such agreements with third parties as it deems appropriate including contracts, franchises, and concessions.
- 6.3 It shall be the duty of the person who generates trade waste or on whose premises trade waste otherwise arises to arrange for the collection, treatment and disposal of all trade waste generated by him and to take all necessary and reasonably practicable measures to ensure that the trade waste is not released into the environment so as to cause pollution thereof.
- 6.4 It shall be the duty of every occupier and every owner of premises wherein any hazardous waste or clinical waste is generated, to make suitable arrangements, including the separation of such waste from other non-hazardous waste or non-clinical waste, to the satisfaction of the Council, for the proper management of the waste and in doing so shall comply with any directions issued by the Council.
- 6.5 It shall be the duty of every occupier and every owner of premises wherein bulk waste is generated to make suitable arrangements for the disposal of such waste and in doing so shall comply with any directions of council.
- 6.6 Every occupier and / or tenant of any residential dwelling shall provide and maintain, to the satisfaction of the Council, a container for domestic waste of a sufficient size, and fitted with a good and effective lid and shall daily cause to be placed within such

container the domestic waste from the said residential dwelling in so far as the said container shall be sufficient to contain the same;

6.7 Every occupier and /or tenant of any trade premises shall provide and maintain to the satisfaction of the council a container for trade waste of a sufficient size, and fitted with a good and effective lid, and shall daily cause to be placed within such container the trade waste from the said premises in so far as the said container shall be sufficient to contain the same.

6.8 If it appears to the Council that there is likely to be situated on any premises in its area trade waste of a kind or in quantities which, if the waste is not stored in containers of a particular kind, is likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated the Council may, by notice served on the occupier, require him to provide at the premises, containers for the storage of such waste which are of a kind and number reasonably specified in the notice.

6.9 Occupiers of domestic and trade premises shall separate waste which can be recycled and place them in a different container provided by the Council or the waste operator as the case may be for the purpose.

6.10 It shall be an offence against these By-Laws to burn, throw away, or otherwise dispose of domestic and trade waste other than by handing it to, or where there is an arrangement to that effect, leaving it at an appropriate place and in an appropriate container, for collection by a licensed waste manager or a registered waste transporter.

7. Disposal

7.1 Waste shall be disposed of only in permitted disposal areas or at an approved disposal facility.

- 7.2 It shall be the duty of the council to provide places at which to deposit waste before its transfer to a place for its final disposal and places at which to dispose of waste and plant and equipment for processing it or otherwise disposing of it.
- 7.3 The Council may permit another person to use facilities provided by it with or without a charge as may be appropriate.
- 7.4 The person in charge of the waste disposal facility and the person delivering waste to the facility shall maintain a record of all waste loads disposed of at the facility. The record shall take the form of a delivery note signed by both parties at the time of disposal of each load. The records shall be kept for a period of five years and shall be availed to the council on request within that period.
- 7.5 Waste delivered to a permit holder shall be his responsibility to him to deal with under this By-Law.
- 7.6 No person shall sort over or disturb anything deposited at a place provided or approved by the Council for the deposit of waste or in containers for waste provided by the council or other person unless he is authorized to do so by the Council or unless she is a person entitled to the custody of the container or is authorized to do so by such a person or is a person having the function of emptying the container.
- 7.7 The Council shall make provision for small scale resource recovery activities to be undertaken by organized groups at designated sites before disposal of waste.
- 7.8 A permit holder may do such things as it considers appropriate for the purpose of enabling waste belonging to it to be used again or enabling substances to be reclaimed from such waste and it may use, sell, or otherwise dispose of waste belonging to it or anything produced from such waste.

8. Payments

- 8.1 The council shall issue directions on waste collection charges. The directions shall specify the amount of charge or charges to be imposed for different categories of services or for services in different localities or zones within the area of jurisdiction of the Council; the mode of payment and receipt of the charges; and provisions as to the penalty or penalties for failure to pay the charges.
- 8.2 Directions on charges or waste management services may provide for the imposition of a levy to meet the costs of general cleansing but any such levy must be itemized separately on the waste bill or other invoice and must be placed by the collector in a dedicated fund.
- 8.3 Charges shall be collected by the person who provides the waste management services for which the charge is being levied.
- 8.4 There shall be paid by every person or entity to whom a waste management service is provided, a waste charge imposed in accordance with the directions issued by the Council.
- 8.5 The Council hereby imposes the waste charges which are annexed to this By-Law.

9. Enforcement

- 9.1 The Council shall establish and implement a system of monitoring, inspections and enforcement of waste management activities and shall inform and keep the public informed of steps it is taking to implement and improve

waste management within the Municipality and the use to which the general cleansing levy is put in each year.

- 9.2 Any officer or agent of the Council duly authorized in that behalf, may at all reasonable times, enter any residential dwelling or trade premises within the area of jurisdiction of the Council for the purposes of conducting any inspection, inquiry or the execution of works under the provisions of this By-law.
- 9.3 In addition to such penalties for non-payment as may be stipulated in the directions issued by the Council for non-payment of charges for waste management services, any waste management charge payable under the By-laws shall be a debt due and owing to collector and may be recovered as a civil debt at the instance of the collector or any person authorized by the collector to collect on its behalf.
- 9.4 Any power or function conferred on the council under this By-law may be exercised or performed by a third party pursuant to an agreement between the council and the third party and will be deemed to have been exercised or performed under the authority of this By-law

10. Offences and Penalties

- 10.1 Any person who refuses or fails to comply with any provision of this by-law or gives false information in relation to any requirements of this by-law shall be guilty of an offence, and, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine to be determined by the Council..

8. Repeal of existing By-laws

- 8.1 The Council's existing by-laws that relate to Waste Management are hereby repealed and replaced by this by-law.

9. Short title and commencement

- 9.1 This by-law shall be called the Waste Management By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.