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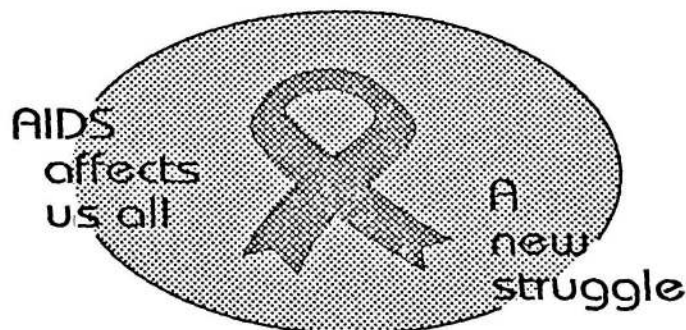
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No. 1205
Buitengewoon
Hu tshi katelwa na
Gazethe dza Nyingo

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH



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CONTENTS

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
LOCAL AUTHORITY NOTICES			
388	Local Government: Municipal Systems Act (32/2000): Fetakgomo Local Municipality: Credit Control By-laws	3	1205
389	do.: do.: Financial By-laws	16	1205
390	do.: do.: Public Road Use By-laws	33	1205
391	do.: do.: Waste Management By-laws	58	1205

GENERAL NOTICES

NOTICE 388 OF 2005

1

FETAKGOMO LOCAL MUNICIPALITY CREDIT CONTROL BY-LAWS

It is hereby notified in accordance with section 13 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) that the Fetakgomo Municipal Council hereby publishes the credit control By-Laws as set out below:

1. DEFINITIONS	2
2. GENERAL PROVISIONS	4
2.1 Notices and Documents.....	4
2.2 Authentication of documents	5
2.3 Full and final settlement of an amount.....	5
2.4 Interest charges	5
2.5 Prima Facie Evidence	5
3. POWER OF MUNICIPALITY TO RECOVER COSTS	6
3.1 Dishonored payments	6
3.2 Legal Fees	6
3.3 Cost to remind debtors of arrears	6
3.4 Disconnection fees.....	6
3.5 Accounts	6
4. SERVICE AGREEMENT	7
5. ARREARS COLLECTION	7
5.1 Credit Control Policy	7
5.2 Power to restrict or disconnect supply of services.....	7
5.3 Power of Entry and Inspection.....	9
5.4 Arrangements to pay outstanding and due amount in consecutive installments.....	9
5.5 Reconnection of services.....	10
6. ASSESSMENT RATES	10
6.1 Amount due for assessment rates.....	10
6.2 Claim on rental for assessment rates in arrears.....	10
6.3 Liability of Company Directors for assessment rates	10
6.4 Disposed of Municipality's property and payment of assessment rates.....	10
6.5 Restraint on Transfer of property.....	11
6.6 Assessment rates payable on municipal property.....	11
7. RELAXATION, WAIVER AND DIFFERENTIATION	12
8. REPORTING OF DEBTORS	12
9. REPEAL OF MUNICIPALITY CREDIT CONTROL BY-LAWS	12
10. OFFENCES.....	12
11. CONFLICTING BY-LAWS	13

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1. DEFINITIONS

For the purpose of these by-laws, unless the context indicates otherwise:—

"Apparatus" includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting.

"Municipality" means THE FETAKGOMO LOCAL MUNICIPALITY.

"Credit Control" means all the functions relating to the collection of monies owed and/or due by ratepayers and consumers of municipal services as set out in the Municipal Systems Act,

"Customer Management" means addressing the client's needs in a responsive and pro-active manner to encourage payment, thereby limiting the need for enforcement by means of *inter alia* legal action.

"Customer" means any occupant and/or owner of any premises to which the Municipality has agreed to supply or is actually supplying services, or if there is no occupant, then the owner of the premises.

"Billing" means proper formal notification (invoicing) on a statement to each customer of amounts levied for assessment rates and services and the net accumulated balance of such account.

"Interest" constitutes a levy equal to service levies and is calculated at a rate determined by the Municipality on all service levies in arrears.

"Municipal Services" those services, with rates and taxes reflected on the municipal account for which payments are required by Municipality.

"Municipal Account" shall include levies or charges in respect of the following services and/or taxes:—

- (a) Electricity consumption
- (b) Water consumption
- (c) Gas consumption

- (d) Refuse removal
- (e) Sewerage services
- (f) Rates and taxes charged in relation to the value of the premises
- (g) Interest.

"Debtor" means that person owing the Municipality in respect of taxes and/or service charges for a period of more than 45 (forty-five) days from date of account.

"Occupant" means any a person who occupies any premises or part thereof, without regard to the title under which he or she occupies.

"Owner" means-

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative"
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person"
- (f) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust *inter vivos*, Trust *mortis causa*, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), a Voluntary Association.
 - (ii) any Department of State.

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- (iii) any Municipality or Board established in terms of any legislation applicable to the Republic of South Africa.

"Premises" includes any rateable property or piece of land, the external surface boundaries of which are delineated on-

- (a) a general plan or diagram registered in terms of the Land Survey Act, 9 of 1927) or in terms of the Deeds Registry Act, 47 of 1937; or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Municipality.

"Chief Financial Officer" means a person appointed by the Municipality in terms of the Municipal Finance Management Act, 56 of 2003 to manage, *inter alia*, the Municipality's financial administration, financial matters, debt collection and credit control.

2. GENERAL PROVISIONS

2.1 Notices and Documents

- (a) A notice or document issued by the Municipality in terms of these by-laws shall be duly issued if an officer authorized by the Municipality signs it.
- (b) If a notice is to be served on a person in terms of these by-laws, such service shall be effected by:
 - (i) delivering the notice to him or her personally or to his or her duly authorized agent;
 - (ii) by delivering the notice at his or her residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
- (c) if he or she has nominated an address for legal purposes, by delivering the notice to such an address;
- (d) registered or certified post addressed to his or her last known address;
- (e) in the event of a body corporate, by delivering it at the registered office or the business premises of such body corporate;
- (f) if service cannot be effected in terms of paragraphs (b) to (e) by affixing it to the principal door of entry to the premises, or placing it to a conspicuous place on the land to which it relates.

2.2 Authentication of documents

- (a) Every order, notice of other document requiring authentication by the Municipality shall be sufficiently authenticated, if signed by the Municipal Manager or by a duly authorized officer of the Municipality; such authority being conferred by resolution of the Municipality or by a by-law or regulation.
- (b) Delivery of a copy shall be deemed to be delivery of the original.

2.3 Full and final settlement of an amount

- (a) The Chief Financial Officer shall be at liberty to appropriate monies received in respect of any of its municipal services it deems fit.
- (b) Where the exact amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by any Municipal employee, except the Chief Financial Officer and/or his/her fully authorized delegate, shall not be deemed to be in full and final settlement of such an amount.
- (c) The provisions in 2.3(a) above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.
- (d) The Chief Financial Officer and/or his/her delegate shall consent to the acceptance of such a lesser amount in writing.

2.4 Interest charges

Subject to the provisions of the Municipal Finance Management Act, or any other law relating to interest, the Municipality may by resolution of a two-thirds majority of the members of the Municipal Council, charge and recover interest in respect of any arrears amount due and payable to the Municipality.

2.5 Prima Facie Evidence

A certificate reflecting the amount due and payable to the Municipality, under the hand of the Municipal Manager, or suitably qualified person authorized by the Municipal Manager, shall upon

mere production thereof be accepted by any court of law as prima facie evidence of the correctness of the amount due and payable by the debtor.

3. POWER OF MUNICIPALITY TO RECOVER COSTS

3.1 Dishonoured payments

Where a bank later dishonours any payment made by cheques to the Municipality, the Municipality may levy such costs and administration fees against an account of the defaulting debtor in terms of the Municipality's tariff provisions.

3.2 Legal Fees and Disbursements

All legal costs (Legal Fees and Disbursements), including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.

3.3 Cost to remind debtors of arrears

For any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, email, letter or otherwise, that his/her payments are due, a fee may be levied against the account of the debtor in terms of the Municipality's tariff provisions.

3.4 Disconnection fees

Where any service is disconnected as a result of non-compliance with these by-laws by the customer, the Municipality shall be entitled to levy and recover the standard disconnection fee as determined by the Municipality from time to time from the consumer of such services.

3.5 Accounts

A municipality may –

- (a) consolidate any separate accounts of persons liable for payments to the municipality;

- 7
- (b) credit any unspecified payment by such a person against any account of that person; and
 - (c) implement any of the debt collection and credit control measures provided for in these by-laws in relation to any arrears on any of the accounts of such a person.

4. CONSUMER AGREEMENT

- 4.1 No supply of services shall be provided unless and until application has been made and a consumer agreement, in the Municipality's prescribed form and format or as close as possible to it, has been entered into and a deposit as security equal to an amount and in the form of either cash or a bank guarantee as determined by the Municipality from time to time, has been paid in full.
- 4.2 Termination of the services agreement must be in writing to the other party of the intention to do so.

5. ARREARS COLLECTION

5.1 Credit Control Policy

The Municipality shall have a written policy on credit control and debt collection that provides for:

- (a) credit control procedures and mechanisms
- (b) debt collection procedures and mechanisms
- (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents
- (d) interest on arrears
- (e) extensions of time for payment of accounts
- (f) termination of services or the restriction of the provision of services when payments are in arrears
- (g) in determining its policy the Municipality may differentiate between categories of persons, clients, debtors and owners as it may deem appropriate.

5.2 Power to restrict or disconnect supply of services

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- (a) The Municipality may restrict or disconnect the supply of water, gas and electricity, or discontinue any other service to any premises whenever a user of any service:
- (i) fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for services, rates, or taxes;
 - (ii) fails to comply with a condition of supply imposed by the Municipality
 - (iii) obstructs the efficient supply of electricity, water, gas or any other municipal services to another customer;
 - (iv) supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
 - (v) causes a situation which in the opinion of the Municipality is dangerous or a contravention of relevant legislation;
 - (vi) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act no 24 of 1936;
 - (vii) If an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944) in respect of such user,
- (b) The Municipality shall reconnect and or restore full levels of supply of any of the restricted or discontinued services only after the full amount outstanding and due, including the costs of such disconnection and reconnection, if any, have been paid in full or any other condition or conditions of the Municipality's Credit Control Policy as it may deem fit have been complied with.
- (c) The right of the Municipality to restrict water to any premises or customer shall be subject to the provisions of Section 4 of the Water Services Act, 108 of 1997.
- (d) The right to restrict, disconnect or terminate service due to non-payment for any other service or assessment rate shall be in respect of any service rendered by the Municipality, and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and shall prevail notwithstanding the fact that the person who entered into agreement for supply of services with the Municipality and the owner are different entities or persons, as the case may be.

5.3 Power of Entry and Inspection

- (a) A duly authorized representative of the Municipality may for any purpose related to the implementation or enforcement of these by-laws, at all reasonable times or in an emergency at any time, enter any premises, request information and carry out such inspection and examination as he or she may deem necessary, and for purposes of installing or repairing any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.
- (b) If the Municipality considers it necessary that work be performed and to enable an officer to perform a function referred to in (a) above properly and effectively, it may-
 - (i) by written notice require the owner or occupant of the premises at his or her own expense to do specified work within a specified period; or
 - (ii) if in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
- (c) If the work referred to in (b) above is carried out for the sole purpose of establishing whether a contravention of these by-laws has been committed and no such contravention has taken place, the Municipality shall bear the expense connected therewith together with that of restoring the premises to their former condition.

5.4 Arrangements to pay outstanding and due amount in consecutive instalments

- (a) A debtor may enter into a written agreement with the Municipality to repay any outstanding and amount due to the Municipality under the following conditions:
 - (i) the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
 - (ii) the written agreement has to be signed on behalf of the Municipality by a duly authorized officer.
- (b) Should any dispute arise as to the amount owing by an owner in respect of municipal services the owner shall notwithstanding such dispute proceed to make regular minimum payments based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Municipality.

5.5 Reconnection of services

The Chief Financial Officer shall authorize the reconnection of services or reinstatement of service delivery after satisfactory payment and/or arrangement for payment has been made according to the Municipality's Credit Control Policy.

6. ASSESSMENT RATES

6.1 Amount due for assessment rates

- (a) All assessment rates due by property owners are payable by the date determined by the Municipality.
- (b) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- (c) Assessment rates may be levied as an annual single amount, or in equal monthly instalments.
- (d) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

6.2 Claim on rental for assessment rates in arrears

The Municipality may apply to Court for the attachment of any rent, due in respect of rateable property, to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

6.3 Liability of Company Directors for assessment rates

Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrears amount to the Municipality, the liability of such entity shall be extended to the directors or members thereof jointly and severally, as the case may be.

6.4 Disposed of Municipality's property and payment of assessment rates

- (a) The Purchaser of Municipality property is liable for the payment of assessment rates on the property in respect of the financial year in which the Purchaser becomes the new owner.
- (b) In the event that the Municipality repossesses the property, any outstanding and due amount in respect of assessment rates shall be recovered from the Purchaser.

6.5 Restraint on Transfer of property

- (a) A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate:—
 - (i) issued by the municipality; and
 - (ii) which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the three years preceding the date of application for the certificate have been fully paid.
- (b) In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to Section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).
- (c) An amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

6.6 Assessment rates payable on municipal property

- (a) The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease, as if he is the owner of such property.
- (b) The Chief Financial Officer may elect to include the assessment rates in respect of a property in the rent payable by the lessee, instead of billing it separately as in the case of owners of properties.

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7. RELAXATIONS, WAIVER AND DIFFERENTIATION

- 7.1 The Municipality may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters.
- 7.2 The Municipality may, in a specific instance and for a particular owner or customer, relax or waive in writing the requirements of a provision of these by-laws.
- 7.3 Any such differentiation or relaxation shall be upon such conditions as it may deem fit to impose, if it is of the opinion that the application or operation of that provision in that instance would be unreasonable.

8. REPORTING OF DEBTORS

The Municipality may in its discretion through a duly delegated officer report such persons that owe the Municipality monies to bodies that collate and retain such information. The information that would be included in such a report shall be the available personal information of the debtor, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officers of such legal person.

9. REPEAL OF MUNICIPALITY CREDIT CONTROL BY-LAWS

The provisions of any by-law relating to the control of credit by the Municipality are hereby repealed insofar as they relate to matters provided for in these by-laws; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

10. OFFENCES

10.1 A person who: –

- (a) fails to give the access required by an officer in terms of these by-laws;
- (b) obstructs or hinders an officer in the exercise of his or her powers or performance of functions or duties under these by-laws;

13

- (c) uses or interferes with Municipality equipment or consumption of services supplied;
- (d) tampers or breaks any seal on a meter or on any equipment belonging to the Municipality, or for any reason as determined by the Chief Financial Officer causes a meter not to properly register the service used, shall be charged for usage, estimated by the Chief Financial Officer based on average usage;
- (e) fails or refuses to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or functions under these by-laws or gives such an officer false or misleading information knowing it to be false or misleading;
- (f) contravenes or fails to comply with a provision of these by-laws;
- (g) fails to comply with the terms of a notice served upon him or her in terms of these by-laws;

shall be guilty of an offence and liable upon conviction to imprisonment for a period not exceeding six months or community service or a fine not exceeding R 20,000, or a combination of the aforementioned.

11. CONFLICTING BY-LAWS

If there is any conflict between these by-laws and any other by-laws of the Municipality as far as they relate to matters provided for in these by-laws, these by-laws will prevail.

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NOTICE 389 OF 2005

1

FETAKGOMO LOCAL MUNICIPALITY
FINANCIAL BY-LAWS

It is hereby notified in accordance with section 13 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) that the Fetakgomo Local Municipal Municipality hereby publishes the Financial By-Laws as set out below:

INDEX

1. Definitions
2. Financial year
3. Estimates
4. Collection of and control over revenue
5. Accumulated and reserve fund
6. Investments and securities
7. Expenditure
8. Payments
9. Salaries, wages and allowances
10. Insurance
11. Stores and material
12. Capital expenditure
13. Assets
14. Tenders and contracts
15. Application of the by-laws
16. Submission of tenders
17. Opening of tenders
18. Consideration and tenders
19. Transactions with officials and members of the Municipality
20. Withdrawal of tender and failure to execute a contract
21. Acceptance of tenders
22. Sanctions
23. Amendment of tender documents
24. Losses and writing off of moneys
25. Internal auditing and accounting
26. Custody of documents
27. Conflicting By-Laws
28. Repeal of Municipal financial By-Laws

1. DEFINITIONS:

In these by-laws, unless the context indicates otherwise:-

"Department" means any department, section or branch of the Municipality;

"Municipal Manager" means the official so appointed by the Municipality in terms of the local Government: Municipal Systems Act, 32 of 2000 as amended;

"Departmental Head" means the official in a department who is directly responsible and accountable to the Municipal Manager;

"Capital expenditure" means any expenditure incurred in connection with the purchase or improvement of land, buildings, engineering structures, vehicles, machinery and equipment, as well as office furniture and equipment for the Municipality

"MEC" means the Member of the Executive Municipality, Northern Province Provincial Government, responsible for Local Government;

"finance committee" means a committee established by the Municipality to advise the Municipality on the financial regulations, fiscal affairs and remedies.

"Municipality" means THE FETAKGOMO LOCAL MUNICIPALITY.

"Chief Financial Officer" means a person appointed by the Municipality in terms of the Municipal Finance Management Act, 56 of 2003 to manage, *inter alia*, the Municipality's financial administration, financial matters, debt collection and credit control.

"Tender Committee" means a committee appointed by the Municipal Council in terms of the Municipal Finance Management Act to consider adjudicate and award tenders requested and received by the Municipality

2. FINANCIAL YEAR

The financial year of the Municipality shall start on the first day of July each year and end on 30th day of June of the following year.

3. ESTIMATES

- 3(1) The yearly operating and capital estimates of a Municipality shall be submitted to the MEC or his delegates in the form prescribed by him/her from time to time.
- 3(2) The Chief Financial Officer shall make the necessary arrangements before or on 31st day of January of each year and supply to each Departmental Head the financial information that he/she deems necessary for the preparation of draft estimates with regard to operating and capital accounts for the following financial year.
- 3(3) Every Departmental Head shall submit the draft estimates referred to in section 3(2) with regard to his department to the Chief Financial Officer before the expiry date determined by the Chief Financial Officer.
- 3(4) The Chief Financial Officer shall submit consolidated estimate to the Municipal Manager for submission to the Municipality before the expiry date determined by the Municipal Manager.
- 3(5) The Municipal Manager shall submit the Municipality's estimates to the MEC or his delegates together with such comments, as he may deem necessary.

4. COLLECTION OF AND CONTROL OVER REVENUE

- 4(1) All money due to the Municipality shall be collected from the Chief Financial Officer by the department.
- 4(2) The Municipality shall open an account at a registered commercial bank of its choice, which shall be called the operating account.
- 4(3) All moneys collected shall be balanced daily at the times and in the manner the Chief Financial Officer may determine and shall be deposited in the operating account of the Municipality.

- 4(4) Where moneys are collected by some other agency on behalf of the Municipality they shall be paid over to the Municipality or be deposited in the Municipality's operating account in a manner prescribed by the Chief Financial Officer.
- 4(5) The receipt of all moneys collected by the Municipality shall be acknowledged forthwith by the issue of a numbered official receipt or in any other manner approved by the Chief Financial Officer.
- 4(6) No alteration shall be made with regard to the name of the payee, the amount or the date on the receipt or other form of acknowledgement issued in terms of section 4(5) above and such erroneous entry shall be rectified by the issue of a new acknowledgement of receipt and the cancellation of the erroneous one, including all copies thereof.
- 4(7) A receipt or other form of acknowledgement cancelled in terms of section 4(6) and all duplicates thereof shall be kept in a safe custody the responsible officer.
- 4(8) Any cash surplus shall immediately be cleared by the issuing of receipt and shall be deposited in the Municipality's funds, while all cash deficits shall immediately be reported and be replenished in accordance with the manner prescribed by the Chief Financial Officer.

5. ACCUMULATED AND RESERVE FUNDS

- 5(1) All operating surpluses realized in the operating account at the end of the financial year shall be shown in the Municipality's books under the heading appropriation account" and any deficits or any corrections in respect of the previous financial year shall be set off against the surpluses.
- 5(2) The Municipality may establish a capital development fund and may open an account under the same name at a registered commercial bank of its choice in which the following funds may be deposited:-
 - (a) Direct and ear-marked contributions from current income;
 - (b) Transfers from accumulated surpluses;
 - (c) Interest on investment of the capital development fund;
 - (d) Subject to the provisions of any other Act the returns from the sale of any assets of the Municipality, after calculating the cost of such sale and the outstanding balance of any advance or loan with which the assets was financed;
 - (e) Interest and capital payments on advances or loans granted;
 - (f) Unused amount in accumulated and reserve funds;
 - (g) Any other amounts on which the Municipality may decide.
- 5(3) The funds in the capital development fund shall be appropriated in accordance with the budget of the Municipality and in the manner determined by the Municipality
 - (a) for the repayment, redemption or amortization of loans, securities, obligations or bills issued or negotiated by the Municipality; as the case may be
 - (b) for investing with institutions referred to in sub-section (2) if they are not immediately needed for other purposes;
 - (c) for rendering financial assistance to local communities by means other than advances or loans;

- (d) for making funds available for approved capital objects;
- (e) for the financing of such portion of the capital needs of the Municipality which, in accordance with the decision of the Municipality, should not be financed out of the current income of the Municipality;
- (f) for the distribution of interest to accumulated and reserve funds invested in terms of sub-section (2)(g).

5(4) The Municipality shall in addition to the funds referred to in this section, not establish any other accumulated or reserve funds without the approval of the MEC.

6. INVESTMENTS AND SECURITIES

- 6(1) Any money not needed immediately to meet expenses in terms of the Municipality's approved budget shall be invested by the Municipality with any Bank registered in terms of the Bank's Act, 1965 (Act no 23 of 1965), or any mutual building society registered in terms of the Mutual Building Societies Act, 1965 (Act No 24 of 1965), or any building society registered in terms of the Building Societies Act, 1986 (Act No 82 of 1986), or any other institution which has been approved by the MEC for this purpose.
- 6(2) The Chief Financial Officer shall invest the funds of the Municipality in a manner determined by the Municipality and shall be authorized to buy or sell any securities.

7. EXPENDITURE

- 7(1) The Municipality shall make no decision concerning expenditure unless the executive committee, after consideration of a report submitted by the Municipal Manager, has reported thereon.
- 7(2) A recommendation to the executive committee relating to the expenditure shall specify the vote to which the expenditure is to be charged or, as the case may be, shall state that an additional vote or an excess vote is required therefore.
- 7(3) The Municipality may incur expenditure in order to:-
- (a) make grants and donations to an institution, establishment, organization or society, excluding political, church or organizations, whereby no member of the Municipality or participating local body shall receive any financial or other gain and where, in the option of the Municipality, such a grant or donation shall be in the interest of the Municipality or the inhabitants of the region served by the Municipality: Provided that the total expenditure on the said grants and donations shall not in any financial year exceed 0.5% of a Municipality's total levy income collected during the previous financial year;
 - (b) obtain membership of and pay membership fees to non political, non church or non societies, organizations or institutions which, in the option of the Municipality, shall be in the interest of the Municipality of the inhabitants of the region served by the Municipality, including expenses associated with the attendance of meetings and congresses resulting from membership;

- (c) arrange insurance cover for Municipality members and officials against bodily harm, incapacity or death;
- (d) grant bursaries in accordance with the conditions stipulated by the Municipality, to its employees in order to enable them to study at a university, college or similar educational institution, to follow an appropriate training course at an institution or institute;
- (e) purchase a wreath as a Municipality may deem fit for the burial of any person;
- (f) contribute to official emergency relief funds;
- (g) arrange receptions, entertainment of exhibitions and advertise: Provided that the total expenditure incurred in this regard during a financial year shall not exceed the amount approved in the budget of the Municipality.

8. PAYMENTS

- 8(1) Each payment, except advanced payments in terms of sub-section (5) shall be made by means of a banking account of the Municipality and each cheque drawn on such a banking account shall be signed by two officials designated as signatories by the Municipality.
- 8(2) The Chief Financial Officer or an official authorized by him in writing, shall certify on the strength of supporting vouchers with regard to each account to be paid for goods supplied or services rendered or work performed for the Municipality, that the goods or services, as the case may be, were in fact supplied or rendered or that the work was in fact done, that the price charged was reasonable or in accordance with the contracts, that it falls within a vote authorized by the Municipality and the account may be paid.
- 8(3) Progress payments in respect of a contract shall be limited to the value of the work done and material supplied, as certified in terms of sub-section (2), less the amounts of previous payments made and the amount of retention money withheld in terms of the contract.
- 8(4) The Chief Financial Officer shall not in respect of any contract make any payment in excess of the total amount authorized by the Municipality or any payment expected to exceed the amount authorized by the Municipality unless the Municipality has resolved otherwise after considering a written report by the Municipal Manager stating the reason why the excess expenditure should be incurred.
- 8(5)(a) An impressed account for petty cash disbursements may be opened with the approval of the Municipal Manager.
 - (b) The Chief Financial Officer and the Municipal Manager shall determine the amount that may be kept in the impressed account, the nature and extent of payments that may be made from it and the supporting vouchers that are to be completed in respect of such payments.
- 8(6) The Chief Financial Officer shall submit monthly, before the 15th day of the following month to the Municipal Manager, a report of the immediately preceding month setting out the cash and bank balances as at the beginning of that month, the total amount received during that month, and payments made and the cash and bank balances as at the end of that month reconciled with the bank statements.

- 8(7) Not later than the last day of January of each year the Chief Financial Officer shall submit a report to the Municipal Manager in respect of cases in which, in his opinion, the discrepancy between the actual and the estimated income or between the actual and the estimated expenditure for at least the first (five) 5 months of that financial year is of such a serious nature as to require it to be brought to the attention of the Municipality.

9. SALARIES, WAGES AND ALLOWANCES

- 9(1) The Municipality shall keep a record in which all relevant particulars relating to salaries, wages, allowances and leave of officials are recorded.
- 9(2) The Chief Financial Officer shall pay all salaries, wages and allowances in a manner determined by him in consultation with the Municipal Manager.
- 9(3) Pay-rolls shall be approved by the Chief Financial Officer and payment shall be made accordingly.
- 9(4) A Departmental Head or the Departmental Head whose department deals with staff matters, shall forthwith notify the Chief Financial Officer of all appointments, promotions, alterations to salary scales, dismissals, resignations, transfers, leave of any description and all matters related to the remuneration of members of the Municipal Council and officials of the Municipality.

10. INSURANCE

- 10(1) The Chief Financial Officer shall, on yearly basis and whenever necessary, submit of Municipality's approval written report to the Municipal Manager setting out such insurance of the Municipality's property or interests as in his opinion should be effected.
- 10(2) The Chief Financial Officer may at any time require from a Departmental Head, who shall duly supply it, a statement setting out the assets held by that department, the risks required to be insured and any other information which the Chief Financial Officer may deem necessary and the Chief Financial Officer shall, in accordance with such statement and subject to the provisions of sub-section (1), effect such insurance as may be in the interest of the Municipality.
- 10(3) A Departmental Head shall notify the Chief Financial Officer without delay of any new insurable risk or any alteration to an existing insurable risk, which has arisen in connection with the department.
- 10(4) Should any event giving rise or possibly giving rise to a claim by or against the Municipality or against insurers occur, the Departmental Head shall urgently notify the Chief Financial Officer of that event and the Chief Financial Officer shall forthwith notify the Municipality's insurer thereof.
- 10(5) The Chief Financial Officer shall keep a register in which particulars of insurance policies held by the Municipality shall be entered and he shall be responsible for the payment of all premiums and shall ensure that claims arising from such policies are instituted.

11. STORES AND MATERIAL

- 11.(1) A store's register which reflects full particulars of purchases and stock issued and which may be balanced at any time, shall be kept by the Chief Financial Officer.
- 11(2) Except where the Chief Financial Officer after consultation with a Departmental Head is of the opinion that special reasons exist for doing so, no department shall carry stores in excess of what, in the opinion of the Chief Financial Officer, are its normal requirements.
- 11(3) Whenever the Chief Financial Officer is of the opinion that compliance by him with a request to purchase any material would be contrary to the provision of sub section (2) he shall inform the head of the department concerned of that fact and if the request is not withdrawn he shall submit a written report to the Municipal Manager with full details of the facts of the dispute.
- 11(4) The decision of the Municipal Manager with regard to a matter referred to in sub-section (3) shall be final.
- 11(5)(a) With the exception of petty cash disbursements made from an impress account in terms of section 8 (5), all goods and material shall be purchased or issued by the Chief Financial Officer or a person authorized by him and no goods or material shall be so purchased or so issued, other than against a requisition authorized by the Departmental Head requiring the goods or material.
- (b) All stores belonging to the Municipality shall be kept in a place or places approved by the Chief Financial Officer: Provided that such stores as the Chief Financial Officer may approve may, subject to the conditions he may determine, be kept by a Departmental Head or a person authorized by him, in a place under his control.
- 11(6) The Chief Financial Officer shall ensure that at least once every financial year stock taking of all stores and material of the Municipality takes place.
- 11(7) If stores and equipment can be marked or if it is deemed necessary to mark them, they shall be marked clearly so as to reflect the ownership of the Municipality.
- 11(8) The Chief Financial Officer shall submit a written report stating the quantity and value of any surplus or shortage of goods and material revealed by stock-taking together with the reasons for this to the Municipal Manager and the Municipal Manager may in respect of the store referred to in the proviso to sub-section (5) (b), require the Departmental Head to furnish him with the reasons for such shortages in writing.
- 11(9)(a) All printed matter offered for sale and all face value receipts, receipt books and cheque forms shall be purchased and issued by the finance manager only.
- (b) The Chief Financial Officer shall keep a register of all purchases and issues made in terms of paragraph (a).
- (c) The receipt of anything issued in terms of paragraph (a) shall be acknowledged by means of the signature of the receiver.
- (d) Receipt, license, cheque, face value or other forms having a potential value shall be numbered and supplied in the manner prescribed by the Chief Financial Officer, and such forms shall be used in numerical order and the originals,

duplicate and counterfoils of cancelled forms and the duplicates and counterfoils of used forms shall be preserved.

- (e) The Chief Financial Officer shall make necessary arrangements to ensure that the particulars of all face value and other forms of the Municipality with a potential value, which are printed, shall be recorded in an appropriate register.

11(10) A store's requisition shall not be executed unless particulars of vote to be debited in respect of goods or material supplied are indicated thereon.

11(11) Subject to the provisions of sub-section (10), no store's requisition in respect of a uniform or other clothing shall be executed unless it states, in the case of an issue to a specific person the name and official designation of the person for whom such uniform or clothing is required and unless the Chief Financial Officer has indicated on it that it complied with the policy of the Municipality regarding such issue.

11(12) If by order of the Chief Financial Officer delivery of goods or material is made direct at a place other than a store of the Municipality, a person authorized by the Departmental Head shall take delivery thereof and sign the delivery note after which the Departmental Head shall send it to the Chief Financial Officer.

11(13) Goods, material or equipment shall not be regarded as redundant or obsolete unless the Municipality grants the necessary authority and in such case the Municipality shall give directions as to the disposal thereof.

11(14)(a) Any goods remaining unused after the completion of the work or the fulfillment of the purpose for which they were issued shall be returned to the store and shall be taken into stock.

- (b) A department returning surplus goods in terms of paragraph (a) shall send to the Chief Financial Officer and advise in such form as the Chief Financial Officer may prescribe, in which the goods so returned are specified in detail.

11(15) No order for the purchase of goods or the rendering of a service shall be placed on behalf of the Municipality or shall be valid unless:-

- (a) It is handed in on a prescribed order form approved by the Municipal Manager; and
- (b) The Chief Financial Officer has signed such an order form or other officer authorized thereto by him.

11(16) A Departmental Head shall be responsible for the safe custody of goods or material issued to his department and shall, if requested to do so by the Chief Financial Officer, furnish full details of any goods or material held by the department.

11(17) The Chief Financial Officer shall establish a thorough internal control system to ensure that when a change of officials responsible for stores, material and equipment takes place, accountability with regard to the losses and deficits can be clearly established.

12. CAPITAL EXPENDITURE

- 12.(1) Capital expenditure, however financed and notwithstanding that provision has been made in the annual budget shall only be incurred with the express approval of the Municipality.
- 12(2) The Municipal Manager or his proxy shall in respect of a recommendation made by him for the execution of work or other undertakings entailing capital expenditure, submit with such a recommendation a report to the Municipality setting out the following information in respect of such work or undertaking:
- (a) The total estimated cost with a complete analysis thereof and any consequential expenditure with regard to the operation, and maintenance which will arise as a result of the work or undertaking;
 - (b) The estimated capital amount to be expended annually in respect of the work or undertaking;
 - (c) The estimated life of the assets to be created by means of loan funds; and
 - (d) Any other information required by the Municipality.
- 12(3) Capital expenditure, which shall be funded or partly funded by a loan, shall not be incurred until necessary approval required in terms of these by-laws has been obtained.

13. ASSETS

- 13.(1) The Chief Financial Officer or his/her authorized representative shall keep a register in which be recorded particulars of all movable and fixed assets except those referred to in sub-section (5) below.
- 13(2) At such date during every financial year of the Municipality as the Chief Financial Officer may determine, stock taking shall be done of all assets recorded in the register prescribed in sub-section (1) and the Chief Financial Officer shall report to the Municipal Manager in writing and shall include in the report a statement of all the relevant facts and shortages for submission to the Municipality.
- 13(3) When an asset under the control of a Departmental Head has been purchased, sold demolished, destroyed, or damaged or any other event materially affecting its value has occurred, such head shall forthwith report the facts in writing to the Municipal Manager.
- 13(4) A Departmental Head shall at such intervals as the Chief Financial Officer may prescribe submit to him a written report giving such particulars concerning all assets under the control of such head as the Chief Financial Officer may require.
- 13(5) Each Departmental Head shall keep inventories, in a form approved by the Chief Financial Officer of all movable assets in respect of which the Chief Financial Officer has not required complete records to be kept in the register referred to in section (1).
- 13(6) At such date during each financial year as the Municipal Manager may decide, each Departmental Head shall cause a comparison to be made between the inventories referred to in sub-section (1) and the assets in the possession of this department and he shall report to the Chief Financial Officer in writing the result of such comparison.

- 13(7) If any asset referred to in the above inventories is found not to be in the departments possession the Departmental Head shall include a statement of all the facts relevant to the shortage in the report referred to in sub-section (6).
- 13(8) The Chief Financial Officer shall submit a report in writing, setting out all the relevant facts relating to the absence of any asset brought to his notice in terms of sub-section (7) and the Municipal Manager shall report to the Municipality in this regard.

14. TENDERS AND CONTRACTS

14. Where the Municipality is authorized to enter into contracts for the purchase of any goods by the Municipality for execution of any works for or on behalf of the Municipality the controller of stores and buyer may enter into such contracts, not exceeding the amount as laid down from time to time in the procurement policy of the Municipality or in applicable legislation.

Provided that:

- (a) Tenders as contemplated in section 15(2) need not to be invited;
- (b) If the contract price exceeds the amount of R 500.00, three or more independent quotations shall be obtained and considered.

15. APPLICATION OF BY-LAWS

- 15.(1) These by-laws shall be applicable in all cases where goods and services for the Municipality are to be obtained and/or procured and/or property is to be purchased or disposed of.
- 15(2) Before the Municipality enters into any contract for the execution of any work for or on behalf of the Municipality or the purchase or the sale of any goods by the Municipality to the value or for the amount as laid down from time to time by the MEC, the Municipality shall give at least a 14 (fourteen) days notice in English and Northern Sotho in a Newspaper circulating within the area of the Municipality and shall place on a notice-board at the Municipality's office a notice of its intention to enter into such contract, expressing the purpose thereof and inviting any person willing to enter into such contract to submit a tender for that purpose to the Municipality: Provided that the foregoing provisions shall not apply where the Municipality after considering a report of the Municipal Manager, is of the opinion that the proposed contract is an urgent case or a special case of necessity or in the case of a sole supplier, for which tenders need not be invited or, where the proposed contract is for the sale or purchase of goods, that such goods should be bought or sold by public auction.

16. SUBMISSION OF TENDERS

- 16.(1) The tender process shall comply with the provisions of the Procurement Act, 2000 and its Regulations, 2001.
- 16(2) All tenders must be invited and adjudicated on the 90/10 or 80/20 principles.
- 16(3) Each tender shall be in writing and, where applicable, on the prescribed tender form placed in sealed envelope on which the tender number and the nature of the supply or service and the closing date are written, and shall be placed in the locked tender

box provided for this purpose not later than the closing date specified in the invitation to tender.

16(4) A tender received other than by deposit in the tender box shall as soon as it has been so received and prior to the closing date of the applicable tender, be placed in a tender box referred to in sub-section (1) by the officer so authorized by the Municipal Manager.

16(5) When a tender received other than by deposit in the tender box is found not to comply with the requirement in sub-section (1) it shall forthwith be placed in a sealed cover on which shall be noted:-

- (a) the date and time of receipt of the tender;
- (b) the condition in which the tender was received;
- (c) the tender number;
- (d) the closing date of the tender; and
- (e) the nature of the goods or work to which it relates;

and it shall thereupon be placed in the tender box

16(6) If, on the opening of the tender box, a tender is found not to comply with the requirements of these by-laws, the person opening the tenders shall declare in what respects it fails so to comply and shall endorse it accordingly.

16(7) Tenders received by telegram, telex or facsimile machine on or before the specified date or hour may be allowed depending on the conditions of tender and provided the name of the tenderer, the tender number, the goods or work to which it relates, the amount of the tender and the period of delivery are clearly specified therein.

16(8) Subject to the provisions of these by-laws a tender received after the specified date and hour shall not be considered and the tenderer shall be notified thereof.

16(9) Tenders shall be accepted for consideration only on condition that the tenderer has fully acquainted him with and undertakes to be fully bound by the provision of these by-laws.

16(10) A tenderer shall adhere to statutory labour practices, and be registered with the South African Revenue Service.

17. OPENING OF TENDERS

17.(1) All tenders shall be opened in public by the Municipal Manager or his or her authorized representative in the presence of the Chief Financial Officer or an official authorized by him and the person opening the tenders shall in each case read out the name of the tenderer and, if any tenderer so requires, the amount of the tender.

17(2) As soon as the tender box has been opened all tenders received-

- (a) Shall be stamped with the official stamp of the Municipality and endorsed with the signatures of the person who opened it and of the person in whose presence it was opened as prescribed by sub-section (1);
- (b) The name of the tenderer shall be recorded on a register kept for that purpose; and

- (c) The person who opened the tender shall forthwith place his initials against the total amount mentioned in the tender documents.

- 17(3) If a tender consists of one single item, the amount tendered shall be read out when it is opened, but if it consists of more than one item the Municipal Manager or an official designated by him or his proxy shall in his discretion, decide whether or not one or all of the prices should be read out.
- 17(4) After being recorded in the register referred to in sub-section (2) (b) the tenders shall be handed over to the official or person responsible for the supervision of the procession thereof and he shall acknowledge receipt thereof by signing the register.
- 17(5) Any deposit or security received with the tenders shall forthwith be handed to the Chief Financial Officer for official acknowledgement of receipt.

18. CONSIDERATION AND TENDERS

- 18.(1) The Municipal Manager shall present the tenders to the Tender Committee together with-
- (a) a comparative schedule of the tenders; and
 - (b) the adjudication done i.t.o the Preferential Procurement Act, 5 of 2000 and the Regulation, 2001
 - (c) a substantiated recommendation; and
 - (d) a statement that the tender price is regarded fair and reasonable if the tender recommended for acceptance is the only one; and
 - (e) the reasons why the acceptance of a tender is deemed to be in the Municipality's interest if such tender is not the lowest.
- 18(2) The financial provisions of a contract, which the Municipality intends to conclude in terms of a tender, shall be referred to the Chief Financial Officer for his comments and recommendations thereon before the contract is concluded.
- 18(3) The Chief Financial Officer shall in respect of every contract referred to in sub-section (2) concluded by the Municipality keep a record setting out the financial rights and obligations of the Municipality there under and shall enter in that record on a continuous basis every payment made by or to the Municipality in terms of that contract.
- 18(4) No member or official of the Municipality shall disclose to any person other than a member or official of the Municipality who in the course of his official duties is involved with the tender any information relating to it contained in any report of an official, consultant or other adviser of the Municipality: Provided that this regulation shall not apply to any part of a report of an official, consultant or other adviser of the Municipality which is in a report of the Municipal Manager and which is not intended for the confidential information of the Municipality only.
- 18(5) If at any time after the publication of an invitation to tender the Municipality considers it necessary to depart substantially from the original conditions of tender, fresh tenders shall be called for.
- 18(6) Where the Municipality calls for tenders for the supply and delivery of goods or the execution of work, the Municipality's condition of tender and conditions of contract shall apply.

- 18(7) In respect of each contract created by the acceptance of a tender, each tenderer shall indicate a place in the Republic and specify it in his tender as his *domicillium citandi et executandi* where all processes may be served on him.
- 18(9) Each tenderer shall bind himself/itself to accept the jurisdiction of the magistrate's court.
- 18(10) Each foreign tenderer shall state in his tender the name of his accredited agent in the Republic in whom the necessary legal competence is vested and who has been duly appointed to sign any contract.
- 18(11) A tenderer or contractor shall not abandon his contract or transfer, assign, cede or sublet his contract to any other person without having obtained the prior written approval of the Municipality.

19. TRANSACTIONS WITH OFFICIALS AND MEMBERS OF THE MUNICIPAL COUNCIL

- 19.(1) No transaction of purchase, sale, hire or lease shall be entered into with an official, employee or member of the Municipal Council of the Municipality without the approval of the Municipality: Provided that this provision shall not apply where such a transaction is entered into-
- (a) as a result of the acceptance of a tender,
 - (b) as a result of a sale at a public auction; or
- 19(2) The provisions of sub-section (1), including where there is a financial interest, shall apply *mutatis mutandis* to the members of the Municipality: Provided that the prior approval of the MEC shall be obtained to the conclusion of such a transaction in the interest of the Municipality.
- 19(3) The speaker and members of the Municipality shall declare in advance to the Municipality any financial interest that they have in a transaction in which the Municipality may become involved.

20. WITHDRAWAL OF TENDER AND FAILURE TO EXECUTE A CONTRACT

- 20.(1) Should a tenderer amend or withdraw his tender after the specified date and hour, but prior to his being notified of the acceptance thereof, or should a tenderer after having been notified that his tender has been accepted-
- (a) give notice of his inability to execute the contract in accordance with his tender; or
 - (b) fail to sign a contract within the period stipulated in tender requirements or any extended period determined by the Municipality; or
 - (c) fail to execute the contract; or
 - (d) fail to meet any requirement of the tender;

he/she/it shall pay all additional expenses which the Municipality may have incurred and/or will incur in inviting fresh tenders and pay the difference between his tender and any less favourable tender accepted and any consequential loss which may arise as a result of his non-fulfilment of his contract obligations: Provided that the Municipality may exempt a tenderer from the provisions of this sub-section if it is of the opinion that the circumstances justify it.

- 20(2) When in the circumstances referred to in sub-section (1) it is not deemed expedient to invite tenders, the Municipal Manager may, at the request of the Departmental Head recommend a tender for acceptance from those already received.

21 ACCEPTANCE OF TENDERS

- 21.(1) The Municipality shall not be obliged to accept the lowest or any tender or furnish any reason for the acceptance or rejection of any tender, and shall have the right to accept the whole tender or part of a tender or, in the event of a number of items being tendered for any item or part of an item and may lay down any conditions it deems necessary for an acceptance thereof.

- 20(2) The Municipality may ignore any tender:-

- (a) that is incomplete;
- (b) on which unauthorized alterations have been effected;
- (c) that does not comply with the provisions contained in the advertisement; or
- (d) that in no way qualifies

- 20(3) A decision of the Tender Committee in connection with the acceptance of tenders shall be final.

22. SANCTIONS

- 22.(1) If the Municipality is satisfied that any person, firm or company:-

- (a) is executing a contract with the Municipality unsatisfactorily;
- (b) has offered, promised or given a bribe or other than remuneration, to a member of the Municipal Council, an official or an employee of the Municipality in connection with the obtaining or execution of the contract;
- (c) has acted in a fraudulent manner or in bad faith or in any other unsatisfactory manner in obtaining or executing a contract with any government department, public body, company or person that he or it has managed his or its affairs in such a way that he or it has in consequence been found guilty of an offence;
- (d) has approached a member of the Municipal Council, an official or an employee before or after tenders have been invited for the purpose of influencing the award of the contract in his or her favour;
- (e) has withdrawn or amended his or her tender after the specified date and hour;

28 REPEAL OF MUNICIPALITY FINANCIAL BY-LAWS

The provisions of any by-law relating to the financial management, financial matters and procurement of the Municipality are hereby repealed insofar as they relate to matters provided for in these by-laws; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

NOTICE 390 OF 2005

1

FETAKGOMO LOCAL MUNICIPALITY PUBLIC ROAD USE BY —LAWS

The Municipal Manager of the FETAKGOMO LOCAL MUNICIPALITY hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), publishes the PUBLIC ROAD USE BY – LAWS for the FETAKGOMO LOCAL MUNICIPALITY, as approved by its Council, as set out hereunder

PART A.....	4
METERED TAXI, MINIBUS, MIDIBUS AND BUS ARRANGEMENTS.....	4
CHAPTER 1 INTERPRETATION.....	4
CHAPTER 2	5
Driver to take shortest route.....	5
Driver to keep engagement.....	5
Operation of taximeter	5
CHAPTER 3	5
BUSES	5
Stopping places	5
Entering and alighting from a bus	6
Driver to stop at stopping places.....	6
CHAPTER 4	6
GENERAL	6
Parking of metered taxi, minibus, midibus or bus.....	6
Parking at places of entertainment or funeral.....	6
Engagement of passengers.....	6
Failing or refusing to pay or attempting to evade payment of the fare due	6
Furnishing of name and address by person conveyed in or on metered taxi, minibus, midibus or bus	7
Conveyance of filthy or diseased persons.....	7
Disinfection of metered taxi, minibus, midibus or bus.....	7
Driver's right to refuse to convey passengers	7
Property left in metered taxi, minibus, midibus or bus	8

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	2
Possession of dangerous or offensive articles	8
Cleanliness	8
Queue marshal	9
Clean vehicle	9
Offences and penalties	9
PART B	9
STREET TRADING BY-LAWS	9
Definitions	9
Meaning of words and expressions in Businesses Act incorporated in these By-laws	11
Single act constitutes street trading	11
Reference to legislation includes regulations made there under	11
Assigning powers of a Council employee to employee of a service provider, where a service provider has been appointed	11
Prohibited conduct	12
Restricted conduct	13
Cleanliness	14
Signs indicating restricted and prohibited areas	15
Removal and impoundment	15
Vicarious responsibility of persons carrying on business	16
Offences and Penalties	16
PART C	17
PARKING GROUNDS BY-LAWS	17
CHAPTER 1	17
INTERPRETATION	17
Definitions	17
Parking fees	18
CHAPTER 2	18
TICKET-CONTROLLED PARKING GROUNDS	18
Conditions of parking in ticket-controlled parking grounds	18
Mechanical parking grounds	19

	3
Monthly tickets.....	19
Vehicles of excessive size	20
CHAPTER 3	20
PARKING METER PARKING GROUNDS	20
Place of parking.....	20
Conditions of parking	20
Prohibitions relating to parking meters.....	21
Proof of time	21
CHAPTER 4	22
PAY AND DISPLAY PARKING GROUNDS	22
Parking	22
Prohibitions relating to pay and display machines.....	22
Proof of date and time of departure	22
CHAPTER 5	22
MISCELLANEOUS	22
Closure of parking grounds.....	22
Defective vehicles.....	23
Parking of a vehicle in parking ground	23
Cleaning and repair of vehicle	23
Parking according to instruction.....	23
Tampering with vehicles and obstructions	23
Parking after parking period.....	23
Forging or defacing tickets.....	24
Persons prohibited from being in parking grounds.....	24
Abandoned vehicles	24
Refusal of admission	24
Medical practitioners exempt	25
Offences and penalties	25
PART D.....	25

SHORT TITLE.....	25
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PART A

METERED TAXI, MINIBUS, MIDIBUS AND BUS STIPULATIONS

CHAPTER 1 INTERPRETATION

1. DEFINITIONS

1.(1) In this PART A of the By-laws, unless the context otherwise indicates -

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

"Council" means -

- (a) the Fetakgomo Local Municipality; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.

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

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

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

"prescribed fee" means a fee determined by the Council by resolution in terms of any applicable legislation.

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

"queue marshal" means a person designated by a taxi association to regulate minibuses and midibus operations and passengers; and

"rank" means a facility set aside by the Council for use by public passenger road transport;

(2) If any provision in these by-laws vests or imposes any power, function or duty of

the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

CHAPTER 2

2. DRIVER TO TAKE SHORTEST ROUTE

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

3. DRIVER TO KEEP ENGAGEMENT

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

4. OPERATION OF TAXIMETER

- 4.(1) The driver of a metered taxi fitted with a taximeter must, as soon as the driver arrives at the point where his or her hiring commences and not sooner, set the taximeter in motion, and must upon the termination of hiring immediately stop the taximeter from recording.
- 4(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.
- 4(3) The owner of a metered taxi must ensure that the provisions of subsections (1) and (2) are displayed in a prominent way inside the taxi;

CHAPTER 3

BUSES

5. STOPPING PLACES

No driver of a bus may stop it for the purpose of picking up or setting down any passenger,

except at a stopping place designated by the Council.

6. ENTERING AND ALIGHTING FROM A BUS

A prospective passenger of a bus may only enter or alight from a bus at a stopping place designated by the Council.

7. DRIVER TO STOP AT STOPPING PLACES

The driver of a bus, 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

GENERAL

8. PARKING OF METERED TAXI, MINIBUS, MIDIBUS OR BUS

No person may park a metered taxi, minibus, midibus or bus on any public road for the purpose of providing a public transport service, except in an exclusive parking bay, marked by a road traffic sign as prescribed in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996) for that vehicle.

9. PARKING AT PLACES OF ENTERTAINMENT OR FUNERAL

Notwithstanding the provision of section 8 of these By-laws, a metered taxi may park on a public road for the purpose of providing a metered taxi service, where a party or private entertainment is in progress or from which any funeral or wedding procession is about to start.

10. ENGAGEMENT OF PASSENGERS

10.(1) No driver of a metered taxi, minibus, midibus or bus, or any other person, may by using force or a threat, or in a clandestine manner or by any other means, prevent or seek to prevent any person from hiring any other metered taxi, minibus, midibus or bus or prevent or seek to prevent the driver of such other metered taxi, minibus, midibus or bus from obtaining or conveying a passenger or a load.

10.(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.

10.(3) The driver or conductor of a metered taxi, minibus, midibus or bus may not use a hooter or sounding device to attract the custom of potential passengers or customers.

11. FAILING OR REFUSING TO PAY OR ATTEMPTING TO EVADE PAYMENT OF THE FARE DUE

No hirer of, or passenger in or on a metered taxi, minibus, midibus or bus, may fail or refuse to pay any fare due by such hirer or passenger.

12. FURNISHING OF NAME AND ADDRESS BY PERSON CONVEYED IN OR ON
METERED TAXI, MINIBUS, MIDIBUS OR BUS

Any person hiring, or conveyed in or on, a metered taxi, minibus, midibus or bus, who has failed or refused to pay any fare due by him or her, must when requested to do so by the driver, state his or her correct name and address.

13. CONVEYANCE OF FILTHY OR DISEASED PERSONS

13.(1) A driver of a metered taxi, minibus, midibus or bus 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 animals or poultry intended for human consumption if the animal or poultry is properly wrapped.

13(2) No person who has another person in his or her care who to his or her knowledge has been exposed to, or contaminated with, any contagious disease, may place such person in any metered taxi, minibus, midibus or bus.

13(3) No person who is obviously in a state of filth or obviously suffering from any contagious disease may enter any metered taxi, minibus, midibus or bus or, having entered, remain upon such vehicle after being requested by the driver or conductor thereof to leave the vehicle.

14. DISINFECTION OF METERED TAXI, MINIBUS, MIDIBUS OR BUS

14.(1) The owner, driver, conductor or any other person in charge of a metered taxi, minibus, midibus or bus must take immediate steps as soon as it comes to his or her knowledge that-

- (a) any person suffering from a contagious disease; or
- (b) the body of any person who has died of such disease; or
- (c) anything which has been exposed to or contaminated with such disease,

has been conveyed in or upon such metered taxi, minibus, midibus or bus, to report the matter to the Medical Officer of Health.

14(2) Any owner, driver, conductor or other person referred to in subsection (1) must carry out every instruction issued by the Medical Officer of Health with regard to the disinfection of such metered taxi, minibus, midibus or bus.

15. DRIVER'S RIGHT TO REFUSE TO CONVEY PASSENGERS

15.(1) The driver of a metered taxi, minibus, midibus or bus may, if he or she so decides, or at the request of any passenger, refuse to convey any person who is obviously in a state of intoxication or who is noisy or rowdy or otherwise misbehaving himself or herself.

15(2) No person referred to in subsection (1), may remain in or upon such metered taxi, minibus, midibus or bus, after having been requested by the driver or conductor

thereof to leave the metered taxi, minibus, midibus or bus.

16. PROPERTY LEFT IN METERED TAXI, MINIBUS, MIDIBUS OR BUS

16.(1) If any property left in a metered taxi, minibus, midibus or bus is not claimed within 24 hours after it has been discovered in such metered taxi, minibus, midibus or bus, the driver or conductor of the 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 purposes of the business concerned, take such property to the South African Police Services, and obtain a receipt from the person with whom the property is deposited, or the officer on duty at the South African Police Services, as the case may be.

16(2) If the property referred to in paragraphs (a) and (b) of subsection (1) is not claimed within seven days of its receipt in the office of the relevant taxi association or bus depot, the person with whom it was deposited must take it to the Metropolitan Police department, and there deposit it with the officer on duty, who must issue a receipt for such property to the person depositing it.

17. POSSESSION OF DANGEROUS OR OFFENSIVE ARTICLES

17.(1) If the driver or conductor of a metered taxi, minibus, midibus or bus reasonably suspects that any passenger is in possession of any dangerous or offensive article, except a fire-arm as described in subsection (2), the driver or conductor or any other passenger may request the first mentioned passenger to hand such article to the driver or conductor.

17(2) If a passenger is in possession of a fire-arm, the driver or conductor may request the passenger to display a valid license for such fire-arm or, if the passenger is required to carry the fire-arm as a member of the national or a municipal police service established in terms of the South African Police Service Act, 1995, or as a member of the National Defence Force established under the Defence Act, 1957 (Act No. 44 of 1957), the driver or conductor may request the passenger to display the current identity document which was issued to the passenger by such service or force.

17(3) If the passenger refuses to hand the article referred to in subsection (1), or fails to display the license or identity document referred to in subsection (2), to the driver or conductor, the driver may refuse engagement to the passenger.

17(4) The article referred to in subsection (1) must be returned to its owner at the conclusion of his or her journey.

18. CLEANLINESS

The driver or conductor of any metered taxi, minibus, midibus or bus must be clean and neatly dressed at all times while conveying a passenger, and must treat every passenger

politely and with respect.

19. QUEUE MARSHAL

19.(1) A queue marshal at any rank must be clearly identifiable as to who he or she is employed by and must display his or her name in a conspicuous manner on his or her clothing below the left shoulder.

19.(2) A queue marshal must discharge his or her duties in a courteous and polite manner and show respect to every passenger.

19.(3) Where a queue marshal is controlling the entry of passengers onto a metered taxi, minibus, midibus or bus, he or she must not allow more than the number of passengers permitted by law, to enter such metered taxi, minibus, midibus or bus.

20. CLEAN VEHICLE

The owner and the driver of any metered taxi, minibus, midibus or bus must keep the vehicle clean and in good condition at all times while engaged in public passenger road transport services.

21. OFFENCES AND PENALTIES

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) who obstructs or hinders any authorised official of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R 5000.00, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requiring the discontinuance of such offence.

PART B

STREET TRADING STIPULATIONS

1. DEFINITIONS

1. In this Part B of the by-laws, unless the context otherwise indicates-

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

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

"town" means the Municipal area of the Fetakgomo Local Municipality;

"Council" means -

- (a) the Fetakgomo Local Municipality; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, as the case may be.

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

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

"foodstuff" means foodstuff as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

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

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

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"litter" includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;

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

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

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

"public building" means a building belonging to or occupied solely by the State or the Council;

"public monument" means any one of the "public monuments and memorials" as defined in the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

"public place" means a public place as defined in section 2 of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

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

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

"sell" includes -

- (a) barter, exchange or hire out;
 - (b) display, expose, offer or prepare for sale;
 - (c) store on a public road or public place with a view to sell; or
 - (d) provide a service for reward;
- and "sale" or "selling" has a corresponding meaning;

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

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

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

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

"the Act" means the Businesses Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated there under; and

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

2. MEANING OF WORDS AND EXPRESSIONS IN BUSINESSES ACT INCORPORATED IN THESE BY-LAWS

In these By-laws, unless the context otherwise indicates, any words or expressions to which a meaning has been assigned in the Businesses Act, 1991 (Act No. 71 of 1991), shall have a corresponding meaning in these By-laws.

3. SINGLE ACT CONSTITUTES STREET TRADING

For the purpose of these By-laws a single act of selling or offering or rendering of services in a public road or public place shall constitute street trading.

4. REFERENCE TO LEGISLATION INCLUDES REGULATIONS MADE THERE UNDER

For the purpose of these By-laws a reference to any legislation shall be a reference to that legislation and the regulations promulgated there under.

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

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

6. PROHIBITED CONDUCT

6.(1) No person shall carry on the business of a street trader -

- (a) at a place or in an area declared by the Council in terms of section 6A(2)(a) of the Act as a place or area in which street trading is prohibited;
 - (b) in a garden or a park to which the public has a right of access;
 - (c) on a verge contiguous to -
 - (i) a building belonging to, or occupied solely by, the State or the Council;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a Public monument;
 - (iv) an auto teller bank machine;
 - (d) at a place where it causes an obstruction in front of -
 - (i) a fire hydrant;
 - (ii) an entrance to or exit from a building;
 - (e) at a place where it could obstruct vehicular traffic;
 - (f) at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;
 - (g) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control, or any occupier of that building objects thereto and such objection is made known to the street trader by an authorized official;
 - (h) on a stand, or in any area demarcated by Council in terms of section 6A(3)(b) of the Act, if he or she is not in possession of a written proof that he or she has hired such stand or area from the Council, or that such stand has otherwise been allocated to him or her;
 - (i) within 5 (five) metres of any intersection as defined in Regulation 322 of the National Road Traffic Act 1996 ; and
 - (j) on a sidewalk contiguous to a building in which business is being carried on, by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold without the prior consent of such person and an authorized official has informed the street trader that such consent does not exist.
- (2) A person who has hired a stand from, or been allocated a stand by the Council in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.

7. RESTRICTED CONDUCT

A person carrying on the business of a street trader -

- (a) may not sleep overnight at the place of such business;
- (b) may not erect any structure for the purpose of providing shelter, other than a device approved by the Council;
- (c) may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, and provided that such vehicle or trailer does not obstruct pedestrian and vehicular traffic movement, and complies with the provisions of the National Road Traffic Act, 1996;
- (d) must ensure that his or her property or area of activity does not cover an area of a public road or public place which is greater in extent than six square meters (with a maximum length of three meters) or unless otherwise approved by the Council, and which on any sidewalk leaves an unobstructed space for pedestrian traffic, the length of the property or area of activity, and not less than 1,5 meters wide, measured from any contiguous building to the obstructed area, and an unobstructed space, the length of the property or area of activity, and not less than 0,5 meters wide, measured from the kerb of the roadway;
- (e) may not trade on a sidewalk where the width of such sidewalk is less than four meters;
- (f) may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;
- (g) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (h) must on a request by an authorized official of the Council, or supplier of telecommunication or electricity or other council services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (i) may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- (j) may not carry on such business in such a manner as to –
 - (i) create a nuisance;
 - (ii) damage or deface the surface of any public road or public place, or any public or private property; or
 - (iii) create a traffic and/or health hazard, or health risk, or both.
- (iv) may not make an open fire on a public road or public place;
- (v) may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or

- obscure such goods from view.
- (v) may not obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- (k) may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- (l) may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of these By-laws;
- (m) may not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Council for the purposes of these By-laws;
- (n) may not, other than in a refuse receptacle approved or supplied by the Council, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- (o) may not place on a public road or public place, his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;
- (p) must on concluding business for the day remove his or her property, except any structure permitted by the Council, to a place which is not part of a public road or public place;
- (q) may not store his or her property in a manhole, storm water drain, public toilet, and bus shelter or in a tree; and
- (r) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A(2)(a) of the Act.

8. CLEANLINESS

A street trader must:-

- (a) Keep the area or site occupied by him or her for the purposes of such business in a clean and sanitary condition;
- (b) Keep his or her property in a clean, sanitary and well-maintained condition;
- (c) Dispose of litter generated by his or her business in whatever receptacle is provided by the Council for the public or at a dumping site of the Council;
- (d) Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- (e) Ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of trade is free of litter;
- (f) Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into

a storm water drain, of any fat, oil or grease;

- (g) Ensure that no smoke, fumes or other substance, odours, or noise emanating from his or her activities causes pollution of any kind;
- (h) On request by an authorized official of the Council, move his or her property so as to permit the cleansing of the space of the area or site where he or she is trading, or the effecting of council services

9. SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS.

(9)(a) The Council may, by resolution and in terms of section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating:-

- (i) specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
- (ii) the locations of boundaries of restricted or prohibited areas;
- (iii) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
- (iv) the fact that any such stand or area has been let or otherwise allocated; and
- (v) any restriction or prohibition against street trading in terms of these By-laws;

9(b) The Council may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and or the location or boundaries of the area or stand concerned;

9(c) Any sign erected in terms of these By-laws or any other law, shall serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and

9(d) Any sign may be amended from time to time and displayed by the Council for the purpose of these By-laws, and shall have the same effect as a road sign in terms of the National Road Traffic Act 1996 .

10. REMOVAL AND IMPOUNDMENT

10.(1) An authorized official may remove and impound any property of a street trader:-

- (a) which he or she reasonably suspects is being used or which intended to be used or has been used in or in connection with street trading; and
- (b) which he or she finds at a place where street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition

whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.

10(2) Any authorized official acting in terms of subsection 1 above must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must:-

- (i) itemize the property to be removed and impounded;
- (ii) provide the address where the impounded property will be kept, and the period thereof;
- (iii) state the conditions for the release of the impounded property;
- (iv) state the terms and conditions relating to the sale of unclaimed property by public auction; and
- (v) provide the name and address of a council official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.

10(3) If any property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present thereat, any authorized official of the Council may order such person to remove the property, and if such person refuses or fails to comply, he or she shall be guilty of an offence.

10(4) When any person fails to comply with an order to remove the property referred to in subsection (3), any authorized official of the Council may take such steps as may be necessary to remove such property.

11. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

11(1) When an employee of a street trader contravenes a provision of these By-laws the employer shall be deemed to have committed such contravention him or herself unless such employee satisfies the court that-

- (a) he or she neither connived at nor permitted such contravention and;
- (b) he or she took reasonable steps to prevent such contravention.

11(2) The fact that the employer issued instructions prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

12. OFFENCES AND PENALTIES

Any person who -

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or

- (d) who obstructs or hinders any authorized representative of the Council in the execution of his or her duties under these By-laws -

is guilty of an offence and liable on conviction to a fine or in default of payment, to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R 5000.00, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.

PART C

PARKING GROUNDS STIPULATIONS

CHAPTER 1

INTERPRETATION

1. DEFINITIONS

- 1.(1) In this PART C of this By-laws, any word or expression which has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), has that meaning and, unless the context otherwise indicates -

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

"Council" means -

- (a) the Fetakgomo Local Municipality; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No. 32 of 2000) or any other law, as the case may be

"parking bay" means a demarcated area within which a vehicle is to be parked in terms of these By-laws, demarcated as such upon the surface of a parking ground or a floor thereof;

"parking ground" means any area of land or any building set aside by the Council as a parking ground or garage for the parking of vehicles by members of the public, whether or not a prescribed fee has been determined for the use thereof;

"parking meter parking ground" means a parking ground or any part thereof where parking is controlled by means of parking meters;

"parking meter" means a device for registering and visibly recording the passage of time in

accordance with the insertion of a coin or other method of payment prescribed and includes any post or fixture to which it is attached;

"parking period" means that period, including a period reflected on a parking meter, on any one day during which vehicles are permitted to park in a parking ground or parking bay or as indicated by a road traffic sign;

"pay and display machine" means a machine installed at a pay and display parking ground for the sale of tickets on which the following are reflected:

- (a) the date or day of issue of the ticket;
- (b) the amount paid for the ticket;
- (c) the departure time; and
- (d) the machine code number.

"pay and display parking ground" means a parking ground, or any part thereof where a notice is erected by the Council at the entrance thereof indicating that the parking ground concerned or part thereof is a pay and display parking ground;

"pound" means an area of land or place set aside by the Council for the custody of vehicles removed from a parking ground in terms of these By-laws;

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

"prescribed fee" means a fee determined by the Council by resolution in terms of any applicable legislation.

- (2) If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

2. PARKING FEES

Any person making use of a parking ground or parking bay in a parking ground must pay the prescribed fee.

CHAPTER 2

TICKET-CONTROLLED PARKING GROUNDS

3. CONDITIONS OF PARKING IN TICKET-CONTROLLED PARKING GROUNDS

- 3(1) No person may park a vehicle or cause or permit a vehicle to be parked or allow it to be or to remain in a parking ground, wherein parking is controlled by the issue of tickets -

- (a) except in a parking bay and in compliance with any directions which may be given by an authorized official or where no such bay has been marked, except in a place indicated by the authorized official;

- (b) after an authorized official has indicated to the person that the parking ground is full; or
 - (c) after the expiry of the parking period.
- 3(2) No person may remove or cause or permit the removal of any vehicle from a parking ground unless -
- (a) that person has produced to the authorized official a ticket authorizing him or her to park in the parking ground and which was issued to that person upon entering or leaving the parking ground; and
 - (b) that person has upon entering or leaving the parking ground paid the prescribed fee to the authorized official.
- 3(3) If a person fails to produce a ticket authorizing him or her to park in a parking ground, that person is deemed to have parked the vehicle from the beginning of a period as prescribed until the time that person wants to remove the vehicle and he or she must pay the prescribed fee for that period.
- 3(4) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking ground until that person has produced other proof, to the satisfaction of an authorized official, of his or her right to remove such vehicle.
- 3(5) An authorised official may require a person referred to in subsection (4), to furnish prescribed security.
- 3(6) If a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further prescribed fee is payable for the next parking period.

4. MECHANICAL PARKING GROUNDS

- 4(1) If the actual parking of a vehicle in a parking ground is effected wholly or partly by means of a mechanical device, an authorized official may, if a parking bay is available, issue to a person who wants to park a vehicle at the parking ground, a ticket in terms of which the Council authorizes the parking of the vehicle in that parking ground.
- 4(2) No vehicle parked in a parking ground referred to in subsection (1), may be removed by any person unless -
- (a) payment of the prescribed fee has been made to an authorized official; and
 - (b) that person has produced to an authorized official the ticket issued to him or her in terms of subsection (1) or, failing the production of such ticket, the provisions of section 3(4) applies, read with the necessary changes.
- 4(3) No person who has caused a vehicle to be parked in a parking ground referred to in subsection (1), may allow it to remain therein after expiry of the parking period.

5. MONTHLY TICKETS

- 5(1) Notwithstanding anything to the contrary contained in these By-laws, the Council may

in respect of any parking ground controlled by the issue of tickets, issue at a prescribed fee a ticket which entitles the holder to park a vehicle in that ground for one calendar month or any lesser period specified therein, at the times specified in the ticket, if a parking bay is available.

- 5(2) The Council may issue to any of its employees a ticket, which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking ground specified in the ticket, if a parking bay is available in the parking ground.
- 5(3) A ticket issued in terms of subsection (1) or (2), may not be transferred to any other person or be used in respect of any vehicle other than the vehicle specified in the ticket, without the prior written permission of the Council.
- 5(4) A ticket issued in terms of subsection (1) or (2), must be affixed by the holder of the ticket to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the ticket is readily legible from the outside of the vehicle.

6. VEHICLES OF EXCESSIVE SIZE

Unless a road traffic sign displayed at the entrance to a parking ground indicates otherwise, no vehicle may be parked in a parking ground, which together with any load, exceeds 5 m in length.

CHAPTER 3

PARKING METER PARKING GROUNDS

7. PLACE OF PARKING

No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a parking meter parking ground otherwise than in a parking bay.

8. CONDITIONS OF PARKING

- 8(1) No person may park a vehicle or cause any vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith inserted:-

- (a) into the meter allocated to that parking bay; or
- (b) if a meter controls more than one parking bay, in the meter controlling the parking bay concerned as indicated by any marking or sign on the surface or floor of the parking bay or the surface or floor adjacent thereto;

and that meter is put into operation in accordance with the instructions appearing thereon so that the meter registers and visibly indicates the parking period appropriate to the inserted coin or other prescribed object.

- 8(2) Notwithstanding the provisions of subsection (1):-

- (a) a person may, subject to the provisions of subsection (5), park a vehicle in a vacant parking bay without inserting a coin or other prescribed object, for any period indicated on the parking meter as not expired; and
- (b) if a person has ascertained that the parking meter for any parking bay is not operating properly, he or she is, subject to the provisions of subsection (6),

entitled to park a vehicle in that parking bay without inserting a coin or other prescribed object.

- 8(3) The insertion of a coin or other prescribed object into a parking meter entitles the person inserting it, to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.
- 8(4) The period during which a vehicle may be parked in a parking bay and the coin or other prescribed object to be inserted in respect of that period into the parking meter allocated to that parking bay, must be in accordance with the prescribed fee and the period and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter.
- 8(5) Subject to the provisions of subsection (6), no person may either with or without the insertion of an additional coin or other prescribed object into a parking meter, leave a vehicle in a parking bay after the expiry of the period indicated on the parking meter or return the vehicle to that bay within fifteen minutes after such expiry, or obstruct the use of that bay by any other person.
- 8(6) If the Council displays a sign specifying a maximum period for continuous parking in a parking bay, which differs from that on the parking meter for that parking bay, any person may, subject to the provisions of subsections (1) and (4), park a vehicle in that bay for the maximum period so specified or for any shorter period.

9. PROHIBITIONS RELATING TO PARKING METERS

No person may -

- (a) insert or attempt to insert into a parking meter a coin or object except
- (i) a coin of South African currency of a denomination as prescribed; or
 - (ii) an object which is prescribed as another method of payment as contemplated in section 8(1);
- (b) insert or attempt to insert into a parking meter any false or counterfeit coin or prescribed object or any foreign object;
- (c) tamper with, damage, deface or obscure the working a parking meter;
- (d) in any way whatsoever cause or attempt to cause a parking meter to record the passage of time otherwise than by the insertion of a coin or other prescribed object;
- (e) jerk, knock, shake or interfere with a parking meter which is not working properly or at all in order to make it do so or for any other purpose; or
- (f) obscure a parking meter or any part thereof or remove or attempt to remove it from the post or other fixture to which it is attached.

10. PROOF OF TIME

The passage of time as recorded by a parking meter is for the purpose of these By-laws and in any proceedings arising from the enforcement of these By-laws, deemed to be correct and may constitute evidence on the face of it of the time that the vehicle has been parked in a parking bay.

CHAPTER 4

PAY AND DISPLAY PARKING GROUNDS

11. PARKING

11(1) No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a pay and display parking ground unless immediately upon entering the parking ground:-

- (a) the person purchases a ticket issued by means of a pay and display machine in that parking ground in accordance with the instructions displayed on, or within a distance of not more than 1,5 m of such machine; and
- (b) the person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.

11(2)(a) The period during which a vehicle may be parked in a pay and display parking ground and the coin or other prescribed object to be inserted in respect of that period into the pay and display machine, must be indicated on such machine.

11(2)(b) No person may allow a vehicle to remain in a pay and display parking ground after the expiry of the departure time indicated on the ticket.

12. PROHIBITIONS RELATING TO PAY AND DISPLAY MACHINES

No person may-

- (a) insert or attempt to insert into a pay and display machine, a coin or other prescribed object which is false or counterfeit or any object other than a coin of South African currency or other prescribed object;
- (b) jerk, knock, shake or in any way interfere with, or damage or deface a pay and display machine; or
- (c) remove or attempt to remove a pay and display machine or any part thereof from its mounting.

13. PROOF OF DATE AND TIME OF DEPARTURE

The date or day and time of departure as recorded by a pay and display machine is taken on the face of it to be correct evidence of date or day and time, unless the contrary is proved

CHAPTER 5

MISCELLANEOUS

14. CLOSURE OF PARKING GROUNDS

Notwithstanding anything to the contrary contained in these By-laws, the Council may at any time close any parking ground or portion thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign displayed at the

entrance to the parking ground closed or at the portion closed, as the case may be.

15. DEFECTIVE VEHICLES

No person may park or cause or permit any vehicle to be parked or to be or remain in any parking ground which is mechanically defective or for any reason incapable of movement unless a vehicle has, after having been parked in a parking ground, developed a defect which immobilizes it and the person in control of it shows that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

16. PARKING OF A VEHICLE IN PARKING GROUND

No person may park or cause or permit any vehicle other than a vehicle as defined in the National Road Traffic Act, 1996, to be parked or to be or remain in any parking ground.

17. CLEANING AND REPAIR OF VEHICLE

No person may in any parking ground without the prior written permission of the Council, clean, wash, work or effect repairs to a vehicle except minor emergency repairs, unless the prior written permission of the Council has been obtained.

18. PARKING ACCORDING TO INSTRUCTION

No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction, if any, given by an authorized official or introduce or remove a vehicle otherwise than through an entrance thereto or exit there from demarcated for that purpose.

19. TAMPERING WITH VEHICLES AND OBSTRUCTIONS

19(1) No person may in any parking ground without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon that vehicle or set the machinery thereof in motion or in any way tamper or interfere with its machinery or any other part of it or with its fittings, accessories or contents.

19(2) No person may in any parking ground -

- (a) park any vehicle so that any part of it extends across any white line forming a boundary of a parking bay or that it is not entirely within the confines of the bay; or
- (b) perform any act or introduce anything which obstructs or is likely to obstruct the movement of persons or vehicles.

20. PARKING AFTER PARKING PERIOD

No person may park a vehicle or cause or permit it to be parked in any parking ground before the beginning or after the expiry of the parking period prescribed for the parking ground unless that person is the holder of a ticket issued in terms of these By-laws authorizing him or her to do so.

21. FORGING OR DEFACING TICKETS

No person may with intent to defraud the Council, forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of these By-laws.

22. PERSONS PROHIBITED FROM BEING IN PARKING GROUNDS

No person may enter or be in a parking ground otherwise than for the purpose of parking a vehicle therein or lawfully removing it there from unless authorized thereto by the Council.

23. ABANDONED VEHICLES

23(1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than 14 days may, unless otherwise authorized by the Council, be removed by or at the instance of an authorized official, to the Council's pound.

23(2) The Council must take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and if, after the lapse of 90 days from the date of its removal the owner or person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by the Council by public auction.

23(3) The Council must 14 days prior to the date of an auction sale contemplated in subsection (2) publish a notice thereof in at least two newspapers circulating within the municipal area of the Council, but a vehicle may not be sold at the auction if at any time before the vehicle is sold, it is claimed by the owner or any person authorized by the owner or otherwise lawfully entitled to claim the vehicle and every prescribed fee payable in respect thereof in terms of these By-laws and all costs referred to in subsection (4) are paid to the Council.

23(4) The proceeds of a sale concluded in terms of this section must be applied first in payment of every fee referred to in subsection (3) and to defray the following:

- (a) The costs incurred in endeavouring to trace the owner in terms of subsection (2);
- (b) the costs of removing the vehicle and effecting the sale of the vehicle;
- (c) the pro-rata costs of publication in terms of subsection (3), taking into account the number of vehicles to be sold at the auction; and
- (d) the costs of keeping the vehicle in the pound which must be calculated at the prescribed rate,

23(5) Any balance of the proceeds referred to in subsection (4), must be paid to the owner of the vehicle or any person lawfully entitled to receive it upon that person establishing his or her right thereto to the satisfaction of the Council and if no claim is established within one year of the date of the sale, the balance will be forfeited to the Council.

24. REFUSAL OF ADMISSION

An authorized official may refuse to admit into a parking ground a vehicle which is by reason of its length, width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience or which in terms of section 6 or 16 may not be parked in

a parking ground.

25. MEDICAL PRACTITIONERS EXEMPT

A medical practitioner is exempt from paying the prescribed fees, while the vehicle used by that practitioner is parked in a parking ground to enable him or her to perform professional duties at any place other than a consulting room or similar place, subject to a form or token issued by the South African Medical Council for that purpose being displayed on the windscreen of the vehicle concerned in such manner that it is readily legible from outside the vehicle.

26. OFFENCES AND PENALTIES

Any person who -

- (a) contravenes or fails to comply with any provision of these By-laws
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) who obstructs or hinders any authorized representative or employee of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R 5000.00, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

PART D

SHORT TITLE

SHORT TITLE

These By-laws are called the PUBLIC ROAD USE BY – LAWS.

NOTICE 391 OF 2005

1

FETAKGOMO LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAWS

The Municipal Manager of FETAKGOMO LOCAL MUNICIPALITY hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Waste Management By-laws for the FETAKGOMO LOCAL Municipality, as approved by its Council, as set out hereunder.

CHAPTER 1	2
INTERPRETATION, PRINCIPLES AND OBJECTS Definitions and interpretation	2
Principles	6
Main objects	7
CHAPTER 2	7
WASTE MANAGEMENT INFORMATION SYSTEM Establishment of an information system	7
Purpose of the information system	7
Provision of information	8
CHAPTER 3 MUNICIPAL SERVICE	8
<i>Part 1 : Providing access to municipal services Duty to provide access to municipal service</i>	<i>8</i>
<i>. The provision of the municipal service</i>	<i>9</i>
<i>Part 2: Using municipal service</i>	<i>10</i>
Obligations of generators of domestic waste, business waste and dailies	10
Liability to pay for municipal service	11
CHAPTER 4 COMMERCIAL SERVICES	12
<i>Part 1: Provision of commercial services by licensees and flow control</i>	
Provision of commercial services by licensees	12
Provision for Council co-ordination of waste disposal	12
<i>Part 2: Business, industrial and recyclable waste Storage of business, industrial and recyclable waste</i>	<i>12</i>
Collection and disposal of industrial, business and recyclable waste	12
<i>Part 3: Garden waste and bulky waste Storage, collection and disposal of garden waste and bulky waste</i>	<i>13</i>
<i>Part 4: Building waste Generation of building waste</i>	<i>13</i>
Storage of building waste	13
Collection and disposal of building waste	14
<i>Part 5: Special industrial, hazardous or health care risk waste</i>	<i>14</i>
Generation of special industrial, hazardous or health care risk waste	14
Storage of special industrial, hazardous or health care risk waste	14
Collection and disposal of special industrial, hazardous or health care risk waste	15

	2
CHAPTER 5	15
TRANSPORTATION AND DISPOSAL OF WASTE Transportation of waste.....	15
Disposal of waste	15
CHAPTER 6 LICENSEES	17
Licence requirements	17
Licence applications	17
Suspension and revocation of licences	18
Licence terms and conditions	18
Renewal of licences	19
Display of licences	19
Prohibited conduct	19
Exemptions	19
CHAPTER 7	20
ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES	20
Accumulating waste	20
Duty to provide facilities for litter	20
Prohibition of littering 35.(1) No person may -	20
Prohibition of dumping and abandoning articles	21
CHAPTER 8	21
AUTHORISED OFFICIALS AND DESIGNATED OFFICERS Identification documents	21
Powers of authorised officials and designated officers	21
Powers to question	22
Supervision of licensees	22
Compliance notices	23
CHAPTER 9	23
MISCELLANEOUS	23
Ownership	23
Serving of documents	23
Offences and penalties	23

CHAPTER 1

INTERPRETATION, PRINCIPLES AND OBJECTS

Definitions and interpretation

1(1) In these By-laws, unless the context otherwise indicates-

"approved", in relation to bins, bin liners, containers, receptacles and wrappers means

approved by the Council for the collection and storage of waste;

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

"bin" means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the Council to premises in terms of these By-laws;

"bin liner" means an approved loose plastic or other suitable material liner for use in the interior of bin;

"building waste" means all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

"bulky waste" means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door municipal service provided by the Council;

"business waste" means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste, recyclable waste and special industrial waste, generated on premises used for non-residential purposes;

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

"commercial service" means any service, excluding the municipal service, relating or connected with accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

"container" means an approved receptacle with a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;

"Municipality" means - FETAKGOMO LOCAL MUNICIPALITY; or

a) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or

b) except for the purposes of Chapters 6 and 8, a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law as the case may be;

"damage to the environment" means any pollution, degradation or harm to the environment whether visible or not;

"dailies" means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

"domestic waste" means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

"dump" means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council;

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

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

"environmental emergency" means any unexpected or sudden occurrence resulting from any act or omission relating to waste which may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"garden service" means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, in respect of any domestic, business, commercial or industrial premises;

"garden waste" means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities;

"garden waste handling facility" means a waste handling facility in or on which garden waste or any other recyclable waste is received and temporarily stored ;

"hazardous waste" means waste containing, or contaminated by, poison, any corrosive agent, any flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, any chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

"health care risk waste" means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

"industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"land reclamation" means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

"level of service" means the frequency of the municipal service and the type of service point;

"licensee" means any person who has obtained a licence in terms of Chapter 6;

"litter" means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

"local community" in relation to the Council means that body of persons comprising-

- (a) the residents in the municipal area,
- (b) the ratepayers of the Council,
- (c) any civic organization and non-governmental, private sector or labour organization or body which is involved in local affairs within the municipal area, and
- (d) visitors and other people residing outside of the municipal area who, because of their presence in that area, make use of services or facilities provided by the Council;

"municipal service" means the municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the Council in accordance with Chapter 3 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

"nuisance" means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste, or by littering;

"occupier" includes any person in actual occupation of land or premises without regard

to the title under which he or she occupies, and, in the case of premises let, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner" includes any person who has the title to land or premises or any person receiving the rent or profits of land or premises, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein and in relation to premises on a sectional title register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), means the body corporate as defined in that Act;

"pollution" means any change in the environment caused by -

- (a) any substance; or
- (b) noise, odour, dust or heat, emitted from any activity, including the storage or treatment of any waste or substance, construction and the provision of any service, whether engaged in by any person or an organ of state;
if that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material useful to people, or will have such an effect in the future;

"premises" means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial, agricultural or residential purposes;

"prescribed fee" means a fee determined by the Council by resolution in terms of the Municipal systems Act, 32 of 2000 or any other applicable legislation;

"public place" includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, vested in the Council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

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

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

"radioactive material" means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

"radioactive waste" means any radioactive material which is, or is intended to be, disposed of as waste;

"recyclable waste" means waste which has been separated from the waste stream, and set aside for purposes of recycling;

"recycling" means the use, re-use or reclamation of material so that it re-enters an industrial process rather than becoming waste;

"resident", in relation to the municipal area, means a person who is ordinarily resident within that area;

"SANS Codes" means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act No. 29 of 1993);

"special industrial waste" means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste;

"storage" means the storage of waste for a period of less than 90 days;

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

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

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

"target" means any desired air quality, water quality or waste standard contained in any legislation;

"verge" means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"waste" means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of treatment, discarding or recycling and may be liquid or solid, may include products that contain a gaseous component and may originate from domestic, commercial, medical or industrial activities, ;

"waste disposal facility" means any facility or site which receives waste for treatment or disposal thereof, and which is operated in terms of a permit obtained from the National Department of Water Affairs and Forestry or any other competent authority or if such a facility is an incinerator, subject to registration or such permission as is required by law, and includes a garden waste handling facility;

"waste generator" means any person who generates or produces waste;

"waste handling facility" means any facility on or in which waste is accepted, accumulated, handled, recycled, sorted, stored or treated prior to its transfer for treatment by way of incineration or for final disposal;

"waste stream" means a type of waste, including building waste; business waste; bulky waste; dailies; domestic waste; garden waste; hazardous waste; health care risk waste; industrial waste; recyclable waste and special industrial waste;

"workplace" means any place within the municipal area on or in which or in connection with which, a person undertakes the municipal service or a commercial service;

"wrapper" means a plastic or other approved material covering that totally encloses bales or slugs of compacted waste.

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

2. Principles

- 2(1) The Council has the responsibility to ensure that all waste generated within the municipal area is—
- (a) collected, disposed of or recycled in accordance with these By-laws; and
 - (b) that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection (2).
- 2(2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- (a) Avoidance, waste minimisation and waste reduction;
 - (b) re-use;
 - (c) recycling, reprocessing and treatment; and

(d) disposal.

- (3) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in subsection (2).

3. Main objects

- 3(1) The main objects of these By-laws are—

- (a) the regulation of the collection, disposal, treatment and recycling of waste;
- (b) the regulation of the provision of the municipal service by a service provider and commercial services by licensees; and
- (c) enhancing sustainable development.

- 3(2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1)(c), the Council must:-

- (a) endeavour to minimise the consumption of natural resources;
- (b) promote the re-use and recycling of waste;
- (c) encourage waste separation to facilitate re-use and recycling;
- (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
- (e) endeavour to achieve integrated waste planning and services on a local basis;
- (f) promote and ensure an environmentally responsible municipal service and commercial service; and
- (g) endeavour to ensure compliance with the provisions of these By-laws.

CHAPTER 2

WASTE MANAGEMENT INFORMATION SYSTEM

4. Establishment of an information system

- 4(1) The Council must establish and maintain a waste management information system that records how waste is managed within the municipal area.
- 4(2) The information system may include any information relating to or connected with the management of waste within the municipal area.

5. Purpose of the information system

- 5(1) The purpose of the information system referred to in section 4, is for the Council to-
- (a) record data relating to the implementation of the local waste plan and the management of waste in the municipal area;
 - (b) record information held by the Council in relation to any of the matters referred to in section 6(1);
 - (c) furnish information upon request or as required by law to the LIMPOPO provincial or national government;
 - (d) gather information and undertake strategic planning regarding potential

- and actual waste generators, service providers and licensees; and
- (e) provide information to waste generators, service providers, licensees and the local community in order to -
- (i) facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
 - (ii) stimulate research; and
 - (iii) assist the Council to achieve the main objects of these By-laws specified in section 3.

6. Provision of information

- 6(1) The Council may, subject to the provisions of any other law including the common law, require any waste generator, licensee, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern-
- (a) significant sources of waste generation and the identification of the generators of waste;
 - (b) quantities and classes of waste generated;
 - (c) management of waste by waste generators;
 - (d) waste handling, waste treatment and waste disposal facilities;
 - (e) population and development profiles;
 - (f) reports on progress in achieving waste management targets;
 - (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with section 27(2)(d);
 - (i) markets for waste by class of waste or category; and
 - (j) any other information required by legislation, regulations or guidelines.
- 6(2) The Council may determine when and how often information must be furnished.

CHAPTER 3

MUNICIPAL SERVICE

Part 1 : Providing access to municipal services

7. Duty to provide access to municipal service

- 7(1) The Council has a duty to the local community progressively to ensure efficient, affordable, economical and sustainable access to the municipal service.
- 7(2) The duty referred to in subsection (1) is subject to -
- (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and

- (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- 7(3) The Council must take the following factors into account in ensuring access to the municipal service:
 - (a) The waste management hierarchy set out in section 2(2);
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirements of operational efficiency;
 - (e) the requirements of equity; and
 - (f) the need to protect human health and the environment.

8. The provision of the municipal service

- 8(1) The Council must as far as reasonably possible and subject to the provisions of these By-laws, provide for the collection of domestic waste, business waste and dailies on a regular basis and at a cost to end users determined in accordance with the prescribed fee.
- 8(2) In relation to the municipal service, the Council may determine-
 - (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
 - (d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws.
- 8(3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection or the Council may provide such receptacle that remains the property of the Council.
- 8(4) In providing the municipal service, the Council may determine or designate-
 - (a) collection schedules;
 - (b) locations for placing approved receptacles for collection;
 - (c) which types of waste generated by the occupier of any premises are separable for the purposes of recycling and the conditions for their separation, storage or collection; and
 - (d) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.
- 8(5) The Council may require a generator of dailies or business waste to compact that portion of the waste that is compactable, if the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- 8(6) An occupier of premises may elect to compact any volume of waste referred to in

subsection (5), and place it into an approved receptacle or wrapper, provided:-

- (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and
 - (b) after the waste has been compacted and put into the wrapper, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- 8(7) Any approved receptacle used in terms of subsection (6) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
- 8(8) The Council may at any time review any decision taken by it in terms of subsection (4).
- 8(9) The Council must in writing notify every generator of domestic waste, business waste and dairies of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
- 8(10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

PART 2:

USING MUNICIPAL SERVICE

9. Obligations of generators of domestic waste, business waste and dairies

- 9(1) Any person generating domestic waste, business waste and dairies, other than waste which has been designated by the Council as recyclable as contemplated in section 8(4)(c), must place such waste, in an approved receptacle.
- 9(2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- 9(3) The occupier of premises must ensure that:-
- (a) no hot ash, unwrapped glass or other domestic waste, business waste or dairies which may cause damage to approved receptacles or which may cause injury to the Council's employees while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;
 - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
 - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dairies and, in particular, that no fire is lit in such receptacle;
 - (e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;

- (f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
 - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.
- 9(4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved receptacles.
- 9(5) The space provided in terms of subsection (4), must:-
- (a) be in a position on the premises which will allow the storage of any approved receptacle without it being visible from a public road or public place;
 - (b) if dailies are generated on premises -
 - (i) be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and
 - (ii) not be more than 20 metres from the entrance to the premises used for the collection of waste by the Council;
 - (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
 - (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and
 - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- 9(6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- 9(7) Notwithstanding the provisions of subsection (6)-
- (a) in the case of a building erected, or a building, the building plans of which have been approved, prior to the commencement of these By-laws; or
 - (b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4),
- the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

10. Liability to pay for municipal service

- 10.(1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
- 10(2) (a) A prescribed fee becomes due and payable on the due date stipulated in the account.
- (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

CHAPTER 4**COMMERCIAL SERVICES*****Part 1: Provision of commercial services by licensees and flow control*****11. Provision of commercial services by licensees**

- 11(1) Except in the case of garden waste, only a licensee may provide a commercial service.
- 11(2) Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated.

12. Provision for Council co-ordination of waste disposal

- 12(1) The Council may by a notice published in the LIMPOPO Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- 12(2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility, which is not designated for receipt of that category of waste in a notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of these By-laws.

PART 2***BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE*****13. Storage of business, industrial and recyclable waste**

- 13(1) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated:-
- (a) the waste is stored in a bulk container or other approved receptacle; and
 - (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

14 Collection and disposal of industrial, business and recyclable waste

- 14(1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-
- (a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
 - (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
 - (c) that the service rendered by the licensee is only in respect of that portion of the business, industrial or recyclable waste authorised in the licence concerned.
- 14(2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 12(2) and 23.

PART 3**GARDEN WASTE AND BULK WASTE****15. Storage, collection and disposal of garden waste and bulky waste**

- 15(1) The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
- 15(2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- 15(3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 23.
- 15(4) (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
- (b) The provisions of section 9, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
- 15(5) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

PART 4**BUILDING WASTE****16. Generation of building waste**

- 16(1) The owner or occupier of premises on which building waste is generated, must ensure that-
- (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
- (b) the premises on which the building waste is generated, does not become unsightly or cause a nuisance as a result of accumulated building waste;
- (c) any building waste which is blown off the premises, is promptly retrieved; and
- (d) pursuant to any instruction from the Council, any structure necessary to contain the building waste is constructed.

17. Storage of building waste

- 17(1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.

- 17(2) Every receptacle used for the storage and removal of building waste must -
- (a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving, or being emptied of, waste so that no displacement of its contents can occur.

18. Collection and disposal of building waste

- 18(1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- 18(2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 12, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

PART 5

SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

19. Generation of special industrial, hazardous or health care risk waste

- 19(1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these By-laws.
- 19(2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- 19(3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.

20 Storage of special industrial, hazardous or health care risk waste

- 20(1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- 20(2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- 20(3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Environmental Affairs, LIMPOPO provincial government or Council, before collection.

21 Collection and disposal of special industrial, hazardous or health care risk waste

- 21(1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 6 as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- 21(2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the licence issued under Chapter 6, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- 21(3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 23.

**CHAPTER 5
TRANSPORTATION AND DISPOSAL OF WASTE****22. Transportation of waste**

- 22(1) No person may-
- (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
 - (d) cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.
- 22(2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

23 Disposal of waste

- 23(1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where the Council permits such disposal.
- (b) In disposing of waste, a licensee must comply with the provisions of section 12(2) and with the provisions of any other law regulating the disposal of waste.
- 23(2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- 23(3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or LIMPOPO provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- 23(4) Notwithstanding the provisions of subsection (1), a person may dispose of those

forms of recyclable waste specified by the Council in a notice in terms of section 12 at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tonne or less.

- 23(5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Department of Water Affairs and Forestry, subject to such conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.
- 23(6) Every person who enters a waste disposal facility must -
- (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
 - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of; and
 - (c) comply with any instruction by the person in charge of a waste disposal Facility in regard to access to, the actual place where, and the manner in which, waste must be deposited.
- 23(7) No person may-
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
 - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
 - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
 - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- 23(8) Any person who contravenes subsection (7)(c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
- 23(9) The person in charge of a waste disposal Facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- 23(10) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- 23(11) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by a member of the South African Police Services.
- 23(12) No person may store waste for more than 90 consecutive days, unless the person has a permit in respect of the premises concerned for a waste disposal facility from the Department of Water and Environmental Affairs in terms of section 20(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

CHAPTER 6**LICENSEES****24 Licence requirements**

24(1) Subject to the provisions of section 32, no person may collect or transport any of the following waste streams listed in subsection (2) without having obtained from the Council, and being in possession of a licence authorising such collection and transportation:

- (a) business (bulk containerised) waste;
- (b) industrial waste;
- (c) special industrial waste;
- (d) hazardous waste;
- (e) recyclable waste
- (f) health care risk waste; and
- (g) building waste.

24(2) A licence issued under this Chapter -

- (a) is incapable of cession or assignment without the prior written consent of the Council;
- (b) is valid only for the category of waste specified therein; and
- (c) expires one year after the date of issue subject to the provisions of sections 28(4) and 32(2).

25 Licence applications

25(1) An application for a licence to provide a commercial service must be:-

- (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
- (b) accompanied by the prescribed fee.

25(2) The Council must consider each application, having regard to the following:-

- (a) The applicant's compliance, where relevant, with the National Road Traffic Act, 1996, and with these By-laws;
- (b) the environmental, health and safety record of the applicant; and
- (c) the nature of the commercial service to be provided.

25(3) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.

25(4) After considering the application in terms of subsection (2), the Council must either:-

- (a) approve the application by issuing a licence subject to any condition it may impose; or
- (b) reject the application.

25(5) If the Council fails to consider and grant or reject a licence application within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

26. Suspension and revocation of licences

- 26(1) A licence issued under this Chapter may be suspended or revoked by the Council on the grounds that the licence holder:-
- (a) has failed to comply with any provision of these By-laws;
 - (b) has failed to comply with any provision of any national or LIMPOPO Provincial Legislation which regulates the collection, transportation or disposal of waste;
 - (c) has failed to comply with any licence condition contemplated in section 25(4)(a); or
 - (d) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.
- 26(2) A licence may only be suspended or revoked after:-
- (a) the licence holder has been given written notice that the Council is considering the suspension or revocation of the licence; and
 - (b) after the licence holder has been given a period of 30 days after service of the notice to make representations to the Council as to why the licence should not be suspended or revoked.
- 26(3) The Council must:-
- (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 days after the licence holder informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2)(b); and
 - (b) inform the licence holder of its decision in writing within seven days of making it.
- 26(4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a Council official requiring such information to perform his functions for the purposes of these By-laws.

27. Licence terms and conditions

- 27(1) When issuing a licence under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering NATIONAL, LIMPOPO PROVINCIAL or Council, waste management policies.
- 27(2) Any licence issued under this Chapter must:-
- (a) specify the licence period contemplated in section 24(2)(c) and the procedure for renewal of the licence;
 - (b) specify every category of waste which the licence holder may collect and transport;
 - (c) contain a requirement that the licence holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and LIMPOPO Provincial Legislation; and
- (c) require the licence holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste collected and transported during the licence period.

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28. Renewal of licences

- 28(1) A licence holder who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expiry of the existing licence.
- 28(2) The Council must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 25(3) and in accordance with section 25(4).
- 28(3) If the Council fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- 28(4) A licence in respect of which application for renewal has been made in terms of subsection(1), remains valid until a final decision has been made in respect of that application.

29. Display of licences

- 29(1) Upon issuing a licence under this Chapter, the Council must issue to the licence holder a numbered sticker for each vehicle to be used for the purpose concerned confirming that the licence holder is authorised to collect and transport the category of waste specified on the sticker.
- 29(2) The stickers must vary in colour for each category of waste.
- 29(3) The licence holder must affix such sticker to each vehicle to be utilised to provide the service and display the sticker at all times.
- 29(4) Waste for processing or disposal at a waste disposal facility will be only be received at such facility from a contractor who is licensed and on whose vehicle a sticker required in terms of subsection (3), is displayed.

30. Prohibited conduct**30. No licence holder may:-**

- (a) intentionally or negligently operate in contravention of any condition of the licence concerned;
- (b) intentionally or negligently fail or refuse to give information, when required to do so in terms of these By-laws, or give false or misleading information;
- (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, by any act or an omission of his or her employee acting in the course and scope of his or her duties, or
- (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 24(1), to be collected or transported, as specified in the National Road Traffic Act, 1996.

31. Exemptions

The Council may, having regard to the main objects of these By-laws contemplated in section 3(1), and its local waste plan, by notice in the LIMPOPO Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

32. Transitional provisions

- 32(1) Any person who is at the commencement of these By-laws lawfully providing a commercial service for which a licence is required under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 25, failing which such person's right to provide such service lapses.
- 32(2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

CHAPTER 7**ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES****33. Accumulating waste**

Every owner and occupier of premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

34. Duty to provide facilities for litter

- 34(1) The Council, or owner in the case of privately owned land, must take reasonable steps to ensure that a sufficient number of approved receptacles are provided for the discarding of litter by the public, on any premises to which the public has access.
- 34(2) The Council, or owner of privately owned land, must ensure that every receptacle provided in terms of subsection (1), is:-
- (a) maintained in good condition;
 - (b) suitably weighted or anchored so that it cannot be inadvertently overturned;
 - (c) constructed in such a manner as to ensure that it is weatherproof and animal proof;
 - (d) of a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;
 - (e) laced in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
 - (f) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance.

35. Prohibition of littering

- 35(1) No person may:-
- (a) cause litter;
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause any of the contents of the receptacle to spill from it; or

- (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).

35(2) Notwithstanding the provisions of subsection (1), the Council, or the owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed from the premises concerned to prevent the litter from becoming a nuisance.

36. Prohibition of dumping and abandoning articles

- 36(1) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he is the owner or occupier except if such deposit is made in accordance with the provisions of these By-laws.
- 36(2) Subject to any provision to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- 36(3) No person may dump waste.
- 36(4) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, made under the National Road Traffic Act, 1996, which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (6), disposed of by the Council as it deems fit.
- 36(5) The Council may remove and, subject to the provisions of subsection (6), dispose of any article which is chained or fastened to any pole, parking meter or any other property of the Council as it deems fit.
- 36(6) If an article contemplated in subsection (4) or (5), is, in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within 30 days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.

CHAPTER 8 AUTHORISED OFFICIALS AND DESIGNATED OFFICERS

37. Identification documents

- 37.(1) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and powers and function of that official, and include a photograph of the official.
- 37(2) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (1) on demand by a member of the local community.

38 Powers of authorised officials and designated officers

- 38(1) In addition to the powers, functions and duties an authorised official or designated officer has by virtue of his appointment as such, an authorised official or designated officer, may with the consent of the owner or person in charge of a

vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place other than on premises not belonging to the Council.

- 38(2) If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963),
- 38(3)(a) If, in the opinion of an authorised official or designated officer, any search of a vehicle or other mode of conveyance, in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official or designated officer must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official or officer, are necessary to mitigate harm to human health or damage to the environment.
- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official or designated officer concerned may report the matter to the South African Police Services with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

39 Powers to question

- 39.(1) For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official or designated officer, may, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of a witnesses, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
- 39(2) An authorised official or designated officer may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

40. Supervision of licensees

- 40(1) A designated officer must, inspect every workplace of a licensee not less than twice a year.
- 40(2) A license must allow a designated officer access for the purposes of an inspection in terms of subsection (1).
- 40(3) If a designated officer is, after an inspection in terms of subsection (1), of the opinion, that a licensee is complying with these By-laws, he must, subject to the provisions of subsection (4), issue the licensee with a certificate confirming such compliance, in which must be stated -
- (a) the name and residential and postal address of the licensee;
 - (b) the address of the premises inspected;
 - (c) the time, date and scope of the inspection; and
 - (d) any remarks which, in the opinion of the designated officer, may be relevant.
- 40(4) If a licensee fails to obtain a certificate confirming compliance at three consecutive inspections done at intervals of not less than 120 days, a designated officer may recommend that the Council review the license

concerned, and should there be reasonable grounds, the Council may suspend or revoke the license concerned in terms of section 26.

- 40(5) A designated officer must keep a register recording each inspection which he or she has undertaken, in terms of subsection (1).

41 Compliance notices

If, in the opinion of an authorized official, a person is contravening any provision of these By-laws, that official may in writing issue a compliance notice and serve it on the person concerned.

CHAPTER 9

MISCELLANEOUS

42. Ownership

- 42.(1) The person holding a permit to operate a waste disposal Facility becomes the owner of all waste upon disposal thereof at that facility.
- 42(2) A person who generates domestic waste is the owner thereof until it is collected by the Council that then becomes the owner thereof.
- 42(3) A person who abandons any article, is liable for any damage which that article may cause as well as for the cost of removing that article, notwithstanding the fact that such person may no longer be the owner thereof.

43. Serving of documents

- 43(1) A notice, instruction, order or other document that has to be served for the purposes of these By-laws, is regarded to have been properly served or delivered if -
- (a) it has been served on or delivered to the person concerned personally;
 - (b) it has been sent by registered post or speed post to the person concerned at his or her last known address;
 - (c) it has been served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address.

44. Offences and penalties

44. Any person, who:-

- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms or for the purposes of these By-laws, or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of a

continuing offence, to a further fine not exceeding R500.00 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

45. Short title

These By-laws are called the Waste Management By-laws, 2005.

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