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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 64 OF 2008

#### EMALAHLENI LOCAL MUNICIPAL COUNCIL CEMETERIES AND CREMATORIA BY-LAWS

(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL A 15/07 ON 13<sup>TH</sup>  
FEB 2007)

The Municipal Manager of the EMALAHLENI LOCAL MUNICIPAL COUNCIL hereby, in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Cemeteries and Crematoria By-laws for the EMALAHLENI LOCAL MUNICIPAL COUNCIL as approved by its Council, as set out hereunder.

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## CHAPTER 1

## INTERPRETATION

## DEFINITIONS

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

<b>"ACTIVE CEMETERY"</b>	means a public cemetery situated within the area of jurisdiction of the municipality, and includes the buildings and fixtures within the cemetery;
<b>"CEMETERY SERVICES"</b>	means services relating to the management, administration, operation and maintenance of an active cemetery;
<b>"CREMATORIUM"</b>	means any building fitted with appliances for cremation, including everything essential, incidental or ancillary thereto, and, includes buildings in which the ceremony is conducted and the cremation carried out and any structure which in any special circumstance the MEC for health may approve as a crematorium;
<b>"MONUMENTAL SECTION"</b>	means a section of a cemetery, which has been set aside by the municipality wherein memorial work may be erected to cover an entire grave area;
<b>"ADMINISTRATOR OF CEMETERIES"</b>	means the head of the section or department of the Council which has the responsibility for the administration of the cemeteries of the Council, and any person acting in his or her stead or any person duly authorized by the Council to act on his or her behalf.
<b>"ADULT"</b>	means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;
<b>"AESTHETIC SECTION" (lawn section)</b>	means a section of a cemetery, set aside by the municipality, in which a headstone only may be erected on a berm and on which the municipality must provide and maintain a strip of lawn;
<b>"ASHES"</b>	means the cremated remains of a cremated human body;
<b>"BERM SECTION"</b>	means a section set aside by the Council in a cemetery, where memorial work is erected on a berm;
<b>"BERM"</b>	means a concrete strip laid by the municipality in the aesthetic section beside a row of graves or between two rows of graves;
<b>"BIRTHS AND DEATHS REGISTRATION ACT"</b>	means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
<b>"BODY"</b>	means any dead human body, including the body of a stillborn child;
<b>"BURIAL ORDER"</b>	means an order issued by a person authorized to do so in terms of the Births and deaths Registration Act, 1992 (Act 51 of 1992);
<b>"BURIAL PLACE"</b>	means any burial-ground whether public or private, or any place whatsoever in which one or more bodies is or are buried, interred, cremated or otherwise disposed of, or where it is intended to bury, inter, cremate, or otherwise disposed of a body;
<b>"BURIAL"</b>	means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;
<b>"CEMETERY"</b>	means any piece of land for the burial or interment of a body and, except for Chapter 3 of these by-laws, refers only to public cemeteries;

<b>"CHILD"</b>	means a deceased person under the age of 12 years old or under whose coffin will fit into a grave opening prescribed for children in section 27 of these by-laws.
<b>"COMMONWEALTH WAR BURIAL"</b>	means a commonwealth war burial as defined in section 1 of the Commonwealth War Graves Act, 1992 (Act 8 of 1992);
<b>"COMMONWEALTH WAR GRAVE"</b>	means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);
<b>"COUNCIL"</b>	means <ol style="list-style-type: none"> <li>a) the Emalahleni Local Municipality established by section 12 of the Municipal Structures Act, 1998 (Act no. 117 of 1998), exercising its legislative and executive authority through its municipal Council; or</li> <li>b) its successor in title; or</li> <li>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</li> <li>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;</li> </ol>
<b>"CREMATED REMAINS"</b>	means all recoverable human remains after the cremation;
<b>"CREMATION"</b>	means the process of disposing of a human body or any remaining part of a human body by burning it and reducing it to ashes;
<b>"EXHUMATION"</b>	means the removal of a human body from its place of interment;
<b>"FULL CAPACITY"</b>	means that all existing space for interment has been used so that it is no longer reasonably practicable, whether for economic, aesthetic, physical or any other good reason for the municipality to set out any more sites for graves;
<b>"GARDEN OF REMEMBRANCE"</b>	means a section of a cemetery or crematorium set aside for the erection of memorial work to commemorate a deceased person whose body has been cremated;
<b>"GRAVE OF A VICTIM OF CONFLICT"</b>	means grave of a victim of conflict as defined in section 2 of the National Heritage Resources Act 1999 (Act 25 of 1999);
<b>"GRAVE OF CONFLICT"</b>	means the grave of a person who died while defending the country;
<b>"GRAVE"</b>	means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;
<b>"HEALTH ACT"</b>	means the Health Act, 1977 (Act 63 of 1977);
<b>"HERO"</b>	means a person who performed a heroic act for the country and is given the status of a hero by the Council;
<b>"HEROES ACRE"</b>	means an area of land set aside for the burial of a hero;
<b>"INDIGENT PERSON"</b>	means a person who makes use of the cemetery service and who is called an indigent person either in these by-law or in any other law or;

<b>"INDIGENT RELIEF"</b>	means assistance received for the burial or cremation of an indigent person;
<b>"INHUMATION"</b>	means the action or practice of burying human remains or the fact or condition of being buried;
<b>"INTERMENT"</b>	means burial in the ground or in any form of tomb or burial place and includes the cremation of a body and interred shall have a corresponding meaning;
<b>"LANDSCAPE SECTION"</b>	means a section in a cemetery set aside by the Council where memorial work is restricted to a plaque or memorial slab;
<b>"LAWN SECTION"</b>	means a section in a cemetery set aside by the Council where memorial work is restricted to a headstone only;
<b>"MEDICAL OFFICER OF HEALTH"</b>	means the medical officer of health of the municipality appointed in terms of section 22 of the Health Act, or any person appointed to assist him or her in terms of section 24 of the Health Act, who is authorized by the medical officer of health and who acts under his or her supervision;
<b>"MEMORIAL SECTION"</b>	means a section of a cemetery set aside for the erection of memorials;
<b>"MEMORIAL WALL"</b>	means a wall in a cemetery or crematorium section containing a niche or niches for placing of ashes or inscribed plaques or both in a garden of remembrance;
<b>"MEMORIAL WORK"</b>	means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a curb demarcating a grave, and a slab covering a grave;
<b>"MUNICIPAL AREA"</b>	means the area under the control and jurisdiction of the Council;
<b>"MUNICIPALITY"</b>	Includes, subject to the provisions of any other law, the municipal manager, but only if his inclusion is impliedly required or permitted by these by-laws and only in respect of the performance of any function, or the exercise of any duty, obligation or right in terms of these by-laws or any other law;
<b>"MUNICIPAL MANAGER"</b>	Means the municipal manager as defined in section 82 (1)(a) of the Structures Act;
<b>"NEW CEMETERY"</b>	Means a public cemetery which is developed, or set aside for development, by the municipality and which is or may become an active cemetery as contemplated in section 2(1) of these by-laws;
<b>"NICHE"</b>	means a compartment or hollow in a memorial wall or garden of remembrance for the placing of ashes;
<b>"NORMAL OPERATIONAL HOURS"</b>	means Monday to Friday 08:00 to 15:00 excluding Saturdays, Sundays and Public holidays;
<b>"OFFICE HOURS"</b>	means Monday to Friday 07:30 to 16:30 excluding Saturdays, Sundays and Public holidays;
<b>"OFFICER-IN-CHARGE"</b>	means the person authorized by the Council to be in control of any cemetery;
<b>"ORDINANCE"</b>	means the Crematorium Ordinance, 1965 (Ordinance No. 18 Of 1965);
<b>"PASSIVE CEMETERY"</b>	Means a public cemetery owned, regulated, established, maintained, or controlled by the municipality that is certified as a "passive cemetery" in terms of section 5(1) of these by-laws.



<b>"PAUPER"</b>	Means a dead person whose identity is unknown to the municipality despite all reasonable steps to identify him or her;
<b>"PRESCRIBED FEE"</b>	means a fee determined by the Council by resolution in terms of section or any other applicable legislation;
<b>"PRESCRIBED"</b>	means prescribed by the Council;
<b>"PRIVATE CEMETERY"</b>	Means any cemetery which is not a public cemetery;
<b>"PRIVATE GRAVE"</b>	Means any piece of ground that has been laid out for a grave within any cemetery and in respect of which an exclusive right of use has been purchased in terms of section 23 of these by-laws;
<b>"PUBLIC CEMETERY"</b>	Means any cemetery which is owned, regulated, established or maintained by, or the control of which is legally vested in, the municipality;
<b>"REGISTERED DESCRIPTION"</b>	Means the description of the land as set out in the title deed registered at the deeds office in terms of the Deeds Registry Act, 1937 (Act 47 of 1937);
<b>"REGISTRAR OF DEATHS"</b>	Means a person duly appointed to register deaths in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
<b>"REGULATION"</b>	means a regulation published in terms of the Ordinance;
<b>"RESIDENT"</b>	Means a person who, at the time of death, ordinarily resides in the boundaries of the municipality;
<b>"SANS"</b>	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 (Act 29 of 1993);
<b>"SERVICE AREA"</b>	Means the area of jurisdiction of the municipality;
<b>"SERVICE DELIVERY AGREEMENT"</b>	Means an agreement between the municipality and a service provider in terms of which the service provider is required to provide cemetery service;
<b>"SOUTH AFRICAN HERITAGE RESOURCES AGENCY"</b>	means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);
<b>"STILL-BORN CHILD"</b>	Means a human fetus that has had at least 26 weeks of intra-uterine existence but who was born dead in the sense of showing no sign of life after a complete birth;
<b>"STONE MASON"</b>	means a person carrying on business as a stonemason;
<b>"STRUCTURES ACT"</b>	Means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
<b>"SUPERVISOR"</b>	Means a person appointed from time to time by the municipality to supervise any cemetery in accordance with section 3(1) of these by-laws;
<b>"SYSTEMS ACT"</b>	Means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
<b>"TARIFF"</b>	Means the charge to users for rendering cemetery services, determined and promulgated by the municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;
<b>"TOMB"</b>	means an above ground burial vault;

<b>"UNDERTAKER"</b>	Means a person registered to undertake the preparation of a human body for burial or cremation in terms of the Health Act;
<b>"USER"</b>	Means a person who has paid or caused any of the charges determined from time to time by the municipality to be paid or who has obtained the right to have any memorial work erected or constructed or who has obtained any other rights referred to or mentioned in these by-laws;
<b>"VICTIM OF CONFLICT"</b>	means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

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

## CHAPTER 2

### ESTABLISHMENT OF PUBLIC CEMETERIES

#### 2. Establishment of Cemeteries

- (1) The municipality may from time to time set aside, acquire or develop any ground for the purpose of establishing a cemetery.
- (2) The municipality may allocate and set apart portions of the cemetery for different religious denominations.
- (3) The municipality must at all times ensure that sufficient burial space is available for the burial of bodies within the service area.
- (4) The municipality is responsible for the maintenance of all cemeteries and for repairing damage to the cemetery other than the maintenance and repair of memorial work.
- (5) The cemetery services may be suspended by the municipality for maintenance or repair but only after reasonable notice has been given by it of its intention to do so in a newspaper, published in an official language, circulating in the municipality and specifying that an objection to the suspension may be made in writing to the municipal manager within 30 days of the publication of the notice in the newspaper. Suspension may not be made unless there is another active cemetery in the same category that is available to the public in the service area as an adequate temporary substitute.

#### 3. Supervisors

- (1) The municipality or service provider must appoint a supervisor to every cemetery to control the day-to-day management of the cemetery.
- (2) The supervisor may supervise more than one cemetery.

#### 4. Classification of Cemeteries

- (1) The municipality or service provider may classify active cemeteries into different categories for the purposes of establishing different levels of service.
- (2) The classification must be undertaken in such a manner that the cemeteries are classified for the purposes of price differentiation in order to ensure affordability but must not amount to unfair discrimination.

## **5. Passive Cemeteries**

- (1) Once a cemetery is full and can no longer be used as an active cemetery, the municipality must issue a certificate declaring that cemetery to be a passive cemetery.
- (2) The municipality or service provider may close any section of the cemetery on the grounds of it being full and, if either the municipality or service provider does so, it may continue to use the rest of the cemetery as an active one until the whole cemetery is full and, when that happens, it must be declared a passive cemetery in accordance with subsection (1).
- (3) The municipality is responsible for the maintenance of all passive cemeteries.

## **CHAPTER 3**

### **PRIVATE CEMETERIES**

## **6. Registration of Existing Graves**

Any owner, other than the municipality, of land in which any grave exist, must, if he is aware of its existence, inform the municipality about it on a form prescribed by the municipality.

## **7. Establishment and Continued Use of Private Cemeteries**

No person shall establish a private cemetery within the service area, and no owner of any private cemetery already in existence shall, if the municipality did not authorize the use of such cemetery previously, continue to use it for burial purposes without the municipality's authority having been obtained in terms of section 8.

## **8. Application for a Private Cemetery**

- (1) An application to establish a private cemetery, or for the municipality to approve the continued use of a private cemetery must be made in writing to the municipal manager. The application must include –
  - (a) A locality plan to a scale of not less than 1:10 000, showing the position of a proposed or existing cemetery in relation to the boundaries of the land on which it is either proposed to be established or upon which it is already situated, and a registered description of the site showing all streets, public places and privately-owned property within a distance of 100 meters of the site;
  - (b) A block plan to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings existing or proposed to be erected;
  - (c) A plan and sections to a scale of at least 1 in 100 of any building existing or proposed to be erected, which shall in the latter case conform with the building and sewage by-laws of the municipality;
  - (d) A list of registers or records kept, or proposed to be kept, for the identification of graves, the sale or the transfer of grave sites and interments;
  - (e) The full names and addresses of the owner and the supervisor;
  - (f) The nature of the title under which the owner of the private cemetery holds or will hold the land on which the cemetery is or will be used as a cemetery, and whether the land is encumbered in any way;

- (g) Proof, to the satisfaction of the municipality, that the owner has adequate financial measures and insurance to be able to discharge the obligation of maintaining the private cemetery and all existing and future graves; and
  - (h) A schedule of burial fees proposed to be charged or currently being charged.
- (2) On receipt of the application referred to in subsection (1), the municipal manager must place a notice in at least one newspaper, in an official provincial language, circulating within the municipality stating the nature of the application and specifying a date, being not less than 14 days, by which objections to the granting of the application must be lodged with the municipal manager.
  - (3) Within 7 days of the closing date for the lodging of objections, the municipal manager must submit the application to the municipality for consideration by the municipality.
  - (4) The municipality must consider the application and any objections to it that may have been lodged within 30 days. If, after consideration of the application and any objection to it, the municipality is satisfied that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise, the municipality may authorize, in writing, the establishment or the continued use of the proposed private cemetery, in accordance with the written application submitted to the municipality in terms of subsection (1).
  - (5) If approval is granted for the establishment or continued use of a private cemetery, or for the continued use of the private cemetery in terms of subsection (4), no departure from the plans submitted in terms of subsection (1) may be made without the approval of municipality in writing.

#### **9. Duties of the Owner of a Private Cemetery**

Every owner of a private cemetery, which has been, authorized in terms of section 8(4) to establish or continue the use of a private cemetery shall-

- (a) maintain a burial register in accordance with section 21 of the Births and Deaths Registration Act, 1992 (Act 51 of 1992)'
- (b) maintain a duplicate copy of the burial register referred to in subsection (a) at a place other than the place where the burial register referred to in subsection (a) is kept;
- (c) keep a record or records showing –
  - (i) the number of each grave site and the ownership of the ground in which the grave is situated; and
  - (ii) the number of interments in each and every grave site and the name, age, sex, race, last known address, date and cause of death of each person interred in it;
- (d) comply with the provisions of Chapter 3 and any other relevant provisions of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
- (e) maintain all grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (f) provide for the identification of grave sites by subdividing the cemetery into blocks containing a number of graves or grave sites and demarcated by means of signs showing the number and situation of each block;
- (g) separately number every grave site in each block by means of a durable number plate;
- (h) maintain all signs and number plates in a neat and legible condition;

- (i) allow the municipality or its duly authorized officers to enter and inspect the cemetery, the burial register, and all records kept in connection therewith;
- (j) render a monthly report on all burials to the municipal manager on a date to be determined by the municipal manager, detailing the name, last known address, age, sex, race, date and cause of death of every deceased person who has been interred, and the name of the medical practitioner who issued the certificate of death, a copy of the burial order, the authority who issued the burial order, the block and grave site number, and the date of interment;
- (k) render an annual return to the municipal manager on a date to be determined by the municipal manager, detailing the names and addresses of all trustees, committee members and persons controlling the private cemetery, if there be any;
- (l) appoint a supervisor to manage the cemetery and keep the requisite records;
- (m) the appointment and any subsequent appointment of a supervisor must be reported to the municipal manager in an appropriate monthly report submitted to the municipal manager in terms of subsection (j); and
- (n) comply with any other conditions prescribed by the municipality.

#### **CHAPTER 4**

#### **SERVICE PROVIDERS**

##### **10. Agreement, Delegation and Customer-Care Charter**

- (1) The municipality may discharge all or any of its obligations under these by-laws for the rendering of cemetery services by entering into a service delivery agreement with a service provider or service providers in terms section 81 (2) of the Systems act: Provided that it shall not be discharged for its obligation to enforce these by-laws or to monitor whether they have been complied with by the service provider or any other person.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any power enjoyed by it under these by-laws but may do so only if the assignment is necessary to enable the service provider to discharge an obligation under the service delivery agreement.
- (3) Any reference in these by-laws to "municipality or service provider" must be read as applying only to the municipality if there is no relevant service delivery agreement and, if there be a service delivery agreement it must be read as applying to the service provider.
- (4) Without derogating from the generality of the provisions of subsection (1), the municipality may not discharge an obligation to monitor and enforce the provisions of these by-laws by entering into an agreement with a service provider to do so.
- (5) A service provider employed in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.

##### **11. Tariffs**

- (1) Notwithstanding the provisions of section 10(1), the municipality retains the responsibility to establish maximum tariffs for cemetery services.
- (2) The municipality must evaluate and promulgate maximum tariffs annually, prior to 1 July of each year.

**CHAPTER 5****DISPOSAL OF A BODY****12. Disposal of a Body**

- (1) No person may, save with the prior written permission of the municipality, dispose of or attempt to dispose of a body, other than –
  - (a) by interment in a private cemetery established or approved in terms of sections 7 or 8 or a public cemetery established by the municipality in terms of section 2(1), and in accordance with the procedure set out in Chapter 7 or these by-laws; or
  - (b) by cremation in a crematorium as regulated by Chapter 12 of these by-laws.
- (2) No body intended for burial or cremation may be presented at a cemetery or crematorium unless being first enclosed in a sealed body bag or placed within a coffin, except where there is an objection thereto on religious grounds.
- (3) Where there is an objection to a coffin or body bag on religious grounds, the body must be covered in a burial shroud or other suitable perishable material.

**13. Funeral Undertakers**

- (1) Subject to the provisions of sections 20, 33, 34 and 39 of the Health Act, no funeral undertaker shall enter into a contract to bury or cremate any body in any cemetery or crematorium under the control of the municipality unless –
  - (a) the funeral undertaker is in possession of a certificate of competence issued by the municipality in terms of the Health Act;
  - (b) the premises from which the funeral undertaker operates is zoned in accordance with any law relating to where such business may be carried out; and
  - (c) all the requirements of a funeral undertaker and a funeral undertaker's premises in terms of the Health Act have been complied with.
- (2) The municipality may, after giving reasonable notice to an undertaker of its intention to conduct an inspection, enter into and inspect the undertaker's premises to enable it to determine whether subsection (1)(b) and (1)(c) have been complied with.
- (3) Undertakers must keep records of all the bodies, which they receive, and of the burial orders for these bodies.
- (4) Any supervisor may refuse to bury a body presented for burial by an undertaker who has not complied with these by-laws.
- (5) Where a supervisor refuses such a burial the refusal must be reported in writing to the municipality with the reasons for refusal within 7 days of the refusal.

**14. Register**

- (1) The supervisor of a cemetery must maintain a burial register in accordance with section 21 of the Births and Deaths Registrations Act, 1992 (Act 51 of 1992).
- (2) The supervisor must maintain a duplicate copy of the burial register referred to in subsection (1) at a place other than the place where the burial register referred to in subsection (1) is kept.

## CHAPTER 6

### FUNERALS

#### 15. Religious Ceremonies

- (1) The members of any religious denomination may, subject to these by-laws and the control of the municipality, conduct religious ceremonies in a cemetery in connection with any interment or memorial service.
- (2) Religious ceremonies according to the rites of any denomination may only be conducted in the section of a cemetery set apart by the municipality for members of the denomination.

#### 16. Exposure of Corpses

No person shall convey a corpse which is not covered, or expose any corpse or any part of it in any street, part of the cemetery which the public has access to or public place.

#### 17. Instructions of the Supervisor

Every person taking part in any funeral procession ceremony shall comply with the directions of the supervisor within a cemetery.

#### 18. Music and Singing

No music or singing will be allowed in a cemetery, except for sacred singing, and except in a police or military funeral, without the supervisor's permission.

#### 19. Structures used for Religious Services or Rites

No person shall occupy any chapel or shelter or any other structure used for religious services or rites in a cemetery for more than 45 minutes, unless authorized to do so by the supervisor of the cemetery.

#### 20. Hours for Interments

- (1) Subject to the provisions of subsection (2), interments shall take place during the following hours;
  - (a) on a Monday to Thursday, excluding public holidays, from 09h00 to 15h30 and
  - (b) on a Friday, excluding public holidays, from 9h00 to 14h00.
- (2) The supervisor may, upon payment of the prescribed charge, allow interments to take place after the hours referred to in subsection (1) on weekdays and also on Saturdays, Sundays and public holidays.
- (3) If the interment commences or is completed after the hours referred to in subsection (1), the charges will be payable as prescribed in the cemetery tariffs.

#### 21. Numbering of Graves

- (1) Until such time as a memorial has been erected on a grave, the supervisor shall fix and maintain an identification plate on every grave plot in the cemetery.
- (2) No person shall inter a body in any grave, which has not been allotted by the municipality.

**CHAPTER 7****INTERMENTS****22. Application for Use of a Grave**

- (1) No person shall inter or cause to be interred, any body within any cemetery without the permission of the supervisor, which may only be granted on the submission to him or her of the original burial order authorizing interment, together with the notice referred to in subsection (2).
- (2) A person wishing to have a body interred must notify the supervisor on a form prescribed by the municipality not less than eight hours before the desired time for the interment.
- (3) The application must be signed by the nearest surviving relative of the person whose body is to be interred in the grave, or by someone whom the nearest surviving relative has authorized to sign the application on his or her behalf.
- (4) If the supervisor is satisfied that the signature of the nearest surviving relative cannot be obtained promptly, he may, grant permission to inter a body on an application signed by any other interested person.
- (5) Not more than one interment may be made in a grave, except with the written permission of the supervisor.
- (6) Where there has been an interment in a grave, and where a deeper grave is subsequently required for the interment of another body in the same grave, application to inter the other body must be made to the supervisor when notice of the first interment is given to the supervisor.
- (7) A second interment in the same grave will not be allowed within one year of the date of the first interment.
- (8) Not more than three bodies may be interred in the same grave.
- (9) The municipality may, upon application and in its sole discretion, inter any body without any charge in whatever place and manner as it considers fit.
- (10) No body shall be interred unless it is placed in a coffin as described in section 30, unless there is an objection thereto on religious grounds in terms of section 12(2).

**23. Purchase of Burial Rights**

- (1) The municipality or service provider may sell the right to use any piece of ground for a grave to any person.
- (2) Any person wishing to purchase the right to use a piece of ground for a grave must apply to the municipality.
- (3) The piece of land in respect of which a right of use is sold must be allotted by the municipality and the holding and exercising of the right shall be subject to the cemetery by-laws.
- (4) The purchase price of the right to use a piece of land for the grave shall be a prescribed tariff and the purchaser shall not be entitled to use the land as a grave until the price is paid.
- (5) Upon the death of a person the nearest relative shall have the right, on payment of the charges determined from time to time by the municipality, to purchase one adjoining grave, if it be available, for future use.



**24. Rights Not Transferable**

- (1) No person shall, without the consent of the municipality or service provider, sell or transfer to any other person any right relating to a grave or niche which he has obtained or may obtain in terms of the provisions of these by-laws.
- (2) Every acquisition of the right to use a piece of land as a purchased grave or to make use of a niche shall be registered by the municipality and the charge determined from time to time by the municipality shall be paid to the municipality by the new user.
- (3) The municipality or service provider may repurchase the right to an unused grave or niche if this is necessary either for the efficient administration of the cemetery or because of any reasonable environmental considerations.
- (4) Where the municipality repurchases a right to use land for a grave, it must provide just compensation to the user which shall not be less than the initial purchase price and which shall make an allowance for inflation.
- (5) The right to a niche shall accrue to the municipality without any compensation when the ashes of a deceased are removed or when the commemorative plate is removed from a niche.

**25. Permission to Inter**

- (1) Subject to the provisions of subsection (2), the supervisor may not grant permission to inter a body where –
  - (a) a burial order in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992) has not been presented to the supervisor;
  - (b) all appropriate tariffs, as prescribed by the municipality, have not been paid; and
  - (c) an application in terms of section 22(2) has not been made.
- (2) Where, in the opinion of the supervisor, circumstances are exceptional he or she may grant permission to inter a body where the requirements in subsections (1)(b) and (1)(c) have not been met.

**26. Alteration of Date of Interment**

Should any alteration be made to the day or hour that has been previously fixed for an interment, notice of the alteration shall be given to the supervisor at the cemetery at least 6 hours before the time that had been fixed for interment.

**27. Dimensions of Grave Openings**

- (1) Graves for adults shall have at least the following dimensions:
  - (i) a length of 2 200 millimeters;
  - (ii) a width at the position of the shoulders of 900 millimeters;
  - (iii) a width at the position of the head of 600 millimeters;
  - (iv) a width at the position of the feet of 500 millimeters; and
  - (v) a depth of 1 900 millimeters.

- (2) Graves for children shall have the following dimensions:
- (i) a length of 1 400 millimeters;
  - (ii) a width at the position of the shoulders of 500 millimeters;
  - (iii) a width at the position of the head of 450 millimeters;
  - (iv) a width at the position of the feet of 330 millimeters; and
  - (v) a depth of 1 500 millimeters.
- (3) Where the interment of any body requires an aperture in excess of the standard dimensions, the notice of interment must specify the dimensions of the coffin and its fittings.

**28. Children's Coffins which are too Large for a Child's Grave**

Should a child's coffin be too large for the dimensions of a child's grave, it will be placed in an adult's grave and the prescribed charge for an adult's grave shall be paid.

**29. Covering with Earth**

There shall be at least 1 200 mm of earth between the top of any adult's coffin or body bag and the surface of the ground and at least 900 mm of earth between the top of a child's coffin or body bag and the surface of the ground. Every coffin or body bag shall, upon being placed in a grave, be covered by at least 300 mm of earth without delay.

**30. Coffins in Graves**

No person shall place in any grave, or cause to be placed in any grave, any coffin constructed from any material other than soft wood or other perishable material, without the written consent of the supervisor but any attachments that normally form part of a coffin need not be made of soft wood or other perishable material.

**31. Number of Bodies in One Coffin**

- (1) Subject to the provisions of section 22(5) two or more bodies of members of the same family may be buried in the same coffin where —
- (a) two members of a family die together, including, but not limited to two persons who were married to one another;
  - (b) a mother and child or children die during childbirth; or
  - (c) two unmarried persons of the same or different sex whom the user believes on reasonable ground to have lived together as man and wife, who die at the same time.
- (2) Anatomy remains of two or more bodies may be buried in the same grave.
- (3) Where more than one body is buried, the user will be liable to pay the tariff prescribed for each of the bodies.

**32. Interment of Deceased Persons Resident Outside the Municipality**

- (1) Subject to subsection (2), the municipality may in its discretion permit the interment of a deceased person who was resident outside the municipal area.
- (2) Where a person has been granted a right in terms of section 23, the municipality must permit the interment of that person even if he was resident outside the municipal area at the time of death.

**33. Pauper and Indigent Burials**

- (1) The body of a pauper or an indigent person must be buried at the cost of the municipality at a Cemetery to be determined by the municipality.
- (2) In the case of an indigent person, the municipality or service provider shall take all reasonable steps to ascertain the religion of the deceased and bury him in the section of the cemetery set apart for members of the denomination.

**CHAPTER 8**

**EXHUMATION OF BODIES AND RE-OPENING OF GRAVES**

**34. Disturbance of Human Remains**

Subject to these by-laws, the provisions of an exhumation order given in terms of the Inquests Act, 1959 (Act 58 of 1959), section 46 of the Health Act, or any other provision of any law relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding them in any cemetery.

**35. Opening of Graves**

- (1) Subject to the provisions of any law pertaining to the exhumation of a corpse, no grave may be opened without the written consent of the following authorities:
  - (a) the Department of Health for the province in which the municipality is situated; and
  - (b) the municipality.
- (2) In addition to the consent required in subsection (1), where a grave is older than 60 years and is situated outside a cemetery administered by the municipality, or constitutes a grave of a victim of conflict, the approval of the South African Heritage Resources Authority or the Provincial heritage Resources Authority established for the province if there be one, is required through the issuing of a permit in terms of section 36(3) of the National Heritage Resources Act, 1999 (Act 25 of 1999).
- (3) No person may disinter, remove, re-inter or cremate a body buried in a Commonwealth war grave, or otherwise interfere with a Commonwealth war grave or a Commonwealth war burial other than in accordance with the Commonwealth War Graves act, 1992 (Act 8 of 1992).

**36. Exhumations**

- (1) Subject to the provisions of sections 34 and 39, no person shall exhume or cause any corpse to be exhumed or removed without the written consent of the municipality and the medical officer of health.
- (2) The charges for exhumation determined from time to time by the municipality shall in every case be paid before the exhumation takes place.
- (3) The written consent of the municipality must be submitted to the supervisor at least two days before the date fixed for the exhumation or removal of a corpse.

**37. Screening of Activities**

An undertaker must effectively screen the grave, from which any corpse is to be removed, from public view during the exhumation.

**38. Persons to be Present During Exhumations**

No exhumation or removal of any body or human remains shall take place unless the medical officer of health and a member of the South African Police Service are present.

**39. Transfer of Buried Corpses**

Should the transfer of a corpse be considered expedient by the municipality at any time, or should any provision of these by-laws be contravened during the interment of a corpse in any grave, the municipality may, after having complied with any applicable provincial or national legislation and these by-laws, transfer the corpse to another grave and where it is reasonably possible to do so, a relative of the deceased person must be notified of the transfer.

**CHAPTER 9****CARE OF GRAVES****40. Care of Graves**

The municipality or service provider shall keep graves clear of weeds and in proper order.

**41. Shrubs and Flowers**

- (1) No person, other than the supervisor, may plant any shrub, tree, plant or flower upon any grave in the cemetery.
- (2) No shrub, tree, plant or flower in the cemetery may be cut or removed by any person without the consent of the supervisor.
- (3) The supervisor shall have the right to prune, cut down, dig up or remove any shrub, tree, plant or flower in the cemetery at any time without the necessity of obtaining permission of any person or court to do so.

**CHAPTER 10****ERECTION AND MAINTENANCE OF MEMORIAL WORK****42. Memorial Work**

No person shall, unless the charges as determined from time to time by the municipality have been paid, and the consent in writing of the supervisor and of the user for such grave has been obtained, bring any memorial work into a cemetery, or, after its having been brought into it, erect, alter, paint, renovate, remove or otherwise interfere with it, or cut any inscription on it.

**43. Waiting Period before Erecting of Memorial**

No memorial may be erected in the monumental section before six months from the date of interment, unless the supervisor, after consideration of written representations, and subject to the conditions set out in subsections (a), (b) and (c), grants approval that –

- (a) sufficient provision was made for the stabilization of the ground, and that any displacement of the memorial work will be rectified by the user;
- (b) the relatives indemnify the municipality against any claims arising as a result of damages caused to the memorial because of subsidence; and
- (c) the erector of the memorial undertakes in writing to repair memorials, which were damaged because of subsidence.

**44. Position of Memorial Work**

No person shall erect any memorial work on any grave except in a position approved by the supervisor or as otherwise provided for in these by-laws.

**45. Repairs to Memorial Work**

- (1) Should a person who has erected any memorial work to fall into a state of disrepair that may, in the opinion of the supervisor, cause danger to any person or thing situated in the cemetery, or to deface or damage the cemetery, the supervisor may order him or her by notice in writing, to make whatever repairs that the supervisor may consider necessary.
- (2) Should the address of the user be unknown to the supervisor, the notice may be published in an official language in any daily newspaper circulating within the municipality in terms of section 70(1)(c).
- (3) If the required repairs are not carried out within one month of the posting of the notice or the publication of it in a newspaper, the supervisor may him or herself carry out the repairs or remove the memorial work without paying any compensation and may recover the cost of the repairs or of removal from the person who erected the memorial work.

**46. Supervision of Work**

Any person engaged upon any memorial work in a cemetery shall affect it in accordance with the plan that was submitted and to the satisfaction of the supervisor.

**47. Damaging of Memorial Work**

Save in the case of intentional or negligent acts of the municipality or service provider, the municipality or service provider shall not be liable to compensate any person for any damage which may at any time occur to any memorial work.

**48. Moving of Memorial Work**

The supervisor may, after due notice to the user, at any time, change or alter the position of any memorial work without any leave of any person or court and recover the cost of doing so from the user of such memorial work. Provided that in any case where any memorial work has originally been placed in a particular position with the consent of the supervisor, any alteration to that position shall be done at the expense of the municipality.

**49. Bringing Material into Cemetery**

- (1) No person shall bring any material into the cemetery for the purpose of constructing any memorial work on any grave, or to erect a commemorative plaque in the garden of remembrance, unless-
  - (a) a sketch together with the essential dimensions, in metric units of linear measurements of the proposed memorial, and showing the position of the proposed work, accompanied by a specification of the materials to be used, in addition to a copy of any proposed inscription, has been submitted to the supervisor at least fourteen days prior to the date on which such material is intended to be brought into any cemetery;
  - (b) all charges due in respect of such grave or graves or niches have been paid;
  - (c) the supervisor's written approval of the proposed work has been given; and
  - (d) the grave number has been engraved on the memorial work.

**50. Approval and Removal of Memorial Work by the Supervisor**

- (1) Subject to the right of an affected person to appeal to the municipality or service provider against any rejection by the supervisor, the supervisor may reject any proposed design or material for a memorial, which he considers to be unsuitable.
- (2) In exercising his powers under subsection (1), the supervisor must not consider the inscription as part of the design of the memorial.

- (3) Any memorial which is not erected to the satisfaction of the supervisor must either be rectified by the user within one month after having been notified in writing by the supervisor to do so, or be removed by him or her at his or her own expense.
- (4) No person shall remove or disturb any memorial within any cemetery without the permission of the supervisor.

#### 51. Requirements for Erection of Memorial Work

- (1) Memorial work shall be in accordance with the following requirements:
  - (a) where any part of any memorial work is to be joined to any other part, copper or galvanized iron pins of approved thickness and 160 millimeters long shall be used for such purpose and the holes, into which these pins must fit, shall be not less than 80 millimeters deep;
  - (b) any part of such work resting upon the ground or any stone or other foundation shall be fairly squared and bedded;
  - (c) no stone of uneven thickness, or having any corner wanting, shall be used unless it has been shown on the sketch submitted in terms of section 49(1)(a);
  - (d) the underside of each memorial shall be set at least 50 millimeters below the natural level of the ground and on an adequate concrete foundation;
  - (e) without the written consent of the supervisor, no kerb stones shall be used which protrude more than 250 millimeters above the surface of the ground or are more than 200 millimeters thick;
  - (f) all head and curbstones shall be properly secured from the inside with round copper or galvanized iron pins;
  - (g) all headstones up to 150 millimeters in thickness shall be securely attached to the base in an acceptable manner;
  - (h) all memorial work shall be complete as far as possible before it is brought into any cemetery;
  - (i) in the case of single graves, foot kerbs shall consist of one solid piece;
  - (j) memorial work shall be made of marble or granite or any other SANS- approved hard stone, subject to the approval of the supervisor;
  - (k) no person shall do any stonework, chiseling or other work upon any memorial work not connected with the fixing of such memorial work within any cemetery except where such work is expressly permitted in terms of these by-laws;
  - (l) if a memorial rests on a base –
    - (i) it must be set on a concrete foundation approved by the supervisor;
    - (ii) it shall be set in good cement mortar; and
    - (iii) the base shall be not less than 1 000 millimeters by 330 millimeters by 330 millimeters.

- (m) The concrete foundation to the headstone shall have the following dimensions:
  - (i) the length, at right angles to the longitudinal axis of grave, must be at least 1 300 millimeters;
  - (ii) the width must be not less than the width of the bottom of the headstone plus a projection of 160 millimeters either side; and
  - (iii) the depth must be not less than 160 millimeters;
- (n) the concrete foundation for the kerbing shall extend across the foot of the grave plot and shall be of the following dimensions:
  - (i) the length must be at least 1 220 millimeters;
  - (ii) the width must be at least 330 millimeters; and
  - (iii) the depth must be at least 110 millimeters; and
- (o) the tops of all concrete foundations shall be not less than 60 millimeters below ground level.
- (2) Lettering upon a memorial must be engraved in it unless it has lettering that protrudes from the surface of the memorial work in which case such lettering must be of durable material and fixed permanently upon the memorial work without protruding more than 1 centimeter from the surface of the memorial work.
- (3) With the consent of the supervisor and the user, the name of the maker may be engraved on the memorial work.
- (4) The supervisor may require that uniform letter sizes and spaces be used for such engraving.

## **52. Conveying of Memorial Work**

- (1) The conveying of any stone, brick, or memorial work or any part of it along paths between graves may be undertaken only by means of a trolley fitted with pneumatic tires.
- (2) No trolley shall be moved along any path, which in the opinion of the supervisor is too narrow or unsuitable for conveyance, by a trolley.

## **53. Vehicles and Tools**

The supervisor may prohibit the use of any vehicle, tool or other appliance by a person working on a grave.

## **54. Complying with the Supervisor's Directions**

Any person carrying on any work within a cemetery shall at all times comply with the directions of the supervisor.

## **55. Rubbish and Damage to Cemetery**

No person shall at any time leave any rubbish, soil, stone or other debris within any cemetery or in any way damage or deface any part of any cemetery or anything contained in it.

**56. Times for Bringing in Material and Doing Work**

- (1) No person shall bring memorial work or material or do any work in a cemetery on public holidays or outside of the hours of 07h00 to 16h00 during Mondays to Fridays.
- (2) In exceptional cases the supervisor may permit work to be done outside of the times prescribed in subsection (1), but only if the prescribed charges determined from time to time by the municipality have been paid.

**57. Inclement Weather**

- (1) If the supervisor decides that it is undesirable to place or fix memorial work because the weather is inclement or because the soil is in an unsuitable condition, he may prohibit its being placed or fixed until he permits the work to begin or continued.
- (2) The supervisor may decide when the weather is inclement weather or when the soil is in an unsuitable condition.

**58. Production of Written Permission**

Any person who undertakes any work within any cemetery shall, upon demand by the municipality, produce the written consent issued to him or her in terms of section 42.

**CHAPTER 11****ALL SECTIONS****59. Adornment of Graves**

- (1) No person shall, except with the consent of the supervisor, erect, place or leave upon or around a grave any railings, wire-work, flower stand, ornament, wreath, embellishment or other object of any kind, other than a vase, and any flowers and foliage in it.
- (2) No person shall erect, place or leave upon or around a grave any railings, wirework, flower stand, ornament, wreath, embellishment or other object of any kind in the aesthetic section.
- (3) Where the supervisor considers whether to grant consent for the adornment of any grave in terms of subsection (1), he must take into consideration the cultural and religious values of the local community as well as the cultural and religious values of the deceased who has been interred in it.
- (4) Fresh flowers and foliage placed on a grave with the consent of the supervisor in terms of subsection (1) may be removed by him or her when in his or her opinion they have faded.
- (5) A memorial may incorporate not more than two vases or other receptacles for flowers or foliage.

**60. Monumental Section**

- (1) The following provisions shall apply to the monumental section of a cemetery, if there be one:
  - (a) no memorial, which is erected, shall exceed a height of 1 500 millimeters unless an adequate foundation for a memorial in excess of that height has been incorporated in the design; and
  - (b) no planting of any kind, except with the permission of the supervisor, shall be allowed on a grave.



## 61. Aesthetic Section

- (1) The following provisions shall apply to the aesthetic section of a cemetery, if there be one:
  - (a) no kerbing or any form of base shall be erected;
  - (b) the headstone memorial shall be erected only on the concrete strip provided by the municipality;
  - (c) the pedestal of the memorial shall not exceed 800 millimeters by 260 millimeters unless the memorial is to be erected on two adjoining grave plots, in which case the measurements may be 1 220 millimeters by 260 millimeters;
  - (d) no memorial shall overhang the pedestal at any point and it shall be erected on the berm with the edge nearest to the grave being at least 120 millimeters from the edge of the berm;
  - (e) the height of memorial shall not exceed 1 000 millimeters, including the bar;
  - (f) the municipality retains the right to flatten any remains of soil or fill any subsidence of a grave to the level of the adjoining undisturbed ground;
  - (g) except for a memorial or vase for flowers or foliage which may be placed in the space provided on the berm, no object may be placed or kept on any grave after six months of the date of interment;
  - (h) the supervisor may remove any object, which has been placed on a grave; and
  - (i) excluding the vase for flowers or foliage in the berm, no memorial may contain more than one additional container for flowers or foliage.

## CHAPTER 12

### CREMATORIA

## 62. Cremation

- (1) No person shall dispose of a body in any manner other than by interring it in a cemetery or having it cremated in a crematorium that is approved of in law.
- (2) No person shall dispose of a body by cremation other than in conformity with the requirements of any law relating to cremation.
- (3) The ashes remaining after a cremation, may, with the written consent of the supervisor, be interred in a public or private grave in which the body of a relative or any other person has already been interred.
- (4) If ashes are not collected after a cremation, they may be strewn in a garden of remembrance by the supervisor.

## 63. Coffins

Coffins intended for cremation shall be constructed principally out of timber or wood derivatives, as regulated by applicable legislation.

**CHAPTER 13****ADMISSION TO CEMETERIES AND PROHIBITED CONDUCT****64. Admission of Visitors**

- (1) Every cemetery shall be open to the public during the following hours:
  - (a) from 1 September to 30 April: 07h00 to 18h00; and
  - (b) from 1 May to 31 August: 07h00 to 17h30.
- (2) Notwithstanding the provisions of subsection (1) the municipality shall have the right to close any cemetery or part of it to the public for such period as it may consider fit if it is, in the opinion of the municipality, in the interests of the public to do so.
- (3) No person shall enter into or remain in any cemetery, or part of it, before or after the times set out in subsection (1) or during any period when it is closed to the public.
- (4) No person under 12 years of age may enter any cemetery unless in the care of a responsible person.

**65. Dress**

The municipality may prescribe the apparel that it considers appropriate for entry into a cemetery but, in doing so, must not unfairly discriminate between persons on the basis of race, religion or gender.

**66. Prohibited Acts Within Cemeteries**

- (1) No person shall –
  - (a) solicit any business, order or exhibit, distribute or leave any tracts, business cards or advertisements within any cemetery other than as provided for in section 51(3) of these by-laws;
  - (b) sit, stand or climb upon or over any memorial work, gate, wall, fence or building in any cemetery;
  - (c) commit any nuisance within any cemetery;
  - (d) ride any animal or motorcycle within any cemetery, and no other vehicle may exceed a speed of 16 km per hour;
  - (e) intentionally bring any animal, other than a guide dog, or bird, into a cemetery or allow an animal to wander in it;
  - (f) plant, cut, pick or remove any plant, shrub or flower without the permission of the supervisor;
  - (g) hold or take part in any demonstration in any cemetery;
  - (h) hinder any officer, workman or labourer employed by the municipality in any cemetery during the performance of his or her duties;
  - (i) obstruct, resist or oppose the supervisor in the course of his or her duty or refuse to comply with any order or request which the supervisor is entitled to make;
  - (j) use or cause any cemetery to be used for any immoral purpose; or
  - (k) mark, draw, scribble, erect advertisements or objects on any wall, building, fence, gate, memorial work or other structure within any cemetery or in any other way defaces them.

- (2) Where it is appropriate to do so, the assessment of what constitutes a prohibited act in terms of subsection (1)(c) and (1)(j) the social and cultural values of the local community should be taken into account.

- (3) The supervisor must place a notice in the cemetery setting out the prohibited conduct.

**67. Keeping to the Paths**

All persons shall use only the roads, walkways and paths provided in the cemetery.

**68. Entrance to and Exits from Cemeteries**

No person shall enter or leave any cemetery except by the gates provided for that purpose and no person shall enter any office or fenced place in a cemetery except in connection with lawful business.

**69. Offences**

- (1) Subject to subsection (2), any person who –
- (a) contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for cemetery services;
  - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;
  - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws; or
  - (d) who obstructs or hinders any authorized representative or employee of the municipality in the execution of his duties under these by-laws;

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50-00, 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 municipality and served on the person concerned requiring the discontinuance of such an offence.

- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.
- (4) The supervisor may at any time order any person who does not comply with these by-laws in the cemetery or disturbs the sacred atmosphere in the cemetery in any manner, to leave the cemetery immediately in which event the person must forthwith comply with the order.

**CHAPTER 14****GENERAL****70. Service of Notices**

- (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having duly been served –
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
  - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by subsections (a), (c) or (d); or
  - (c) If that person's address and the identity or the address of his agent or representative in the Republic is unknown, when it has been published in an official language in any daily newspaper circulating within the municipality; or
  - (d) if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**71. Compliance with Notices**

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

**72. Repeal of By-Laws**

The by-laws specified in the first column of Schedule 1 are hereby repealed to the extent set out in the second column of Schedule 1: Provided that the repeal of such by-laws shall not affect anything done in terms of or any right, obligation or liability acquired or incurred under those by-laws.

**73. Date of Commencement**

These by-laws commence on the date of publication in the Provincial Gazette.

**SCHEDULE 1: BY-LAWS REPEALED**

TITLE OF BY-LAW	EXTENT OF REPEAL
(To be inserted)	

**LOCAL AUTHORITY NOTICE 65 OF 2008**

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**EMALAHLENI LOCAL MUNICIPALITY****PUBLIC HEALTH BY-LAWS****EMALAHLENI LOCAL MUNICIPALITY****PUBLIC HEALTH BY-LAWS**

**(ADOPTED BY RESOLUTION OF THE OF THE MUNICIPAL COUNCIL A 15/07  
ON 13<sup>th</sup>**

**FEB 2007)**

**The Municipal Manager of the Emalahleni 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 Health By-laws of the City of Emalahleni, as set out hereunder.**

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## CHAPTER 1 INTERPRETATION AND FUNDAMENTAL PRINCIPLES

### 1. Definitions and interpretation

In these By-laws, unless the context otherwise indicates –

**“Adequate”** when used to describe a standard or manner in which anything required by these By-laws must be done, means the standard or manner that, in the opinion of an environmental health officer, is sufficient to safeguard public health, and to achieve the purpose and apply the principles of these By-laws and “adequately” has a corresponding meaning;

**“Approved”** when used to describe a particular object, measure or material, means an object, measure or material which has been approved in terms of section 12 as being adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any public health hazard or public health nuisance occurring, continuing or recurring;

**“Author of a nuisance”** means the person by whose act or default or sufferance the nuisance is caused, exist or is continued;

**“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;

**“Communicable diseases”** means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering there from or who is a carrier thereof, to any other person;

**“Council”** means –

- a) the Emalahleni Local Municipality established by section 12 of the Municipal Structures Act, 1998 (Act no. 117 of 1998), exercising its legislative and executive authority through its municipal Council; or
- b) its successor in title; or
- c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be;

**“Dwelling”** means any house, room, shed, hut, tent, cave, container, shelter, vehicle, boat or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and “room” has a corresponding meaning;

**“Environmental health officer”** means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa in terms of section 33(1) of the Medical Dental and Supplementary Health Services Professions Act, 1974 (Act No. 56 of 1974);

**“Exemption certificate”** means a certificate issued in terms of section 10;

**“Hot water”** means water which has a minimum temperature of 55° C at the point of discharge;

**“Municipal area”** means the area under the jurisdiction of the Council;

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**"Municipal manager"** means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"National Building Regulations and Building Standards Act"** means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

**"Occupier"**, in relation to any premises, means any person –

- a) occupying the premises;
- b) leasing the premises;
- c) who is not occupying the premises but is entitled to do so; or
- d) who manages the premises or a business on the premises on behalf of a person referred to in paragraph (a), (b) or (c);

**"Organ of state"** means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996);

**"Owner"**, in relation to any premises, means –

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

**"Permit"** means a public health permit issued by the Council in terms of the section 11;

**"Person"** means a natural person or a juristic person, and includes an organ of state;

**"Pest"** means any animal or mammal which may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches;

**"Potable water"** means water that complies with the requirements set out in SABS 241: Water for Domestic Supplies;

**"Premises"** means –

- a) any land without any buildings or other structures on it;
- b) any building or other structure and the land on which it is situated;
- c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or
- d) any vessel, vehicle or movable structure which is used for a scheduled use;

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

**"Public health"** means the mental and physical health and well-being of people in the municipal area;

**"Public health hazard"** means any actual threat to public health, and without limitation, includes –

- a) the circumstances referred to in section 5 (1);
- b) unsanitary conditions;
- c) circumstances which make it easier for a communicable disease to spread;
- d) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- e) circumstances which allow pests to infest any place where they may affect public health;

**"Public health nuisance"** means the use of any premises or place in a manner which creates conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of Schedule 1;

**"Public place"** means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;

**"Scheduled use"** means a use listed in Schedule 1.

Unless the context otherwise indicates, any word or expression which is defined in any Chapter, has the same meaning wherever it is used in these By-laws.

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

**2. Purpose**

The purpose of these By-laws is to enable the Council to protect and promote the long term health and well-being of people in the municipal area by -

- a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can –
  - (i) manage and regulate activities that have the potential to impact adversely on public health; and
  - (ii) require premises to be properly maintained and managed; and
- b) defining the rights and obligations of the Council and the public in relation to this purpose.

**CHAPTER 2  
PUBLIC HEALTH**

***Part 1: Public health principles***

**3. Principles**

- a) Every person has a constitutional right to an environment that is not harmful to his or her health or well-being and to have access to sufficient water and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- b) The risk of a public health hazard occurring, continuing or recurring must be eliminated wherever reasonably possible, and if it is not reasonably possible to do so, it must be reduced to a level acceptable to the Council.
- c) Any person who owns or occupies premises in the municipal area must ensure that it is used for and maintained in a manner that ensures that no public health hazard or public health nuisance occurs on the premises.

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- d) Any person who wishes to undertake an activity which creates a risk to public health that is more than trivial or insignificant must –
  - i) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
  - ii) bear the costs of taking those measures and of any reasonable costs incurred by the Council in ensuring that the risk is eliminated or reduced to an acceptable level.
- e) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that –
  - avoids creating a public health hazard or a public health nuisance;
  - does not make it easier for any human or animal disease to spread;
  - does not give rise to unsanitary or unhygienic conditions;
  - prevents unsafe food or drink from being eaten or drunk;
  - avoids creating conditions favourable for infestation by pests; or
  - wherever reasonably possible, improves public health in the municipal area.
- f) In dealing with matters affecting public health the Council must –
  - adopt a cautious and risk-averse approach;
  - prioritise the collective interests of the people of the municipal area, and of South Africa, over the interests of any specific interest group or sector of society;
  - take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;
  - adopt a long-term perspective that takes account of the interests of future generations; and
  - take account of, and wherever possible without compromising public health, minimise any adverse effects on other living organisms and ecosystems.

#### 4. Application of principles

- a) The public health principles set out in section 3 must be considered and applied by any person –
  - exercising a power or function or performing a duty under these By-laws;
  - formulating or implementing any policy that is likely to have a significant effect on, or which concerns the carrying on of activities likely to impact on, public health in the municipal area;
  - or exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health in that area.

### **Part 2: Public health hazards and public health nuisances**

#### 5. Public health nuisances

- 5.1 An owner or occupier of premises creates a public health nuisance if he or she causes or allows –
  - a) any premises or part thereof to be of such a construction or in such a state as to be offensive, injurious or dangerous to health;
  - b) any street, stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, water-closet, earth closet, pail closet, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap to be so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;
  - c) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
  - d) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;

- e) any public building to be so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
- f) any dwelling to be occupied without proper and sufficient supply of potable water within a reasonable distance;
- g) any factory or industrial or business premises not to be kept in a clean state and free from offensive smells arising from any drain, water closet, earth-closet, urinal or any other source, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gas, vapour, dust or other impurity generated, or so overcrowded or so badly lighted or ventilated, as to be injurious or dangerous to the health of those employed therein or thereon;
- h) any factory or industrial or business premises to cause or give rise to any smell or effluvium which is offensive or injurious or dangerous to health;
- i) any building, room or structure to be used wholly or partly by a greater number of persons than will allow less than 11,3 m<sup>3</sup> of free air space and 3,7 m<sup>2</sup> of floor space for each person aged 10 years or more and 5,7 m<sup>3</sup> of free air space and 1,9 m<sup>2</sup> of floor space for each person less than 10 years of age;
- j) any other activity, condition or thing declared to be a nuisance by the Minister in terms of the National Health Act, 2003.

## 5.2 Nuisance Prohibited

- a) No person shall by his default or sufferance cause or permit a nuisance to exist on any premises and every owner and every occupier of any nuisance shall at all times maintain such premises clean and free from any nuisance.
- b) No person shall conduct himself in such a manner as is liable to be injurious or dangerous to health or to create any state or condition of premises, which is injurious or dangerous to health.

## 5.3 Entry and inspection of nuisance

- a) An environmental health officer or other official of the Council duly authorized thereto may enter and inspect, or make enquiries on any premises with a view to ascertaining the existence or cause of any nuisance thereon or in connection therewith.
- b) The Council may do such work as may be necessary for ascertaining the existence or cause of such nuisance and remedying the same and may recover from the owner or occupier of the premises or from the author of the nuisance, the amount of such owner or occupier or author shall on demand, refund amount to the Council.

## 5.4 Procedure for abatement of nuisance.

- a) Whenever a nuisance exists or has existed and is liable to recur on any premises, the Council may serve a notice either upon the author of the nuisance or upon the owner or occupier of the premises on which the nuisance exists or has existed and is liable to recur, requiring him to remove or abate the nuisance and to do such work (with or without specifying the nature thereof) within a reasonable time to be specified in the notice, as is necessary for the removal or abatement and prevention of recurrence of the nuisance, as the case may be, provided that-
  - (i) where the nuisance arises from defect of a structural character or
  - (ii) where the premises are unoccupied, the notice shall be served on owner;
  - (iii) where the person causing the nuisance cannot be found and such nuisance does not exist by the act or default of sufferance of the occupier or owner of the premises, the Council may itself take such steps as may be necessary to abate or remove the nuisance or prevent the recurrence thereof.
- b) where any person upon whom such notice has been served fails to comply with the terms thereof, the Council may enter upon the premises to carry such work as may be necessary for the removal or abatement and the prevention of recurrence of the nuisance, as the case may be. The Council may recover the cost incurred by it in carrying out such work from a person shall, on demand refund such amount to the Council.

- c) Where it appears that a nuisance existing within the municipality has been caused either wholly or in part by the act or default of some person outside the municipality, the provisions of this section shall mutatis mutandis apply to such person in respect of such act or default.

## 5.5 Pest control

- 1) An owner or occupier of premises creates a public health nuisance if -
  - a) the premises are maintained in a manner that attracts or harbours rodents or other pests, or is conducive to the breeding thereof;
  - b) flies are being attracted to, or can breed on, the premises, in significant numbers because -
    - (i) insufficiently rotted manure or any other organic material is being kept or used; or
    - (ii) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies;
  - c) mosquitoes can breed in significant numbers on the premises because -
    - (i) containers in which mosquitoes can breed, such as tyres, bottles, crockery, and tins, have been left or are kept on the premises;
    - (ii) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
    - (iv) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
    - (iv) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations, wells, swimming pools or any other stagnant water source on the premises.
- 2) The following measures are approved measures for the purposes of subsection (1)(c)(iv) -
  - a) draining accumulated water at least once every seven days;
  - b) covering accumulated water with oil at least once every seven days; and
  - c) in the case of wells, providing a mosquito-proof cover and a pump.

## 5.6 Air pollution

- 1) An owner or occupier of premises creates a public health nuisance if-
  - a) any waste on the premises is burned outside except in an approved appliance;
  - b) ash, grit, soot or smoke is emitted from any chimney or appliance or from any other means on the premises in a manner or quantity that is sufficient to have an adverse impact on public health;
  - c) the erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact on public health; or
  - d) Any dust is generated on, and emitted from the premises due to any activity or process and discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact on public health.

**5.7 Premises to be kept clean and free from unsightly accumulations**

- 1) no person shall fail to keep any premises owned or occupied by him clean and free from filth, debris, rubbish, glass, paper, rags, tins, timber, old motor wrecks, old chassis of motor vehicles, old parts of motors, old motor tyres, weeds or undergrowth which is unsightly or is likely to become a nuisance or injurious to health or to cause an annoyance to the inhabitants of the neighbourhood.
- 2) If any owner or occupier fails to comply with the provisions of subsection (1), the Council may itself after 21 days, of issuing a written to such owner or occupier, clean such premises at the cost of the owner or occupier.

**6. Duty to report public health hazards**

- 1) The owner or occupier of premises who knows of a public health hazard on those premises, must within 24 hours of becoming aware of its existence –
  - (a) eliminate the public health hazard; or
  - (b) if the owner or occupier is unable to comply with paragraph (a), take reasonable steps to reduce the risk to public health and forthwith report the existence of the public health hazard to the Council in writing.

**7 Prohibition on causing public health nuisances**

- 1) No person may cause a public health nuisance anywhere in the municipal area.
- 2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on those premises.

**CHAPTER 3  
POTENTIALLY HAZARDOUS USES OF PREMISES AND ENFORCEMENT**

**Part 1: Potentially hazardous uses****8. Duty to list potentially hazardous uses**

If the Council reasonably believes that any premises have been, or are likely to be, used for a purpose or in a manner that has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level, the Council must list the activity concerned in Schedule 1 and must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

**9. Scheduled uses**

- a) Any person who uses premises in a manner or for a purpose listed in Schedule 1 must comply with every provision specified in the Chapter of these By-laws relating to that use, unless that person has been granted an exemption in terms of section 10 from complying with any such provision.
- b) Any person who uses premises in a manner or for a purpose that is listed in Part A of Schedule 1, must obtain a permit in terms of section 11 before commencing that use and must comply with the terms and conditions of that permit.

**10. Exemption certificates**

- a) Any person who wants to undertake a scheduled use on any premises but wishes to be exempted from complying with any requirement of these By-laws relating to the use concerned, may apply to the Council in accordance with section 13 for an exemption certificate.



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- b) The Council may grant an exemption certificate, subject to such conditions as it may impose, if an environmental health officer is satisfied that –
  - the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant requirement of these By-laws; and the scheduled use in respect of which the exemption is required, is not likely to cause a public health hazard or a public health nuisance.

#### 11. Public health permits

- a) Any person who wants to undertake a scheduled use that is listed in Part A of Schedule 1, must apply to the Council in accordance with section 13 for a public health permit.
- b) The Council may issue a public health permit to the owner or occupier of any premises, if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.
- c) A public health permit –
  - must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council;
  - may exempt the permit holder from complying with any relevant provision of these By-laws, if the Council reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant provision of these By-laws; and
  - may approve any measure or material in connection with the activity authorised by the permit that must be approved in terms of these By-laws.

#### 12. Approval of measures, objects and materials

- a) The Council may approve any object or material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.
- b) An object, material or measure referred to in paragraph (a) may be approved by the Council in –
  - a public health permit; or
  - guidelines prescribed by the Council in terms of paragraph (c).
- c) The Council may publish guidelines in the Provincial Gazette which describe –
  - appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
  - the circumstances in which taking these measures or using these objects or materials are acceptable to the Council.

#### 13. Application procedure

- a) Any person who wants to obtain an exemption certificate or a permit must apply to the Council in writing in a form prescribed by the Council, prior to undertaking the scheduled use concerned.
- b) When the Council receives an application contemplated in paragraph (a), it must ensure that the relevant premises concerned are inspected by an environmental health officer as soon as reasonably possible.

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- c) Before deciding whether or not to approve an application contemplated in paragraph (a), the Council –
  - must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are used for the scheduled use concerned, have been consulted and had an opportunity to make representations; and
  - may require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.
- d) In deciding whether or not to issue an exemption certificate or a permit, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in section 3.

#### **14. General terms applicable to certificates and permits**

- a) An exemption certificate or a permit–
  - is not transferable from one person to another; and
  - applies only to the premises specified in that certificate or permit.
- b) Every exemption certificate or permit must–
  - specify the address and other relevant details regarding the location of the premises concerned;
  - describe the premises concerned;
  - describe the activity concerned;
  - specify terms and conditions imposed, if any; and
  - indicate when it expires.
- c) An applicant must pay a prescribed fee, if determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany the application.
- d) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee has been paid.

#### **15. Suspension, cancellation and amendment of exemption certificates and permits**

- a) An environmental health officer may by written notice to the holder of an exemption certificate or permit, suspend, amend or cancel that certificate or permit.
- b) An environmental health officer may suspend or cancel an exemption certificate or permit with immediate effect if –
- c) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; or
- d) the holder of such certificate or permit fails to comply with a compliance notice contemplated in section 32 of the Rationalisation of Local Government Affairs Act, in which is stated that such certificate or permit may be suspended or cancelled without further notice if the holder fails to comply with that notice.
- e) An environmental health officer may suspend or cancel an exemption certificate or permit after having given the holder thereof a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if –
  - the environmental health officer reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
  - the holder of such certificate or permit contravenes or fails to comply with any relevant provision of these By-laws.

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- f) An environmental health officer may amend an exemption certificate or permit by endorsing such certificate or permit or by written notice to the holder thereof, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the exemption certificate or permit concerned was issued.

**Part 2: Enforcement, remedial work and costs**

**16. Demolition orders**

- 1) If the Council believes that a public health hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions of any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises concerned, or from both.
- 2) The Council may not apply to court in terms of subsection (16.1) unless it has given the owner and the occupier of the premises not less than 14 days' notice in writing of its intention to make the application and has considered any representations made within that period.

**17. Municipal remedial work**

- 1) The Council may, subject to the provisions of any other law, enter any premises and do anything on the premises that it reasonably considers necessary –
  - to ensure compliance with these By-laws or with any compliance notice issued in terms of section 32 of the Rationalisation of Local Government Affairs Act;
  - to reduce, remove or minimise any significant public health hazard; or
  - to reduce, remove or minimise any public health nuisance.

**18. Cost orders**

- 1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 16 from any person who was under a legal obligation to take those measures, including –
  - a person on whom a compliance notice referred to in section 17(a) that required those steps to be taken, was served;
  - the owner or occupier of the premises concerned; or
  - any person responsible for creating a public health hazard or a public health nuisance.
- 2) The municipal manager or his designate may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (18.1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

**CHAPTER 4:  
SANITARY SERVICES**

**19. Compulsory connection to municipal sewage system**

Every owner of premises to which a municipal sewage service is available, must ensure that all waste water drainage pipes from any bath, wash-hand basin, toilet, shower or kitchen sink is connected to the municipal sewer in an approved manner.

**20. Prohibition against obstruction of sanitary services**

No person may prevent, obstruct or interfere with any sanitary service provided by the Council.

**21. Requirements in respect of toilet facilities**

No person being the owner or occupier of any building or premises shall fail to provide in such a building or premises, the following toilet facilities which complies with the provisions of the National Building regulations and Building Standards Act;

- a) for dwellings, hotels, boarding houses, apartments, tenements, hostels and boarding schools, not less than one water closet for every multiple or portion thereof of fifteen persons residing or employed in such premises.
- b) for offices, workshops, factories, warehouses, shops, stores and other premises not elsewhere provided for in this section, not less than one water closet for every multiple or portion thereof of fifteen persons for whom accommodation is provided in or about such premises.
- c) for public buildings, bioscopes, theatres, assembly and amusement halls or other meeting places, not less than one water closet for every multiple of 200 persons or portion thereof for whom accommodation is provided in or on such premises with a minimum of one water closet for each sex and one single stall urinal for every fifty or less males of each class.
- d) for public houses, bars, beer halls, restaurants, tea-rooms, eating houses and billiard rooms, not less than one water closet and one urinal for males and one water closet for females.
- e) for schools:
  - i) for boys –
    - 100 pupils: not less than 3 water closets or 3 meter urinal space with two water closets.
    - 200 pupils: not less than 4 water closets or 4.5 meter urinal space with two extra water closets.
    - 300 pupils: not less than 5 water closets or 6 meter urinal space with 2 extra water closets.
    - For each extra 100 pupils, not less than 4 water closets and 1.5 meter urinal space with one extra water closet.
  - ii) for girls – not less than one water closet for every 20 pupils.

**22. Toilets for workers**

Every contractor must provide his or her workers with toilet facilities as prescribed by the National Building Regulations and Building Standards Act.

**23. Prohibition against use of a bucket toilet under the same roof as a dwelling**

No person may provide, erect, retain or use any bucket toilet inside, or under the same roof, as a dwelling.

**24. Condition of toilets, urinals, backyards and refuse areas**

Every owner or occupier of any premises must keep every backyard, refuse area, toilet, and urinal in a sanitary condition and good state of repair.

**25. Separate storage of urine**

- 1) Any owner or occupier required by the Council to provide for the separate storage of urine, due to the size, extent of occupation or use of any premises, must comply with any notice issued by the Council calling on him or her to provide an adequate urine tank or an adequate number of urine buckets on the premises.
- 2) Every owner or occupier referred to in subsection (25.1) must use the urine tank or urine bucket exclusively for the reception of urine.

**26. Provision of tank for waste liquids in areas without sewers**

- 1) Any owner of premises not connected to a public sewer or not provided with other adequate measures for the disposal of waste liquid, must provide the premises with a tank big enough to contain the slops, bath water or other waste water produced on the premises during a period of 48 hours.
- 2) Subject to the provisions of subsection (26.3), premises referred to in subsection (26.1), must be equipped either with –
  - an overhead tank placed in a way that its contents can be gravity fed into the Council's waste removal vehicles; or
  - an adequate filter, pump and indicator, with outlet pipes constructed and placed in a way that the tank may be easily emptied and cleansed.
- 3) The provisions of subsection (26.2) do not apply if –
  - adequate arrangements have been made for dispersing waste water produced on the premises, other than urine, over land associated with the premises concerned; and
  - the waste water is dispersed in a way that will not create a public health nuisance.

**27. Pumping of contents of underground tank to surface tank**

Any occupier of premises on which both underground and overhead tanks are provided for the storage of waste water, must pump the contents of the underground tank to the overhead tank immediately prior to the overhead tank being emptied by the Council.

**28. Blocked or defective outlet pipes**

Every owner or occupier of premises must keep any drainage system free from obstruction and in a good condition.

**29. Prohibition against urine in slops tanks**

No person may discharge or allow any urine or excrement to be discharged into a slops tank situated on any premises.

**CHAPTER 5  
PRIVATE SEWAGE WORKS**

**30. Permit for provision of service for the removal of human excrement or urine**

No person may provide any service for the removal or disposal of human excrement and urine on any premises except in terms of a permit authorising that service.

**31. Permit for installation of sewage works**

No person may, on any private premises, install, alter, re-site, operate or maintain any septic tank, filter installation or other works for the disposal of sewage, except in terms of a permit authorising that activity.

**32. Maintenance of sewage works**

Any person operating a sewage works must ensure that it is maintained in a sanitary condition and good state of repair at all times.

**33. Disposal of sewage, sewage effluent and wastewater without causing a public health nuisance and/or hazard**

No person may dispose of sewage or waste water from any bath, wash-hand basin, toilet, shower or kitchen sink in a way or in a location that may -

- cause dampness in or on any premises;
- endanger the quality of any water supply, surface water, stream or river; or
- create a public health nuisance and/or hazard.

**34. Compulsory use of Council's sewage removal service**

Every occupier of premises must use the sewage removal service prescribed by the Council for those premises.

## **CHAPTER 6 WATER**

**35. Definitions**

In this Chapter, unless the context otherwise indicates -

**"Domestic consumption"** in relation to water, means the use of water for –

- a) human consumption;
- b) preparing or manufacturing food or drink for human consumption;
- c) cleaning vessels or utensils used in the preparation or manufacture of food or drink for human consumption; or
- d) any other domestic purpose.

**"Effluent"** means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance.

**36. Pollution of sources of water supply**

No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage in a way that creates a public health nuisance or a public health hazard.

**37. Dangerous wells, boreholes and excavations**

Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises –

- a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a public health nuisance or public health hazard; and
- b) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a public health nuisance or a public health hazard.

**38. Provision of adequate water supply**

Every owner of premises must provide every resident on the premises with an adequate and readily available potable water supply at all times.

**39. Use of water from sources other than the municipal supply**

No person may use, or permit to be used, any water obtained from a source other than the municipal water supply for domestic consumption, unless the water concerned has been approved for that purpose.

**40. Furnishing of particulars of the source of water**

- 1) Any owner or occupier of premises on which a well, borehole, spring, dam, river or other water source is located, the water of which is used for domestic consumption, must within 14 days of receiving a notice from the Council calling on him or her to do so, provide the Council with all particulars of the water source reasonably available to the owner or occupier.
- 2) An owner or occupier of premises contemplated in subsection (40.1), must, if requested to do so by the Council, and at his or her own cost, furnish to the Council a certificate of analysis and bacteriological investigation issued by an analyst, as defined in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), in respect of any water supply on that premises used for domestic consumption.
- 3) If water from a borehole is used for domestic consumption, a certificate of analysis as contemplated in subsection (40.2), must be submitted to Council annually or at any time on request of an environmental health officer.

**41. Notice of the sinking or digging of boreholes or wells**

- a) No person may sink or dig, or cause or permit to be sunk or dug, a well or borehole, to obtain water, unless –
  - it is done so in accordance with any relevant law; and
  - he or she has given the Council at least 14 days' written notice of his or her intention to do so.
- b) The notice referred to in subsection (41)(a), must state the proposed location and the purpose for which the water is to be used.

**42. Storm water runoff from premises which may impact on public health**

- a) Every owner or occupier of premises must erect adequately designed, constructed and maintained hydraulic and hydrological structures on those premises –
  - to divert the maximum storm water runoff, which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years, from any part of the premises on which any waste, likely to create a public health nuisance, is or was handled, produced, stored, dumped or spilled;
  - to collect all polluted runoff water from any part of the premises on which waste, likely to create a public health nuisance is or was handled, produced, stored, dumped or spilled, for reuse, treatment or purification;
  - to separate all effluent from storm water systems;
  - to prevent the erosion or leaching of material from any slimes dam, ash dam and any dump or stock-pile on the premises, and to contain any eroded or leached material in the area where it originated;
  - to prevent any waste or waste water from entering any borehole, well, spring, vlei or water course; and

- to prevent any adverse impact on the quality of surface and ground water occurring, due to the location of any dump, stock-pile, dam, drain, canal, conduit, sewer or any other structure on the premises.
- b) An owner or occupier of premises –
  - must keep all water passages open and free of obstruction from matter which may impede the flow of water or effluent;
  - may not locate any dump within the one hundred year flood line of any water resource;
  - may not use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchment dam, or any embankment, road or railway in a way likely to create a public health nuisance;
  - must construct bund walls around any tank, or group of tanks, containing any substance that can create a public health nuisance, of a size that is capable of containing the volume of the largest tank in the event of any unlawful or accidental discharge from the tank or group of tanks; and
  - must clean any industrial surface area so as to prevent the pollution of storm water which may result in an adverse impact on the quality of any surface or ground water.

#### 43. Containment of waste water

Any dam, conduit or channel used for the containment of waste water must have a free board of at least 0.5 metres above the highest level of precipitation which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years.

### CHAPTER 7 OFFENSIVE TRADES

#### 44. Definitions

In this Chapter, unless the context otherwise indicates -

**"Effluent"** means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

**"Offensive trade"** means any business listed below or business which involves an activity listed below:

- a) panel beating or spray painting;
- b) operating a waste recycling plant including oil and petroleum product recycling;
- c) scrap yard or scrap metal dealing;
- d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling, tripe boiling or cleaning, skin storing, bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing, tanning or glue or size making;
- e) charcoal burning, brick burning, lime burning;
- f) manure making or storing or compost making;
- g) parchment making;
- h) manufacturing malt or yeast;
- i) cement works, coke-ovens or salt glazing works;
- j) sintering of sulphurous materials;
- k) viscose works;
- l) ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
- m) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, pyridine, liquid or gaseous sulphur dioxide or sulphur chlorides;



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- n) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide;
- o) or the refining or processing of petrol, oil or their products;

**"offensive trader"** means any person who owns, conducts or carries on an offensive trade.

#### 45. Permit requirement

No person may conduct an offensive trade in or on any premises, except in terms of a permit authorising such trade.

#### 46. Requirements for premises

No person may conduct an offensive trade in or on any premises unless -

- a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- f) an adequate supply of running potable water is provided;
- g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;
- i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may –
  - (i) discharge offensive or injurious effluent or liquid; or
  - (ii) decompose in the course of the work or trade;
- j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material;
- k) adequate sanitary fixtures are provided as prescribed in the National Building Regulations and Building Standards Act;
- l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 metres, is constructed around the premises;
- m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- n) all perimeter walls and gates adequately screen activities on the premises from public view; and
- o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- p) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- q) if no change-room has been provided in terms of paragraph (p) –
  - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.

**47. Duties of offensive traders**

Every offensive trader must -

- a) maintain the premises in a clean, hygienic and good condition at all times;
- b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
- d) prevent any waste accumulating on the premises; and
- e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of any material on the premises.

**48. Liquid refuse from bone and tripe boiling**

- 1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
- 2) The cooling process referred to in subsection (48.1), must take place in a manner that prevents the generation of any noxious and injurious effluent.

**49. Liquids, tanks and tubs in leather making**

Every fell-monger, leather dresser or tanner must -

- a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner;
- b) clean the entire tank or other receptacle every time it is emptied;
- c) clean every tub or other receptacle used to contain a solution of the material known as "pure".

**50. Storage of rags, bones and waste**

No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is -

- inhabited by people; or
- not adequately ventilated.

## **CHAPTER 8 HAIRDRESSING, BEAUTY AND COSMETOLOGY SERVICES**

**51. Definitions**

In this Chapter, unless the context otherwise indicates -

**"Body piercing"** means the piercing of the skin for the purpose of inserting any foreign object;

**"Cosmetology or beauty service"** includes, but is not limited to, any one or more of the following services:

- a) Manicure, pedicure, nail technology, or the application of artificial nails or nail extensions, whatever the substance used;
- b) eyebrow shaping and plucking including the application of false or artificial eyebrows or eyelashes and tinting of eyelashes;
- c) cosmetic and camouflage makeup of the face and its features, whether by permanent, semi permanent or temporary means;
- d) facial skin care;

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- e) removal of unwanted or superfluous hair from any part of the body by any means, other than shaving, including by means of waxing, chemical depilatories, electrical or mechanical means, whether or not any apparatus, appliance, heat, preparation or substance is used in any of these operations;
- f) body piercing and tattooing for cosmetic purposes;
- g) massaging;
- h) body bronzing by means of ultraviolet radiation or any similar method; or
- i) body contouring including all forms of slimming;

**“Hairdressing”** includes, but is not limited to, any one or more of the following services:

Shampooing and cleansing, conditioning and treating hair; chemical reformation of the hair including permanent waving, relaxing and straightening of the hair; hair colouring, including tinting, dyeing and colouring by means of permanent, semi-permanent or temporary means, including the use of colour rinses, shampoos, gels or mousses and lightening by means of tints, bleaches, highlights or high lifting tints or toners; hair cutting and shaping; barbering services including shaving and singeing of hair; or the adding to hair of natural and artificial hair and hair extensions, board work, pastiche, wig-making or the performing of any operation specified in paragraphs (a) to (e) on a wig or hairpiece to be worn by any person; or trichology and trichological treatment of the hair including the treatment of abnormalities and disorders of the hair;

**“Salon”** means any place where any or more of the following services are performed for gain:

- Hairdressing service;
- cosmetology or beauty service;
- body piercing and tattooing; or
- massaging service;

**“Salon service”** means any one or more or a combination of the practices or services generally and usually performed by a person rendering service in the hairdressing, cosmetology or beauty service industry including any massage, body piercing and tattooing service.

## 52. Permit requirement

No person may operate a salon except in terms of a permit authorising that activity.

## 53. Requirements for premises

No person may operate a salon on any premises which do not comply with the following requirements:

- a) Adequate lighting and ventilation, as prescribed in the National Building Regulations and Buildings Standards Act, must be provided;
- b) all shelves, fixtures and table tops on which instruments are placed must be constructed of an approved material that is durable, non-absorbent, and easy to clean;
- c) water and toilet facilities must be provided as prescribed in the National Building Regulations and Building Standards Act;
- d) adequate facilities, with a supply of running potable water, must be available for the washing of hair and hands;
- e) an approved system for the disposal of waste water must be provided;
- f) adequate storage facilities must be provided;
- g) the walls and floors must be constructed of a material that is easy to clean and which prevents cut hair from being dispersed; and
- h) the premises may not be used for the storage and preparation of food or for sleeping unless any area for that purpose is clearly separated by an impervious wall.

- i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
  - an adequate metal locker for every employee;
  - a wash-hand basin provided with a supply of running hot and cold potable water; and
  - an adequate supply of soap and disposable towels at every wash-hand basin;
- j) if no change-room has been provided in terms of paragraph (i) –
  - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.
- k) No person shall carry out any hair dressing activities on an open space.

#### **54. Duties of salon operators**

Any person operating a salon must –

- a) maintain the premises, tools, equipment and clothing in a hygienic and good condition at all times;
- b) equip the premises with an adequate means to disinfect and sterilise instruments and equipment that may come into direct contact with any customer's hair or skin;
- c) provide employees on the premises with approved protective clothing and equipment;
- d) collect all hair clippings and other waste in an approved container after every service;
- e) store or dispose of waste in an approved manner;
- f) adequately train any person working on the premises;
- g) not permit any animal on the premises unless it is a guide dog accompanying a blind person; and
- h) ensure that every person working in the salon complies with the requirements of this section and sections 55 and 56.

#### **55. Required minimum health standards for the operation of a salon**

Any person operating or employed in, a salon must take the following measures:

- a) Adequately disinfect the following instruments after each use:
  - Razors;
  - blades;
  - nail files;
  - scissors;
  - clippers;
  - hairbrushes;
  - combs;
  - bristle brushes;
  - metal clips; and
  - rollers;
- b) adequately sterilise the following instruments after each use:
  - any instrument used for body piercing or tattooing;
  - any instrument which has come in contact with blood or any other body fluid;
- c) wash and clean all plastic and cloth towels after each use;
- d) dispose of all disposable gloves or other disposable material after each use;
- e) wash all aprons and caps daily;
- f) wash his or her hands with soap and water or disinfectant before and after rendering each service to a client;
- g) wear disposable gloves when providing one of the following salon services:
  - any chemical service;
  - any hair implant;
  - body piercing; and
  - tattooing;
- h) wash all walls, floors, chairs and other surfaces in the premises at least once a day with a disinfectant or household detergent;

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- i) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated towels and towelling paper in an approved manner;
- j) store razors, blades, needles and other sharp instruments separately in a "sharp instrument" box;
- k) adequately treat any injury or wound which may occur on the premises;
- l) clean and disinfect all surfaces that have been contaminated by blood after each service; and
- m) keep an approved first aid kit on the premises at all times.

**56. Prohibition against the use of salon premises for other purposes**

- a) Any person operating a salon must ensure that the premises are used exclusively for that purpose.
- b) Any person who wants to prepare any beverage for customers on the premises of a salon, must provide a separate area, equipped with a facility for cleaning crockery and utensils, for that purpose.

**CHAPTER 9  
DRY-CLEANING AND LAUNDRY ESTABLISHMENTS**

**57. Definitions**

In this Chapter, unless the context otherwise indicates –

**"Dry-cleaning or Laundry business"** means any business in which clothes or other fabrics are cleaned with water or other solvents, or clothes or fabrics are ironed;

**"Dry-cleaning or Laundry receiving depot"** means premises used for the receipt, storage and dispatch of clothes or other fabrics in connection with a dry cleaning or laundry business.

**58. Premises for dry-cleaning or laundry businesses**

No person may conduct a dry-cleaning or laundry business on premises which do not comply with the following requirements:

- a) a work-room or area used for housing dry-cleaning machines, washing-machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 m<sup>2</sup> per person employed on the premises, must be provided;
- b) adequate separate areas for marking clean and dirty articles must be provided with -
  - (i) tables with an impervious surface;
  - (ii) adequate washable containers for dirty articles; and
  - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;
- c) a separate room or area with separate designated counters, with impervious surfaces, must be provided for the receipt and dispatch of articles;
- d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 mm above floor level;
- e) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- f) if no change-room has been provided in terms of paragraph (e) –
  - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area;

- g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
- h) separate toilets for males and females must be provided which comply with the provisions of the National Building Regulations and Building Standards Act;
- i) every toilet and change-room must be clearly gender designated;
- j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
- k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;
- l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and properly drained;
- m) the minimum height from floor to ceiling of any room or area must be 2,4 metres;
- n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
- o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
- p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
- q) a separate pre-rinsing area must be provided on any premises where nappies are laundered.

**59. Premises for dry-cleaning or laundry receiving depots**

No person may operate a dry-cleaning or laundry receiving depot on premises which do not comply with the following requirements:

- a) A separate room or area with a minimum width of two metres must be provided for the receipt and dispatch of articles;
- b) fifty percent of the floor space of the room referred to in paragraph (a) must be unobstructed;
- c) a wash-hand basin with a supply of running potable water must be provided;
- d) an adequate supply of soap and disposable towels must be provided at every wash-hand basin;
- e) all internal wall and ceiling surfaces must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
- f) all floor surfaces must be constructed of cement or other impervious material, brought to a smooth finish;
- g) lighting and cross-ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided;
- h) adequate washable containers for storing dirty articles must be provided;
- i) adequate quantities of hanging rails or impervious shelves for the storage of clean articles must be provided;
- j) adequate designated counters, with impervious surfaces, must be provided separately for the receipt and dispatch of dirty and clean articles; and
- k) an adequate metal locker must be provided for every person employed in the receiving depot.

**60. Premises for coin-operated laundries**

No person may operate a coin-operated laundry on premises which do not comply with the following requirements:

- a) separate toilet and hand washing facilities for the different sexes, as prescribed in the National Building Regulations and Building Standards Act, must be provided;
- b) an adequate area must be provided where ironing is done on the premises; and
- c) any machine on the premises must be installed in accordance with any applicable law.

## 61. General requirements for dry-cleaning and laundry businesses

Any person conducting a dry-cleaning or laundry business or in charge of premises on which a dry-cleaning, laundry or receiving depot exists, must,

- a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
- b) separate dirty articles from clean articles at all times, including when in transit;
- c) use a change-room solely for changing;
- d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times;
- e) keep protective clothing in a clean and sound condition at all times;
- f) store protective clothing in a locker when it is not being worn;
- g) affix the name and business address, in clear lettering, to the outside of any business vehicle;
- h) ensure that the premises are not directly connected to any food premises, new clothing shop, hairdresser or any other area from which contamination might occur;
  - i) comply with the requirements of the following legislation at all times:
    - (i) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); and
    - (ii) the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965);
- j) place all piping in the building, not chased into the walls, at least 100 mm away from all walls or floors and comply with the provisions of the National Building Regulations and Building Standards Act;
- k) insulate all steam piping with an adequate material; and
- l) dispose of all waste water in an approved manner.

## CHAPTER 10 SWIMMING POOLS AND SPA-BATHS

### 62. Definitions

In this Chapter, unless the context otherwise indicates –

**“Spa-bath”** means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing, excluding a spa bath situated at a private home which is not used for commercial purposes;

**“Spa-bath keeper”** means any person who owns or controls the operation of a spa-bath;

**“Swimming pool”** means a structure with a controlled water supply used for swimming or bathing, including a children's swimming and paddling pool, but excluding a swimming pool at a private home which is not used for commercial purposes;

**“Swimming pool keeper”** means any person who owns or controls the operation of a swimming pool.

### 63. Requirements for premises

No person may operate a swimming pool or spa bath in or on any premises which do not comply with the following requirements:

- a) readily accessible change-rooms, showers and toilet facilities must be provided separate for each sex in compliance with the National Building Regulations and Building Standards Act;
- b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act;
- c) the surface of the floor area surrounding any spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
- d) an approved chemical gas mask must be provided at the chlorinator installation;

- e) if so instructed in writing by an environmental health officer, an oxygen or air breathing apparatus must be provided; and
- f) an adequate number of refuse receptacles must be provided on the premises.

#### **64. Duties of spa-bath keepers**

Every spa-bath keeper must –

- a) keep the premises in a safe, clean and sanitary condition and in good repair at all times;
- b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- c) purify, treat and maintain the spa-bath water to an adequate quality level at all times;
- d) provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
- e) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- f) maintain a daily record of the spa-bath water quality.

#### **65. Duties of swimming pool keepers**

Every swimming pool keeper must –

- a) keep the premises in a safe, clean and sanitary condition at all times;
- b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- c) be qualified and proficient in life saving, rendering first aid, use of a resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of the swimming pool water;
- d) ensure that the swimming pool water is purified, treated and maintained to an adequate quality at all times;
- e) provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- f) be capable of undertaking routine tests on the water quality in the swimming pool and interpreting the tests results; and
- g) maintain a daily record of the swimming pool water quality.

#### **66. Water supply**

- 1) Unless the prior written approval of an environmental health officer has been obtained, no person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the water level in a swimming pool or spa-bath.
- 2) An environmental health officer must –
  - a) take samples of a swimming pool or spa-bath water, at intervals which he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water;
  - b) submit the samples to an analyst authorised in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 to conduct an analysis.

#### **67. Safety of water**

Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:

- a) it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders or steps and gutters must be free from slime and algae;
- b) the pH value of the water must be not less than 7 and not greater than 8;
- c) where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
- d) if a disinfectant other than chlorine is used, the residual level must be equivalent



- in effect to the requirements of paragraph (c);
- e) the total viable bacteriological count of any sample submitted for analysis, must not exceed 100 organisms per ml of water; and
- f) *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

#### 68. Order and behaviour

No person may –

- a) interfere with a spa-bath keeper or swimming pool keeper in the execution of his or her duties;
- b) allow any dog or other pet belonging to him or her or under his or her care to enter or to remain within the premises of a spa-bath or swimming pool, unless it is a guide dog accompanying a blind person;
- c) enter or remain in any premises of a spa-bath or swimming pool if he or she knows or suspects that he or she may be suffering from any communicable or contagious disease; and
- d) urinate, defecate, spit or blow his or her nose in a spa-bath or swimming pool.

### CHAPTER 11 NURSING HOMES

#### 69. Definitions

In this Chapter, unless the context otherwise indicates –

**“General practice”** when used to describe the purpose for which a nursing home is used, means all medical, gynaecological and surgical cases, excluding maternity cases;

**“Maternity home”** means any nursing home, or part thereof, dealing exclusively with maternity cases;

**“Nursing home”** means any premises where the nursing or care of patients is carried on for gain, but does not include –

- a) any institution owned or controlled by the Government of the Republic of South Africa or a Provincial Administration; or
- b) any consulting room, dental surgery or home for aged persons.

#### 70. Use of premises

- 1) Any person who operates a nursing home may use it for the purpose of either a maternity home or for general practice, but not for both those functions, unless –
  - a) the nursing home carried on business prior to the promulgation of these By-laws; or
  - b) the nursing home –
    - (i) complies with the requirements of subsection (2);
    - (ii) is in possession of a permit authorising that activity; and
    - (iii) complies with the requirements of any relevant Town Planning Scheme.
- 2) Any person who operates a nursing home may use the premises concerned as a maternity home and for general practice, subject to compliance with the following requirements:
  - a) One part of the premises must be set aside exclusively as a maternity area for maternity cases and another part must be set aside exclusively as a general practice area for general practice;
  - b) No room, passage, stairway, hall, corridor, lift, external entrance or exit or other portion of the premises may be used in common for any purpose whatsoever, except those that are used for the purpose of –
    - laundries;
    - central sterilising unit, including ancillary units and stores;

- pathological laboratories;
  - kitchens, sculleries, washing-up facilities, larders and any associated
  - storage space;
  - storage space for unused or adequately sterilised stores;
  - an administrative office other than an office used to admit and discharge
  - patients;
  - central pharmaceutical units;
  - mortuaries; and
  - workshops;
- c) access to any common area may not be gained from the maternity area by going through the general practice area, and vice versa;
  - d) any common area leading from the two exclusive areas must be adequately ventilated;
  - e) there may not be any direct means of access between the two exclusive areas;
  - f) there may not be any opening, aperture or gap in any common wall dividing the two exclusive areas which could allow air to pass from one area to the other;
  - g) every floor of one exclusive area, which is located immediately above the other exclusive area, must be made of reinforced concrete or other impervious material;
  - h) no member of the nursing or ward domestic staff who has performed duties in one exclusive area may, within 24 hours thereafter, perform duties in or enter the other exclusive area in an official capacity or in uniform;
  - i) the uniforms and protective clothing worn by persons employed in the common area and the two exclusive areas, must be clearly distinguishable from one another;
  - j) no furniture, equipment, utensils, apparatus, linen, blankets or any other articles located in a common area, may be taken to any exclusive area until they have been adequately sterilised;
  - k) all furniture, equipment, utensils, apparatus and other articles, excluding linen, blankets, kitchen utensils, catering equipment, crockery, medical, surgical instruments and other incidental items, used in or intended for use in the two exclusive areas, must be clearly marked to indicate in which of the those areas they are used or originated;
  - l) no article identified for use in the one exclusive area may be taken into or kept in the other exclusive area unless a certificate is obtained from an environmental health officer that the article has been adequately sterilised;
  - m) all articles issued from the common area for use in the two exclusive areas, must be returned to the common area;
  - n) no article issued for use in one exclusive area may be used in the other exclusive area until it has been returned to the common area for adequate sterilisation;
  - o) no patient from the maternity area may be accommodated, nursed or cared for in the general practice area, and vice versa; and
  - p) no person shall bring any animal, poultry or bird onto the premises.

#### 71. General requirements

No person may operate a nursing home which does not comply with the following requirements:

- a) Separate residential accommodation must be provided for staff required to reside on the premises;
- b) separate bathrooms and toilets must be provided in accordance with section 85(b) and (c), for each of the following classes of person:
  - (i) Patients;
  - (ii) Nursing staff; and
  - (iii) Domestic staff;
- c) the bathrooms and toilets must be designated for each sex and must be laid out in a manner that satisfies an environmental health officer;
- d) an adequate supply of running hot and cold potable water, drawn from the Council's main supply, must be provided;

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- e) a water-borne sewerage system connected to the Council's sewer, a septic tank or other disposal system approved by the city engineer of the Council and an environmental health officer in writing, must be provided;
- f) adequate accommodation for the administrative purposes of the nursing home must be provided;
- g) adequate storage accommodation for articles that are reasonably necessary to store on the premises, must be provided;
- h) an adequate kitchen and scullery, having regard to the size and layout of the nursing home, must be provided;
- i) adequate accommodation and facilities for the storage and refrigeration of food must be provided;
- j) a separate linen room, containing adequate cupboards or shelves for the storage of clean linen, must be provided;
- k) an incinerator, adequate for the complete incineration of any combustible article placed in it, must be provided;
- l) any laundry located on the premises, must comply with the provisions of these By-laws;
- m) no autopsy may be performed on the premises, other than in a room which is used solely for the reception of dead bodies and is constructed as follows:
  - (i) The room must be divided from any other room by a solid wall;
  - (ii) the floor and walls must be constructed of an impervious material brought to a smooth finish;
  - (iii) all tables in the room must have impervious tops;
  - (iv) a sink, supplied with hot and cold running potable water, must be provided; and
  - (v) an adequate drainage system must be provided;
- n) adequate facilities must be provided for the hygienic handling and disposal of flowers, vases and other related materials;
- o) fire prevention equipment, which in the opinion of the chief fire officer of the Council is adequate, must be provided and maintained on the premises;
- p) a fire escape, the stairs of which are a minimum of 1 metre wide with landings at each turning point measuring a minimum of 2.2 metres by 1.7 metres, must be affixed to the premises;
- q) the premises must provide adequate accommodation for the storage of any spare equipment, including particularly heavy equipment and gas cylinders, in a manner that will not obstruct any passages or exits to the premises; and
- r) an emergency stand-by electrical plant must be provided which is adequate to provide an immediate alternative supply of electricity to –
  - (i) each operating theatre throughout the period of any power failure; and
  - (ii) any part of the nursing home to ensure the continued operation, throughout the period of the failure, of all electrically operated appliances and equipment which, in the opinion of an environmental health officer, are or may be life saving.

## 72. Floor requirements

No person may operate a nursing home, unless the following are provided on each floor:

- a) A duty-room equipped in accordance with section 83;
- b) adequate sluicing facilities, taking into account the number of beds on the floor;
- c) a dressing room fitted with adequate sterilising equipment, containing impervious shelves for the storage of sterile drums and other equipment, and used exclusively for –
  - (i) the sterilisation or preparation of instruments, dressings and other equipment; and
  - (ii) the treatment of patients;
- d) a ward kitchen equipped with a sink with hot and cold running potable water, a refrigerator, a stove and cupboards for crockery and cutlery: Provided that a floor does not require a separate ward kitchen if all the needs of that floor are adequately catered for by the premises' main kitchen;
- e) an adequate room or cupboard for the storage of clean linen;
- f) a portable receptacle for the collection of soiled linen;

- g) a room reserved exclusively for sorting and handling linen: Provided that such separate linen rooms are not required, if the entire premises are adequately served by one such room;
- h) a room for the storage of any spare equipment including heavy equipment and gas cylinders; and
- i) where accommodation is provided for children under the age of six years, a separate milk room for the storage and preparation of milk and other children's foods, unless a ward kitchen adequately fulfils this purpose.

### 73. Maintenance and construction

No person may operate a nursing home in or on premises which do not comply with the following requirements:

- a) The premises must be kept in good and hygienic condition at all times;
- b) all walls must be constructed of brick, stone, concrete or other impervious material;
- c) except where glazed or glass bricks, glazed tiles or other similar material with a hard and smooth surface have been used, the internal walls of operating theatres, sterilizing rooms, wards, labour wards, scrubbing-up rooms, dressing-rooms, duty-rooms, kitchens, sculleries, pantries, food store-rooms, milk rooms, bathrooms, toilets, sluice-rooms, wash-houses and mortuaries must be –
  - (i) plastered and brought to a smooth finish; and
  - (ii) covered with a light-coloured washable paint, adequate plastic finish or other approved material;
- d) the angles formed between each floor and wall, and between two walls, in operating units, wards, labour wards, sluice-rooms, milk rooms, bathrooms, toilets and kitchens, must be rounded;
- e) the floors of wards must be constructed of concrete, hardwood or other durable material, brought to a smooth finish and maintained in this way at all times;
- f) the floors of operating theatres, sterilizing rooms, wards, including labour wards, scrubbing-up rooms, dressing-rooms, duty-rooms, kitchens, sculleries, pantries, food store-rooms, milk rooms, bathrooms, toilets, sluice-rooms, wash-houses and mortuaries must be made of cement concrete or other impervious material brought to a smooth finish and maintained in this way at all times;
- g) all ceilings must be constructed so as not to attract dust; and
- h) the ceilings of operating theatres, labour wards, sterilizing rooms and scrubbing-up rooms must have a hard, smooth and washable surface.

### 74. Ventilation

No person may operate a nursing home which does not comply with the provisions of the National Building Regulations and Building Standards Act with regard to adequate light and ventilation.

### 75. Ward requirements

No person may operate a nursing home which does not comply with the following requirements in respect of each ward:

- a) All ceilings must have a minimum height of three metres, except in the case of existing nursing homes where the height may be a minimum of 2.6 metres as long as the floor area of the ward is sufficient to provide 22 m<sup>3</sup> of air space for every bed;
- b) the size of the floor area must be such as to provide a minimum of 8, 5 m<sup>2</sup> of floor space for every bed;
- c) no bed may be placed –
  - (i) within 750mm of any wall on the side of a bed or wall fixture, other than a wash-hand basin or central-heating radiator; or
  - (ii) within one metre of any other bed;

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- d) no space left between beds in terms of paragraph (c), may be obstructed in any manner;
- e) the following must be displayed on the outside of each ward door:
  - (i) The number of the ward; and
  - (ii) the number of patients that may be accommodated in the ward;
- f) an adequate number of easily accessible wash-hand basins, complying with the following requirements, must be placed inside each ward:
  - (i) The basins must be of adequate size for scrubbing up; and
  - (ii) the basins must be provided with an adequate supply of hot and cold running potable water;
- g) no room, any of the windows of which are situated less than 1.5 metres from an object which obstructs its light, may be used as a ward; and
- h) every ward must have a door opening directly onto a passage.

## 76. Maternity homes

Any person who operates a maternity home must, in addition to the requirements for nursing homes, comply with the following requirements:

- a) One or more rooms, as an environmental health officer may think fit to avoid overcrowding and congestion, must be set aside for each of the following purposes:
  - (i) a nursery;
  - (ii) a labour ward;
  - (iii) a delivery ward; and
  - (iv) a milk room;
- b) every delivery ward must have a scrubbing-up basin, with a supply of hot and cold running potable water, the taps of which are designed for operation by elbow or by foot;
- c) newborn infants must be kept in the nursery except when brought to their mothers for feeding or for some other specific purpose, except that the infants may be kept with their mother at all times if there are no more than two maternity cases in a ward;
- d) the floor area of any delivery ward in which a maximum of two maternity cases are accommodated, must provide a minimum of 10 m<sup>2</sup> for each bed and crib;
- e) one separate crib for each baby, each with a minimum of least 2 m<sup>2</sup> of floor space, must be provided in every nursery;
- f) the cribs must be situated as follows:
  - (i) A minimum of 750 mm from any other crib; or
  - (ii) a minimum of 300 mm from any wall on the side of the crib or wall fixture, excluding a wash-hand basin or a central-heating radiator;
- g) a baby's bathing and changing-room, fitted with adequate baby bathing equipment, must adjoin every nursery; and
- h) every milk room must be provided with –
  - (i) a sink made of porcelain, enamel or stainless steel and a wash-hand basin with hot and cold running potable water;
  - (ii) a refrigerator;
  - (iii) tables with impervious tops; and
  - (iv) adequate equipment for sterilising utensils used in the handling of milk.

## 77. Operating theatres

Any person who operates a nursing home which receives patients in need of surgical treatment must provide an operating theatre used exclusively for surgical operations, which complies with the following requirements:

- a) Every operating theatre must be provided with –
  - (i) a scrubbing-up room or bay, which must immediately adjoin the operating theatre;
  - (ii) a sterilising room;
  - (iii) a theatre sluice-room; and
  - (iv) a recovery room;

- b) the sterilising room, which adjoins an operating theatre, must be separated by a swing door or other approved type of door;
- c) the sluice-room, sterilising room and recovery room must be reasonably accessible from the operating theatre; and
- d) one sluice-room, sterilizing room and recovery room may be used to serve more than one operating theatre.

#### 78. Ablution and sanitary requirements

Any person who operates a nursing home must ensure that the premises complies with the following requirements:

- a) All bathrooms must be fitted with porcelain enamel or cast-iron enamel baths with a supply of hot and cold running potable water;
- b) the following number of baths and toilets must be provided for patients:
  - (i) In a maternity home –  
the ratio of toilets to patients must not be less than 1:8; and  
the ratio of bathrooms to patients must not be less than 1:12;
  - (ii) in any other nursing home –  
the ratio of toilets to patients must not be less than 1:12; and  
the ratio of bathrooms to patients must not be less than 1:12;
- c) the following number of baths and toilets must be provided for nursing staff, domestic staff and other employees:
  - (i) the ratio of each of toilets and bathrooms to nursing and domestic staff must not be less than 1:12 respectively; and
  - (ii) the ratio of each of toilets and bathrooms or shower cubicles to other employees must not be less than 1:12 respectively;
- d) in calculating the number of toilets in terms of paragraph (b), no account must be taken of any toilet contained in a bathroom; and
- e) every toilet must be equipped with an adequate flushing system maintained in proper working order.

#### 79. Sluice-rooms

Any person who operates a nursing home must ensure that every sluice room located on the premises –

- a) is a minimum of 7 m<sup>2</sup> in area and has a minimum width of 2.2 metres;
- b) opens into a well-ventilated passage and is accessible to every ward which it serves;
- c) has a sluice-pan of approved design and equipped with an adequate flushing system maintained in proper working order;
- d) has smooth and impervious shelves or other adequate apparatus for the storage of bed-pans or other sanitary utensils;
- e) has, in the case of a maternity home, adequate apparatus for sterilizing bed-pans by steam or boiling water and in the case of a nursing home carrying on a general practice, adequate apparatus for cleaning bed-pans;
- f) has an impervious receptacle, with a tight fitting lid and of adequate size, for the reception of soiled dressings; and
- g) is used only for –
  - (i) the storage and cleansing of bed-pans and other sanitary utensils;
  - (ii) the temporary deposit of soiled dressings; and
  - (iii) the testing of urine.

## 80. Kitchens and sculleries

Any person who operates a nursing home must ensure that any kitchen and scullery located on the premises complies with the following requirements:

- a) Every draining board and top of every table installed, whether as a new installation or by way of replacement, must be constructed of stainless steel, enamelled metal or of another adequate smooth and impervious material;
- b) every sink installed, whether as a new installation or by way of replacement, must –
  - (i) be constructed of stainless steel;
  - (ii) have two compartments each with hot and cold running potable water; and
  - (iii) together with its draining board, be installed at least 100mm away from any wall;
- c) any wall within 600mm of any part of a sink, draining board or of any table on which food is prepared or handled, must be tiled or treated in some other adequate manner to a minimum height of 1.35 metres above the floor;
- d) a receptacle with a tight fitting lid suitable for the reception of kitchen refuse, must be provided;
- e) the receptacle must be kept tightly shut and emptied at least once a day into an external refuse receptacle; and
- f) a hood or canopy of adequate size, having a flue at least 300mm in diameter and which emits fumes and gasses in such a manner that it creates no public health nuisance, must be provided immediately over any stove where cooking is carried out on the premises.

## 81. Storage of foodstuffs

Any person who operates a nursing home must ensure that–

- a) all crockery, cutlery and foodstuffs are stored in a hygienic place and manner;
- b) adequate refrigeration facilities are provided for the storage of perishable foodstuffs; and
- c) any room in which fruit and vegetables are stored is adequately ventilated and equipped with heavy wire shelves and racks.

## 82. Layout of rooms

No person who operates a nursing home may do so unless the rooms referred to in sections 87 and 88 comply with the following additional requirements:

- a) The rooms may not be situated in, or share an entrance with, any –
  - (i) ward or room used for sleeping;
  - (ii) sluice-room; or
  - (iii) toilet and urinal;
- b) the rooms must be provided with adequate racks, shelves and other means to store bulk goods at a minimum height of 225mm above the floor;
- c) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided.

## 83. Medicines and poisons

Any person who operates a nursing home must ensure that–

- a) a room or cupboard, of adequate size is set aside, to be used solely for the storage of medicines and drugs;
- b) every room or cupboard set aside in terms of paragraph (a), is kept locked at all times except when medicines or drugs are being removed from it or returned to it; and
- c) within that room or cupboard, a separate lockable cupboard or locker is reserved for the storage of poisons, habit-forming drugs and potentially dangerous drugs.

## 84. Sterilisation

Any person who operates a nursing home must provide adequate apparatus for the sterilisation of instruments.

**85. Laundering**

If laundering is carried out on the premises of a nursing home, this must take place in accordance with the provisions of Chapter 9.

**86. Reception rooms for soiled articles**

Any person who operates a nursing home must ensure that—

- a) the reception room for soiled articles is used exclusively for receiving and sorting soiled articles;
- b) a wash-hand basin, supplied with running hot and cold potable water is provided, in each reception room;
- c) each reception room is mechanically ventilated in a manner that ensures that any air generated in the room is discharged into the atmosphere; and
- d) a separate reception room is provided in any maternity home and used exclusively for receiving and sluicing of baby napkins.

**87. Laundry rooms**

If laundering is carried out on the premises of a nursing home, the premises that are used for such laundering must comply with the requirements for premises on which a laundry business is conducted as contemplated in section 65 of these By-laws.

**88. Storage rooms**

Any person who operates a nursing home must ensure that —

- a) any storage room is used exclusively for the storage and distribution of those articles intended to be stored in such storeroom;
- b) any storage room contains adequate moveable shelving made of impervious material;
- c) every shelf is a minimum height of 225 mm above the floor;
- d) containers used for the reception or conveyance of soiled or laundered articles are adequately marked so that they can be easily distinguishable from one another; and
- e) all persons employed in any part of the laundry are provided with, and wear, caps covering their hair and clean overalls made of light-coloured material, of a design approved by an environmental health officer.

**89. Linen**

Any person who operates a nursing home must ensure that at all times, all linen provided in the premises is —

- a) of good quality;
- b) maintained in good repair; and
- c) available in a quantity adequate to ensure the prompt replacement of soiled articles.

**90. Refuse receptacles**

Any person who operates a nursing home must provide an adequate number of refuse receptacles on the premises.

**91. Accommodation for nursing staff**

No person may operate a nursing home unless —

- a) adequate sleeping accommodation is provided for the resident nursing staff employed on the premises;



- b) adequate arrangements are made for the separation of the sleeping accommodation of members of the staff on day duty and those on night duty, so as to avoid the undue disturbance of staff sleeping; and a dining-room and separate recreation room is provided for the nursing staff: Provided that one room may be used as a dining and recreation room if the room is adequate for both purposes.

## CHAPTER 12 KEEPING OF ANIMALS

### 92. Definitions

In this Chapter, unless the context otherwise indicates -

**"Agricultural holding"** means the same as defined in the applicable Town Planning Scheme;

**"Animal"** means any cattle, sheep, goat, horse, mule, donkey, pig, rabbit and wild animal;

**"Aviary"** means an enclosure used for the keeping of birds, other than poultry but does not include a portable cage;

**"Battery system"** means the method of keeping poultry or rabbits in cages in either single rows or tier formation within a building or structure;

**"Cattery"** means premises in or upon which -

- a) boarding facilities for cats are provided; or
- b) cats are bred for commercial purposes;

**"Enclosure"** in relation to an animal, means any kraal, pen, paddock, cage or other fenced or enclosed area erected to confine an animal from escaping or roaming freely on the remainder of the premises;

**"Keeper"** means -

- a) in relation to any animal, the owner of the animal or any other person responsible for feeding and caring for the animal;
- b) in relation to a battery system, cattery, kennels, pet parlour or pet shop means the person who owns the business of which it forms part of and the person in charge of the premises in which the animals are kept;

**"Kennels"** means premises in or upon which -

- boarding facilities for dogs are provided;
- dogs are bred for commercial purposes;
- dogs are kept for the purposes of being trained or hired out with or without handlers;
- or
- dogs are kept for commercial security purposes;

**"Livestock"** means horses, cattle, sheep, goats, pigs, mules, donkeys and poultry;

**"Pet"** means a domestic animal, bird or poultry kept in a household for companionship or amusement;

**"Pet parlour"** means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, trimming or by attending to their nails or teeth;

**"Pet shop"** means the premises on which the business of keeping and selling of pets is carried out;

**"Poultry"** means fowls, ducks, muscovite ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowls;

**"Poultry house"** means any roofed-over building or structure in which poultry is kept, other than one in which a battery system is operated;

**"Poultry run"** means any unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

**"Proclaimed township"** means an approved township as contemplated in sections 79, 103, 111 and 141(4) of the Town Planning and Townships Ordinance, 1986, (Ordinance No. 15 of 1986), or a township approved in terms of any prior law relating to townships;

**"Rabbit hutch"** means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

**"Rabbit run"** means any unroofed wire mesh or other enclosure in which rabbits are kept, whether or not it is attached to a rabbit hutch;

**"Stable"** means any building or structure used to accommodate livestock other than poultry;

**"Wild animal"** means an animal of a species that is not generally domesticated and without limitation includes all animals indigenous to South Africa other than domesticated guinea-fowls.

### ***Part 1: General provisions relating to the keeping of animals***

#### **93. Application of Chapter**

- 1) Subject to the provisions of subsection (2), the provisions of this Chapter do not apply to -
  - a) any agricultural show where animals are kept on a temporary basis; and
  - b) any laboratory where animals are kept for research purposes.
- 2) The provisions of section 119 apply to the keeping of animals at any agricultural show and at research laboratory.
- 3) No person may, subject to the provisions of section 96, keep or allow to be kept, any animal other than an approved pet on an erf in a proclaimed township, provided the keeping of such pet does not create or constitute a nuisance
- 4) If at any time it appears to an authorized official that the keeping of poultry or rabbits on an erf or agricultural holding, in respect of which a permit has been granted, is likely to constitute a nuisance or danger to the public health, that official may -
  - (a) cancel the permit; or
  - (b) prohibit the keeping of such poultry or rabbits.
- 5) An authorized official must serve a notice on the permit holder or the owner of the erf or agricultural holding concerned, informing him or her of a decision in terms of subsection (1) and instruct the owner to comply with the requirements within the period stated in such notice, which must be at least 48 hours.
- 6) An authorized official must as soon as a permit has been cancelled, notify the permit holder of that fact in writing.
- 7) An authorized official may, subject to the foregoing provisions of this section, issue a new permit if he is satisfied that the reason for the cancellation no longer exists or that there is no reason why a new permit should not be issued.

### ***Part 2: Keeping of cattle, horses, mules and donkeys***

#### **94. Requirements for premises**

No person may keep any cattle, horse, mule or donkey in a stable or enclosure that does not comply with the following requirements:

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- a) every wall and partition of the stable must be constructed of brick, stone, concrete or other durable material;
- b) the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
- c) the height of the walls to the wall plates of the stable must –
  - if the roof is a pitched roof be 2,4 metres;
  - if the roof is a flat roof be 2,7 metres;
  - if the roof is a lean to roof be a mean height of 3 metres with a minimum of 2,4 metres on the lowest side;
  - in the case of a stable which has an opening along the entire length of one of its long sides be not less than 2 metres;
- d) the stable must have a floor area of at least 9 m<sup>2</sup> for each head of cattle, horse, mule or donkey accommodated in it;
- e) lighting and ventilation must be provided by openings or glazed opening windows or louvers totalling at least 0,3 m<sup>2</sup> for each animal to be accommodated in it except in the case of a stable open along the entire length of one of its long sides;
- f) the lowest point of every opening, window or louvers must be at least 1,8 metres above floor level;
- g) the floor of the stable must be constructed of concrete or other durable and impervious material brought to a smooth finish graded to a channel and drained in terms of section 143;
- h) any enclosure must have an area of at least 10 m<sup>2</sup> for each head of cattle, horse, mule or donkey accommodated in it and the fencing must be strong enough to prevent the animals from breaking out;
- i) no enclosure or stable may be situated within –
  - (i) 15 metres of the boundary of any land, property, dwelling or other structure used for human habitation; or
  - (ii) 50 metres of any water resource or water supply intended or used for human consumption; and
- j) there must be a water supply adequate for drinking and cleaning purposes next to every stable or enclosure.

#### 95. Duties of keeper of cattle, horses, mules and donkeys

Any person who keeps any cattle, horse, mule or donkey must –

- a) maintain the premises, and any equipment, apparatus, container or receptacle used in connection with keeping the animal, in a clean and sanitary condition and in good repair;
- b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- c) keep every manure storage receptacle on a platform constructed of concrete or other durable and impervious material near the stable or enclosure;
- d) if there is so much manure and bedding that storage receptacles are impractical, provide a manure container or area complying with the following requirements:
  - The manure container or area must be roofed and enclosed by three walls constructed of brick, concrete or other durable material plastered to a smooth finish; and
  - the floor must be of smoothly finished concrete that is inclined so that it drains to a water channel along the full length of the open side, which is at least 150mm in diameter and is kept filled with water;
- e) remove all the manure from the stable and enclosure at least once every 24 hours and place it in the manure storage receptacles or manure container or area until it is removed from the premises;
- f) remove the contents of the manure storage receptacles or manure container or area from the premises at least once every second day and dispose of the manure in a way which will not create a public health nuisance;
- g) remove all bedding from the stable at least once a week and store it in the manure receptacles or manure container or area until it is removed from the premises;

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- h) store all saddles, bridles, harnesses and other equipment or articles used in connection with the keeping of the animals, in a storeroom or other adequate storage facility; and
- i) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids.

### **Part 3: Keeping of goats and sheep**

#### **96. Application**

The provisions of sections 97 and 98 also apply to the temporary keeping of a goat on any premises for the provision of milk for medical reasons.

#### **97. Requirements for premises**

- 1) No person may keep goats or sheep in –
  - a) an enclosure which does not comply with the following requirements:
    - (i) the minimum overall floor area must be 30 m<sup>2</sup>; and
    - (ii) at least 1,5 m<sup>2</sup> of floor space must be provided for every goat or sheep accommodated in it; or
  - b) a stable which does not comply with the following requirements:
    - (i) every wall must be constructed of brick, stone, concrete or other durable material;
    - (ii) every wall must be at least 2 metres in height and have a smooth internal finish;
    - (iii) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel drained in terms of section 143;
    - (iv) at least 1,5 m<sup>2</sup> of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6 m<sup>2</sup>; and
    - (v) lighting and ventilation openings totalling at least 0,15 m<sup>2</sup> per goat or sheep must be provided.
- 2) No person may keep goats or sheep in an enclosure or stable within –
  - a) 15 metres of any boundary of any land, dwelling, building or other structure used for human habitation; or
  - b) 50 metres of any water resource or water supply intended or used for human consumption.
- 3) Every person must provide a water supply adequate for drinking and cleaning purposes situated next to or in every enclosure or stable used to accommodate goats or sheep.

#### **98. Duties of keeper of goats and sheep**

- Any person who keeps goats or sheep must –
- a) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
  - b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
  - c) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;
  - d) remove all manure from the enclosure or stable at least once every seven days and place it in the manure storage receptacles;
  - e) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way that will not create a public health nuisance; and
  - f) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids in the storeroom.

**Part 4: Keeping of poultry**

**99. Application**

The provisions of sections 100 and 101, do not apply to any person keeping ten or less poultry.

**100. Permit requirement**

No person may keep more than 10 poultry on an erf in a proclaimed township or 100 poultry on premises zoned for agricultural purposes except in terms of a permit authorising that activity.

**101. Requirements for premises**

No person may keep poultry in premises which do not comply with the following requirements:

- a) In relation to a poultry house –
  - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
  - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
  - (iii) the upper floor of a two or more story structure must be constructed of an impervious and easily cleanable material;
  - (iv) the minimum floor area must be –
    - 0,20 m<sup>2</sup> for each grown fowl, duck, muscovite duck or guinea fowl;
    - 0,5 m<sup>2</sup> for each grown goose, turkey or peacock; and
    - 0, 14 m<sup>2</sup> for each grown pigeon; and
  - (v) the minimum aggregate floor area must be 4 m<sup>2</sup>;
- b) a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- c) in relation to a building or structure housing a battery system –
  - (i) every wall, if provided, must be at least 2,4 m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
  - (ii) if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building or structure;
  - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by an environmental health officer, the floor surface must be graded and drained by means of a channel drained in terms of section 143;
  - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its edges;
  - (v) the cages of the battery system must be made of an impervious material; and
  - (vi) if required by an environmental health officer, a tray of an impervious material must be fitted under every cage for the collection of manure;
- d) a water supply adequate for drinking and cleaning must be provided in or next to every poultry house and poultry run and in or next to a building or structure housing a battery system;
- e) no poultry house, poultry run, or building or structure housing a battery system, may be constructed within 3 metres of –
  - (i) any dwelling or other building or structure used for human habitation; and
  - (ii) any place where foodstuffs are stored or prepared for human consumption; or
  - (iii) the nearest boundary of any land;
- f) feed must be stored in an adequate rodent-proof storeroom;
- g) adequate washing facilities must be provided for the cleaning of the cages;
- h) if required by an environmental health officer, due to the amount of manure stored on the premises awaiting removal, a storage area complying with the following requirements must be provided:

- (i) A roofed platform constructed of concrete or other impervious material;
- (ii) the platform's outside edges must have a minimum curb of 100 mm high;
- (iii) the platform must be graded and drained in terms of section 118; and
- (iv) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

#### **102. Duties of keeper of poultry**

Any person who keeps poultry must -

- a) ensure that all poultry is kept within a poultry house, poultry run or building or structure housing a battery system;
- b) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry, in a clean, sanitary condition and in good repair;
- c) maintain the premises and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- d) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- e) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;
- f) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every four days from a building or structure housing a battery system;
- g) place the manure and other waste matter in manure storage receptacles;
- h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a public health nuisance; and
- i) take adequate measures to keep the premises free of flies, cockroaches and rodents and to prevent offensive odours arising from the keeping of poultry on the premises.

#### ***Part 5: Keeping of rabbits***

#### **103. Application**

The provisions of sections 105(b), (c), (d), (f) and (g), and 106(d), (f) and (g), do not apply to any person keeping ten or less rabbits.

#### **104. Permit requirements**

No person may keep more than 5 adult rabbits on an erf in a proclaimed township or more than 20 adult rabbits on premises zoned for agricultural purposes, except in terms of a permit authorising that activity.

#### **105. Requirements for the premises**

No person may keep rabbits in premises which do not comply with the following requirements:

- a) In relation to a rabbit hutch -
  - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
  - (ii) the floor surface must be -
    - constructed of concrete or other impervious material brought to a smooth finish;
    - situated at least 150 mm above ground level;
    - and graded to a channel drained in terms of section 118, if required by an environmental health officer;
  - (iii) adequate ventilation must be provided; and
  - (iv) the rabbit hutch must be adequate in size to allow free unobstructed movement of animals kept therein.

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- b) any rabbit run must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
- c) in relation to a building or structure housing a battery system –
  - (i) every wall must –
    - be at least 2,4 metres high;
    - be constructed of concrete, stone, brick or other durable material; and
    - must have a smooth internal surface;
  - (ii) if walls are provided, the building or structure must be ventilated and lighted by means of natural openings or windows of an area not less than 15% of the floor area of the building or structure;
  - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by an environmental health officer, the floor surface must be graded to a channel drained in terms of section 118;
  - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its outside edges; and
  - (v) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- d) a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
- e) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of –
  - (i) any dwelling, building or other structure used for human habitation;
  - (ii) any place where foodstuffs are stored or prepared for human consumption; or
  - (iii) the nearest boundary of any land;
- f) an adequate rodent-proof storeroom must be provided for the storage of feed; and
- g) adequate washing facilities must be provided for the cleaning of cages.

#### 106. Duties of keepers of rabbits

Any person who keeps rabbits must -

- a) keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
- b) maintain the premises and any equipment, apparatus, containers or receptacles used in connection with keeping rabbits, in a clean, sanitary condition and in good repair;
- c) maintain the premises free from offensive odours and every rabbit hutch, rabbit run or building or structure housing a battery system and all cages clean and free from pests;
- d) provide portable manure storage receptacles of an impervious material with close-fitting lids which receptacles must be kept on a platform;
- e) remove all manure and any other waste matter from the rabbit hutch, rabbit run or building or structure housing a battery system, at least once every 48 hours;
- f) keep the manure and waste in manure storage receptacles until it is removed from the premises; and
- g) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way which will not create a public health nuisance.

#### *Part 6: Keeping of birds other than poultry*

#### 107. Requirements for the premises

No person may keep any bird, other than poultry, in an aviary which does not comply with the following requirements:

- a) the aviary must be constructed of durable rodent-proof material;
- b) adequate access must be provided for cleaning purposes;
- c) if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material and must be situated a minimum of 300 mm above ground level;

- d) the aviary may not be situated within three metres of any building or structure, boundary fence or boundary wall; and
- e) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

#### **108. Duties of keepers of aviaries**

Any person who keeps birds in an aviary must -

- a) ensure that the aviary and the premises are kept in a clean condition and free from pests;
- b) provide and use rodent-proof facilities for the storage of bird food; and
- c) ensure that the birds do not disturb the comfort, convenience, peace or quiet of the public.

### **Part 7: Kennels and catteries**

#### **109. Requirements for premises**

No person may use premises as kennels or a cattery except in terms of a permit authorising that activity and unless the premises comply with the following requirements:

- a) Every dog or cat must be kept in an enclosure which complies with the following requirements:
  - (i) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
  - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Council's sewer by means of a pipe 100 mm in diameter; and
  - (iii) a curb 150 mm high must be provided along the edge of the channel, referred to in subparagraph (ii), to prevent any storm water runoff entering the channel; and
  - (iv) the enclosure must be adequate in size to allow free unobstructed movement of animals kept therein.
- a) Subject to the provisions of paragraph (c), every enclosure referred to in paragraph (a), must be provided with an adequate roofed shelter that complies with the following requirements:
  - (i) every wall must be made of brick, stone, concrete or other impervious material;
  - (ii) every wall must have a smooth internal surface;
  - (iii) the floor must be made of concrete or other impervious material brought to a smooth finish; and
  - (iv) every shelter must have adequate access for cleaning and eliminating pests;
- c) a dog kennel which complies with the following requirements may be provided instead of the shelter contemplated in paragraph (b):
  - (i) the kennel must be constructed of an approved weatherproof and insulating material or other similar material;
  - (ii) the kennel must be movable;
  - (iii) the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
  - (iv) a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
- d) a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
- e) the apron must be graded and drained in a way that drains storm water away from the enclosure;
- f) a water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure;
- g) any cage in which cats are kept must be constructed of durable impervious material and in a manner that it may be easily cleaned; and
- h) no shelter, enclosure or kennel may be situated within five metres of any –
  - (i) dwelling or other building or structure used for human habitation;
  - (ii) place where food is stored and prepared for human consumption; or



- (iii) the boundary of the premises.

#### 110. Food preparation areas

Any keeper of kennels or a cattery who is so instructed by an environmental health officer must provide a separate room or roofed area for the preparation of food which complies with the following requirements:

- a) The floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;
- b) the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
- c) adequate washing facilities for food bowls and utensils must be provided; and
- d) a rodent-proof storeroom must be provided for the storage of food.

#### 111. Duties of a keepers of kennels or catteries

Any person operating kennels or a cattery must –

- a) maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
- b) provide portable storage receptacles, of an impervious material with close fitting lids, for the storage of dog and cat faeces;
- c) remove all faeces and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in paragraph (b);
- d) remove the contents of the storage receptacles from the premises at least twice every seven days and dispose of it in a manner that will not create a public health nuisance;
- e) store all loose food in receptacles, with close fitting lids, in the food store;
- f) provide adequate refrigeration facilities to store perishable foods on the premises;
- g) provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
- h) keep any sick dog or cat isolated from any other animals; and
- i) maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.
- j) ensure that no dog or cat disturbs the comfort, convenience, peace and quiet of the public.

### *Part 8: Pet shops and pet parlours*

#### 112. Requirements for premises

No person may operate a pet shop or pet parlour in or on any premises which do not comply with the following requirements:

- a) Any wall and partition must –
  - (i) be constructed of brick, concrete or other impervious material;
  - (ii) have a smooth and easily cleanable internal surface; and
  - (iii) be painted with a washable paint or other adequate finish;
- b) all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
- c) all ceilings must be dust proof and easily cleanable;
- d) at least one wash hand basin, with a supply of running hot and cold potable water, must be provided for employees and the ratio of wash hand basins to persons employed on the premises must not be less than 1:15;
- e) the wash hand basins, referred to in subparagraph (d), must be drained in terms of section 118;
- f) adequate storage facilities must be provided;
- g) facilities for the washing of cages, trays and other equipment must be provided in the form of either –

- (i) a curbed and roofed over platform with a minimum surface area of 1,5 m<sup>2</sup>, raised at least 100 mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
  - (ii) a stainless steel sink or trough of adequate size with drainage board and provided with a supply of running potable water;
- h) the platform, sink or trough referred to in paragraph (g) must be drained in terms of section 118;
- i) any wall surface within 0,5 metres of the platform, sink or trough referred to in paragraph (g), must be permanently covered with waterproof material to a minimum height of 1,4 metres above the floor;
- j) a clearly designated change room must be provided if more than six persons are employed on the premises and every change room must –
  - (i) have a floor area providing at least 0,5 m<sup>2</sup> for each employee;
  - (ii) have a minimum overall floor area of 6 m<sup>2</sup> and width of two metres; and
  - (iii) be equipped with an adequate metal locker for each employee;
- k) if no change room is required in terms of paragraph (j), each employee must be provided with an adequate metal locker;
- l) for the purposes of washing, clipping or grooming of pets –
  - (i) a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
  - (ii) a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
  - (iii) at least 50 % of the floor area of the rooms referred to in subparagraphs (i) and (ii), must be unobstructed; and
  - (iv) the floors of the rooms referred to in subparagraphs (i) and (ii), must be graded to a channel drained in terms of section 118;
- m) all buildings, including storage areas, must be rodent-proof; and
- n) the premises may not have direct internal access with any room or place –
  - (i) used for human habitation;
  - (ii) where clothing is stored or sold; or
  - (iii) where food is prepared, stored or sold for human consumption.

### 113. Duties of pet shop or pet parlour keepers

Any keeper of a pet shop or pet parlour must –

- a) provide cages for housing the pets which comply with the following requirements:
  - (i) the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;
  - (ii) the exterior cavity of any tubular or hollow material used to construct a cage must be sealed;
  - (iii) the cages must be able to be moved easily;
  - (iv) where rabbits are kept in a cage, the metal floor-tray referred to in subparagraph (i), must be drained to a removable receptacle;
  - (v) the cages must be fitted with a drinking vessel filled with water;
  - (vi) the distance from any cage to the nearest wall must be a minimum of 150 mm;
  - (vii) the cages must be kept a minimum of 450 mm above floor level; and the space below every cage must be unobstructed;
- b) provide rodent-proof receptacles, of an impervious material and with close fitting lids, for the storage of all loose pet food in the storage facilities required in terms of section 112 (f);
- c) provide adequate refrigeration facilities to store all perishable pet food on the premises;
- d) ensure that in any room in which the pets are kept –
  - (i) 50 % of the floor space is unobstructed; and
  - (ii) the cages are placed a minimum of 800 mm from one another;

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- e) maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment or appliances used in connection with the pet shop or pet parlour, in a clean and sanitary condition, free from pests and in good repair;
- f) provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- g) provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- h) provide an adequate supply of potable water for drinking and cleaning purposes;
- i) provide adequate ventilation to ensure the comfort and survival of the pets; and
- j) ensure that the number of pets contained in each cage does not impede their free movement.

### **Part 9: Keeping of wild animals**

#### **114. Requirements for the premises**

No person may, without the approval of the relevant nature conservation authorities, keep wild animals on premises which do not comply with the following requirements:

- a) Every wild animal must be kept in an enclosure and/or housing constructed and equipped as follows:
  - (i) The enclosure and/or housing must satisfy the needs of the specific animal as specified by the relevant nature conservation authorities;
  - (ii) the enclosure and/or housing may not be situated within 50 metres of –
    - any boundary of the premises;
    - any dwelling, building or structure used for human habitation;
    - any dwelling, building or structure where food is stored, handled or prepared for human consumption; or
    - any water resource intended for domestic consumption;
  - (iii) an adequate supply of potable water for drinking and cleaning purposes must be provided; and
  - (iv) the enclosure and/or housing must be graded and drained in a way that does not pollute any water resource or create a public health nuisance;
- b) a separate room, equipped with a preparation table and wash-up sink, supplied with running potable water and drained in accordance with section 118, must be provided for the preparation of food;
- c) adequate facilities must be provided for washing any cages, trays, crates, refuse receptacles and food containers in the form of either –
  - (i) a curbed platform constructed of concrete or other impervious material brought to a smooth finish; or
  - (ii) a stainless steel sink or trough adequate in size to accommodate the equipment to be washed;
- d) both facilities referred to in paragraph (c) must be provided with a supply of running water adequate for drinking and cleaning and be drained in accordance with section 118;
- e) any area and room in which fodder and food are stored must be rodent-proof; and
- f) the enclosure and/or housing must be adequate in size to allow free unobstructed movement of animals kept therein.

#### **115. Duties of keepers of wild animals**

Any person who keeps wild animals must –

- a) maintain the premises in a clean and sanitary condition at all times;
- b) clean all manure and food scraps from any enclosure and/or housing at adequate intervals;
- c) prevent the soil beneath or around any enclosure and/or housing from becoming saturated with urine or polluted by any other matter or liquid; and
- d) remove all bedding from any housing at least once every seven days and store it in a manure receptacle or manure container or area, until it is removed from the premises.

**Part 10: Keeping of pigs****116. Requirements for premises**

No person may keep pigs on premises which do not comply with the following requirements:

- a) Every wall must –
  - (i) be constructed of brick, stone, concrete or other durable material;
  - (ii) have a minimum height of 1,5 metres; and
  - (iii) have a smooth, impervious internal surface;
- b) the floor area must provide at least 3 m<sup>2</sup> for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m<sup>2</sup>;
- c) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- d) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must –
  - (i) be situated opposite one another in the external walls; and
  - (ii) provide a minimum of 0,15 m<sup>2</sup> for each pig;
- e) the floor must be –
  - (i) at least 150 mm above the surrounding ground level;
  - (ii) constructed of concrete or other durable and impervious material brought to a smooth finish; and
  - (iii) graded for the run-off of liquids into an open channel outside the pigsty;
- f) the open channel referred to in paragraph (e)(iii) must –
  - (i) be constructed of concrete or other durable and impervious material;
  - (ii) be a minimum of 100 mm in diameter; and
  - (iii) be drained in terms of section 118;
- g) the pigsty must be strong enough to prevent the pigs breaking out;
- h) the pigsty may not be situated within 100 metres of –
  - (i) the boundary of the premises;
  - (ii) any dwelling, building or structure used for human habitation;
  - (iii) any place where foodstuffs are stored or prepared for human consumption; or
  - (iv) any water resource intended for domestic consumption;
- i) a roofed over concrete platform must be provided for –
  - (i) the storage of all swill in containers; and
  - (ii) the preparation of pig feed;
- j) the platform referred to in paragraph (i) must comply with the provisions of paragraph (e) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and
- k) a water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the pigsty.

**117. Duties of keepers of pigs**

Every person keeping pigs must -

- a) ensure that every pig is kept within a pigsty;
- b) maintain the premises and any equipment, apparatus, containers and receptacles concerned in a clean and sanitary condition and in good repair;
- c) provide portable storage receptacles, of impervious material and with close fitting lids, to store manure;
- d) keep all manure storage receptacles on a platform that complies with the provisions of section 116 (j);
- e) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;
- f) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose of the manure in a manner that will not create a public health nuisance;
- g) provide a rodent-proof store-room of adequate size in which all feed, other than swill, must be stored; and
- h) provide rodent-proof receptacles, with close fitting lids, in which to store all loose feed.

**Part 11: General provisions**

**118. Drainage**

Any person keeping animals must ensure that all sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of this Chapter, are drained in accordance with the provisions of the National Building Regulations and Building Standards Act.

**119. Dangerous animals**

- 1) No person may without a permit issued by an environmental health officer, keep any wild animal of a species that is dangerous to humans, including without limitation, large carnivores, venomous snakes, spiders or scorpions.
- 2) Any person who keeps any animal which is known to behave in a manner that is dangerous to humans must keep it in an adequate enclosure and take adequate measures to ensure that it does not escape from the enclosure or pose a danger to the residents of, or visitors to, the premises or any other person.

**120. Requirements for keeping of bees**

- 1) No person may keep bees on any premises unless –
  - a) that person is the holder of a permit authorising that activity; and
  - b) every bee hive is situated –
    - (i) a minimum of five metres from any boundary of the premises; and
    - (ii) a minimum of twenty metres from any public place or building used for human habitation or from any place used for the keeping of animals, poultry and birds;
  - c) the bees are kept in an approved bee hive; and
  - d) the bee hive is –
    - (i) kept in an area inaccessible to children and animals;
    - (ii) kept in the shade at all times; and
    - (iii) supplied with a source of drinking water within five metres of the hive.
- 2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive.

**121. Illness attributable to animals, poultry or birds**

- 1) The illness of any person, which may be attributed to any animal, poultry or bird kept or handled by that person, must be reported to an environmental health officer within 24 hours of diagnosis, by the person making the diagnosis.
- 2) An environmental health officer may order the removal of an animal, poultry or bird from premises if he or she reasonably believes that the animal poses a public health nuisance or public health hazard.

**122. Keeping of and slaughtering animals for religious and ceremonial purposes**

- 1) Any person who keeps an animal prior to slaughtering it for any religious or ceremonial purposes must comply with the provisions of this Chapter applicable to the animal concerned.
- 2) A person intending to slaughter an animal in any place other than in a recognised abattoir must –
  - a) notify the Council in writing, fourteen days prior to the event;
  - b) slaughter the animal in a position where the slaughtering cannot be observed by any person on neighbouring premises or any member of the public;
  - c) use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;

- d) handle the meat in a hygienic manner at all times;
- e) dispose of any portions of the animal which are not used or consumed, in a manner which will not become a public health hazard or public health nuisance; and
- f) not keep such animal prior to slaughtering for a period in excess of 24 hours.

### CHAPTER 13 REQUIREMENTS FOR FOOD HANDLING

#### 123. Definitions

In this Chapter, unless the context otherwise indicates-

**"Food premises"** means a building, structure, stall or other similar structure, and includes caravan, vehicle, stand or place used for or in connection with the handling of food.

**"Handle"** includes manufacture, process, produce, pack, prepare, keep, offer, store, transport or display for sale or for serving, and "handling" has corresponding meaning.

**"Vehicle"** means a train, trolley, wagon, cart, bicycle, sled, truck, boat, ship, or airplane, and includes any other craft, vehicle or conveyance used in the handling or transport of food.

**"Certificate of acceptability"** means a certificates of acceptability issued in terms of the regulations under the health act, 2003 (Act 61 of 2003).

**"Trade license"** means a trade license issued in terms of the Mpumalanga Businesses Act, 1996 (Act no. 2 of 1996)

**"Person in control"** with regard to any food premises, means a natural person who is responsible for the food premises and/ or the owner of such food premises, as the case may be.

**"Unsound"** means unwholesome, sick, polluted, infected, contaminated, decayed or spoiled, or unfit for human consumption for any reason whatsoever.

**"Facility"** means any apparatus, appliance, and equipment, and implement, storage space, working surface or object used in connection with the handling of food.

**"Food"**- means a foodstuff intended for human consumption as defined in section 1 of the Foodstuffs, Cosmetics and disinfectants Act, 1972 (Act no. 54 of 1972).

**"Clean"** means free of any dirt, impurity, objectionable matter or contamination to the extent that a state of hygiene is attained, and "keep clean" has a similar meaning.

**"Food handling business"** any practice which involves the packaging, storage, handling, producing, preparation, display, serving or sale of any foodstuff as specified in the Foodstuff, Cosmetics and Disinfectants Act in exchange for money or other goods.

**"Approved supplier"** means a supplier of foodstuffs or ingredients which complies with the provisions of the regulations under the health act, and has been issued with a valid certificate of acceptability in terms of the regulations.

**"Potable water"** means water, which is obtained from an approved source and complies with the minimum requirements for drinking water as specified in SABS code 241 for domestic drinking water.

#### 124. General requirements

- 1) No person may carry on a food handling business from a food premises unless the requirements prescribed in the succeeding subsections are complied with

- a) Before any work is undertaken, a lay-out plan, drawn to scale and indicating the preparation area, scullery, store room, change rooms and the position of all equipment must be submitted for approval by the Environmental Health practitioner.
- b) Every food premises dealing with perishable foods must, before commencing business, apply in writing for a trade license in accordance with the Mpumalanga businesses Act, 1996 and a Certificate of Acceptability in accordance with the Health Act. The trade license and Certificate of Acceptability for every premises must be displayed in a conspicuous place, in view of the public.
- c) Only foodstuffs that have been obtained from an approved supplier may be sold on the premises. A copy of the certificate of acceptability of each of the approved suppliers must be kept available for inspection on the food premises

## 2) Structural requirements

- a) Store rooms and the display area of the premises must be equipped with adequate storage racks, shelves or boards a minimum of 250 mm above floor level.
- b) A minimum of two wash-up sinks, which is of adequate size for the type of equipment to be cleaned and is approved by the environmental health practitioner and is provided with running hot and cold water must be provided in any food preparation area for the cleaning of equipment and utensils. Wash-up sinks may not be used for the cleaning of food.
- c) A sink for the preparation of food is to be provided, fitted with running hot and / or cold water.
- d) Where an approved change room is not provided for staff, an approved metal locker shall be provided for each person and kept in an approved place.
- e) A bin with a self-closing lid or other approved disposal unit must be installed in each toilet intended for use by female staff
- f) Every food premises must be provided with a refuse yard and a sufficient amount of refuse containers as deemed necessary by the environmental health practitioner, which must comply with the specifications as laid out in the Council's Solid Waste and Sanitary By-Laws.
- g) Where cooking is carried out on the premises, and the environmental health practitioner deems it necessary, an approved hood or canopy of adequate size, having a flue of at least 300 mm in diameter, and where required by the environmental health practitioner, fitted with approved extraction fan and filters must be provided. The flue must exhaust to the atmosphere at such a height and position or manner as is necessary to prevent the discharge thereof from causing a public health nuisance. An approved mechanical device may be installed instead of a hood or canopy.
- h) Where a fire burning device (pizza oven) is used on the premises, the flue (exhaust) must be installed in accordance with the relevant air pollution legislations.

## 125. Requirements for food transport vehicles

Every vehicle used for the transport of foods on behalf of a food premises must display the name, physical address, and telephone number of the applicable food premises on the vehicle and must keep a copy of the Certificate of Acceptability, and where applicable, trade license for the premises available for inspection in the vehicle at all times.

## 126. Handling of meat and meat products

Only meat that has been slaughtered in an approved abattoir and that has been inspected and stamped in accordance with the provisions of the Meat Safety Act may be sold.

**127. Handling of game on a butcher's premises**

- 1) The handling of game on a butcher's premises is only allowed under the following circumstances:
  - a) that the person in control of the butchery / facility notifies the Environmental Health Section of their intent to process game in the butchery before the commencement of operations.
  - b) that only game that has already been slaughtered and is without skins, feet or offal is brought into the premises.
  - c) that game is processed and stored separately from any other meat and is not handled simultaneously with other meat products.
  - d) that all surfaces and equipment used for or in connection with the processing of game is thoroughly cleaned and sanitized when the work is completed and before other meat is processed on the same surfaces

**128. Duties of a person carrying on or in control of a food handling business:**

- 1) A person in control of a food handling business must ensure that -
  - a) no foods or drinks that is not sound, wholesome and fit for human consumption, or is not labeled in accordance with the above Act or which does not comply with the provisions of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) is kept or displayed for sale.
  - b) no part of the food premises is used for living or sleeping purposes, except where the sleeping area is totally separated from the food handling areas.
  - c) change rooms and toilets are only used for the purpose provided and are not used as storage or preparation areas for foods, provided that change rooms may be used as a staff eating area.
  - d) all persons employed on the premises receive adequate training in food hygiene principles.

**129. Requirements for hawking in foodstuffs****1) General requirements**

- a) Before any work is undertaken, all hawking caravans must be submitted for inspection to the Environmental Health Section of the Council
- b) Every hawking premises dealing with perishable foods must, before commencing business, apply in writing for a trade license in accordance with the Mpumalanga businesses Act, 1996 and for a Certificate of Acceptability in accordance with the Health Act. The trade license and Certificate of Acceptability for every hawking facility must be displayed in a conspicuous place, in view of the public.
- b) Every mobile hawking facility which sells foods on behalf of a food premises must display the name, physical address, and telephone number of the applicable food premises on the hawking structure and must keep a copy of the Certificate of Acceptability, and where applicable, trade license for the premises available for inspection at all times.
- c) All hawkers must comply with the Street Trading By-Laws of the Council and must be issued by a permit as issued by the Public Safety Department.
- d) Only foodstuffs that have been obtained from an approved supplier may be sold from a hawking facility. A copy of the certificate of acceptability of each of the approved suppliers must be kept available for inspection on the hawking facility.

**2. Structural requirements**

A hawking premises which complies with the following requirements must be provided

- a) If food preparation is conducted on the hawking site, a dust-proof structure must be provided that complies with the following requirements-
- b) The structure and all working surfaces must be constructed of impervious materials that can be easily cleaned



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- c) Provision must be made for all cooking ranges, washing equipment, working tables, shelves and cupboards on or in which food is placed to be placed at least 45 cm off the ground / floor level
- d) An approved wash-up facility of sufficient size to be able to wash all equipment used on the premises must be provided. Where hot water is not available on the premises, provision must be made to effectively heat water for cleaning purposes.
- e) Additional to the wash-up facility, a hand washing facility with adequate potable water, soap and approved hand drying material must be provided and kept available at all times during food preparation
- f) Sufficient toilet facilities must be available on the hawking premises
- g) Chilling and heating facilities must be provided which will keep foods chilled below 7 degrees Celsius, or heated above 65 degrees Celsius during it's storage

### 3. Duties of a person in charge of a hawking facility

The person in charge of a food hawking facility must ensure that the following requirements are complied with -

- a) That no defective, damaged, chipped and unsuitable appliances and crockery are used
- b) That waste water from activities must be disposed of in a waste water disposal system approved by the Council, and is under no circumstances disposed of in storm water drains
- c) That solid waste generated from operations are properly disposed of into suitable containers, which must be sealed with a tight-fitting lid, and where no central refuse area is available for the specific use of hawkers, that all solid waste is removed from the premises on a daily basis is only disposed of in a site approved by the Council
- d) That all foods are kept covered in order to prevent the contamination thereof by flies, dust, or handling by the public.
- e) That an adequate supply of potable water is provided and that fresh water is provided on a daily basis. Where potable running water is not available on the hawking premises, a sufficient amount of potable water for cleaning, cooking, drinking and the washing of hands must be provided in clean containers.
- f) That the hawking premises and the area surrounding the premises is thoroughly cleaned after each days operations
- g) That hawking caravans are removed from the hawking premises daily in accordance with the Council's street trading by-laws
- h) all persons employed on the premises receives adequate training in food hygiene principles.

### 130. Public gathering and special events

Only foodstuffs that have been obtained from an approved supplier may be sold. A copy of the certificate of acceptability of each of the approved supplier must be kept available for inspection on the food premises

### 131. Handling of milk and milk products

- 1) Licensing and introductory permits
  - a) Before any work in respect of a dairy is done, a lay-out plan indicating all areas of the dairy and positioning of all equipment within the dairy must be submitted for approval by the Environmental Health Section
  - b) No person within the Emalahleni municipal area may introduce into, sell, supply, accept or receive for purposes of sale or disposal into the Emalahleni municipal area, any milk or milk product or composite dairy product (whether collected from a milk collecting depot or not) –

- c) Which has not originated or been produced in a dairy farm in respect of which a valid current trade license in terms of the Mpumalanga Businesses Act, 1996 a Certificate of Acceptability in terms of the Health Act and an introductory permit in terms of these By-Laws, specifying the type of milk or milk products to be introduced, has been issued
- 2) Provided that this prohibition shall not apply –
  - a) to the delivery of milk for the manufacture of butter, cheese, condensed milk, milk powder and skimmed milk powder to factories registered in terms of the Dairy Industries Act, 1961 (Act 30 of 1961), as amended,
- 3) No owner or person in control of a dairy or a milk-collecting depot outside of the municipal area shall –
  - a) introduce, sell or supply milk or milk products unless he is the holder of an introductory permit as issued by the Council, and is in possession of a valid Certificate of Acceptability issued in respect of the dairy
- 4) The issuing of an introductory permit shall be subject to the following conditions:
  - a) That application for the introductory permit is done in writing
  - b) That all milk intended for consumption is pasteurized,
  - c) That proof can be rendered from an approved veterinarian practitioner that the dairy herd is certified to be free of Brucellosis and Tuberculosis,
  - d) That proof can be rendered from an accredited laboratory that bacteriological samples the milk product to be introduced has been taken, and has complied with the provisions of R 1555 under the Foodstuffs, Cosmetics and Disinfectants Act for three consecutive months in respect of phosphates, E coli, Coliform count and Total Bacterial Count
  - e) That milk is produced, transported and supplied in accordance with the provisions of these By-Laws, and Regulations under the Health Act and the Foodstuffs, Cosmetics and Disinfectants Act
  - f) That the introductory permit is renewed on a yearly basis
  - g) That the permit is not transferable from one premises to another or from one owner to another
- 5) Cancellation, suspension and refusal

The Council may cancel or suspend for such a period as it deems necessary or refuse to grant an introduction permit or license to a premises or prohibit a process on a premises if –

- a) it is satisfied that the premises, in respect of which a permit has been issued, or the equipment, appliances or dairy stock on the premises does not comply with the provisions of these By-Laws.
- b) any milk product appears from a sample taken thereof at any time before consumption not to comply with the provisions of R1555 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972.
- c) any license holder or person in control of the premises obstructs an environmental health officer in the execution of his / her duties, or does not give him / her the opportunity to take samples of the milk product.
- d) the permit holder, in the opinion of a veterinarian, fails to maintain dairy stock in a state of good health and nutrition or to inoculate the stock.
- e) the permit holder permits a change in the state of the premises or the herd so that these are no longer approved.
- f) If the owner or person in charge of the dairy farm fails to comply with the requirements as specified by means of statutory notice issued by the Council within a reasonable time as specified in the said notice.
- g) If the permit supplies, sells or permits the sale of milk produced on a premises in respect of which an introductory permit has not issued or which does not comply with the requirements of the Foodstuffs, Cosmetics and Disinfectants Act, 1972.
- h) If the permit not comply with any of the requirements under section 4 of these By-laws.

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- 6)
  - a) The Council shall, as soon as a permit has been cancelled or suspended, notify the holder of the cancellation in writing.
  - b) The Council may, after suspension of an introductory permit, take the necessary measures to close any shop, vehicle or container from being used for the distribution of milk in accordance with the provisions of the Foodstuffs, Cosmetics and Disinfectants Act.
  - c) When an introductory permit has been cancelled or suspended, no person within the Municipal area may buy, sell or otherwise dispose of milk from the affected premises

### 132. Requirements for milk shops and shops supplying from bulk milk containers

#### 1. General requirements all appliances used for or in connection with the handling of milk

- a) The bulk milk tank must be provided with a lid to effectively protect the contents from contamination.
- b) The bulk milk tank must be provided with a cooling mechanism capable of keeping the milk at a temperature of between 1 and 7 degrees Celsius.
- c) A thermometer displaying the temperature of the milk in the tank must be provided and must be maintained in proper working order.
- d) All inner surfaces of the tank must be constructed of stainless steel with no open seams or gaps and which is easily cleanable.
- e) Bulk milk tanks must be situated as close as reasonably practicable to the outside area where milk will be delivered.
- f) The length of the pipe used to convey milk from the delivery vehicle to the bulk milk tank may not exceed 6 meters.
- g) All steps in order to prevent the contamination of milk during off-loading must be taken.
- h) Pipes used for the transferal of milk from transport vehicles to the bulk milk tank must be cleaned at the end of each delivery.
- i) Milk from pipes must be emptied and may not be allowed to be exposed to sunlight for prolonged periods of time.
- j) The bulk milk tank must be provided with an outlet pipe and be so constructed and positioned that complete drainage can be effected.
- k) The end of the outlet pipe must be constructed of stainless steel which effectively covers the end of the pipe
- l) Every bulk milk tank must be provided with an agitator capable of thoroughly mixing the contents of the tank within 5 minutes of being put into operation.
- m) The bulk milk tank is to be cleaned thoroughly after emptying and before the next usage.
- n) Every person collecting farm bulk milk shall, on request, furnish the Council with a list of names and addresses of persons from whom the milk has been obtained.
- o) Running hot and cold water is to be provided in the close proximity of the bulk milk tank, in such a way that the tank can be cleaned without the use of a third container.
- p) Every milk tank shall be labeled, stating the contents "pasteurized milk" in letters a minimum of 8 cm in height.
- q) Except where the consumers' own container is used, milk may not be sold in any container other than a sterilized container which can be hermetically sealed

#### 2. Requirements for the transport of milk

Every vehicle used for the transport of milk must comply with the following requirements-

- a) Every vehicle in which milk is transported must be maintained in a sanitary and clean condition at all times

- b) No permit holder may transport milk which he intends for introduction to the Municipal area unless the milk container is so sealed, locked or secured as to effectively prevent the contents from being tampered with during transit, and has on its exterior in letter not less than 12 mm high, the name and address of the premises where the milk was produced
- c) The name address and telephone number of the supplier and the contents of the vehicle is to be displayed on the exterior of the vehicle in letters no less than 80 mm in height.
- d) All milk or milk products awaiting collection for transport must be adequately protected from the weather and the direct rays of the sun.
- e) The driver of the vehicle must take all reasonable measures to prevent the contamination of milk transported.
- f) Every vehicle in which milk is transported must be equipped with a cooling mechanism which will ensure that the temperature of the milk contained is maintained at 7°C or lower at all times.

#### **CHAPTER 14 MISCELLANEOUS**

##### **133. Offences and penalties**

- 1) Any person who –
  - a) contravenes or fails to comply with any provisions of these By-laws; or
  - b) fails to comply with any notice issued in terms of or for the purposes of these By-laws; or
  - c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws; or
  - d) obstructs or hinders any authorized representative or employee of the Council in the execution of his or her duties under these By-laws,
  - e) is guilty of an offence and liable on conviction to a fine not exceeding R1500-00 or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

##### **134. Serving of notices**

- 1) A notice, order or other document is regarded as having been properly served if -
  - a) it has been delivered to the person concerned personally;
  - b) it has been sent by registered post or speed post to the person to whom it is addressed at his or her last known address;
  - c) it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - d) if the address of the person concerned in the Republic of South Africa is unknown, if it has been served on that person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a),(b) or (c); or
  - e) if the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.
- 2) A notice, order or other document which may in terms of these By-laws be served on the owner or occupier of premises may be addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

##### **135. Application to the State**

These By-laws bind the State, including the Council.

**136. Repeal**

The By-laws listed in Schedule 2 are hereby repealed.

**137. Short title**

These By-laws are called the Public Health By-laws, 2006.

**SCHEDULE 1**  
**SCHEDULED USES**  
**(Sections 1, 8, 9 and 11)**

The activities and uses of premises listed in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified in the relevant Chapter of these By-laws and where required, in a permit, are taken to avoid the risk or to reduce it to a level acceptable to the Council.

**Part A: Activities for which a permit is required**

<b>Section</b>	<b>Activity</b>
30	Provision of service to remove human excrement or urine
31	Installation of sewage works
45	Offensive trades
52	Hairdressing, beauty and cosmetology services
70	Nursing homes used for maternity purposes and for medical and surgical purposes
100	Keeping of poultry
104	Keeping of rabbits
109	Dog Kennels and catteries
119	Keeping dangerous animals
120	Keeping bees

**Part B: Scheduled uses**

<b>Chapter</b>	<b>Scheduled use</b>
4	Sanitary services
5	Private Sewage Works
6	Water
7	Offensive Trades
8	Hairdressing, Beauty and Cosmetology Services
9	Dry Cleaning and Laundry Establishments
10	Swimming Pools and Spa-Baths
11	Nursing Homes
12	Keeping of Animals

**SCHEDULE 2:**  
**REPEALED BY-LAWS**

<b>Number and year</b>	<b>Name of By-laws</b>	<b>Extent of Repeal</b>
Administrator's Notice 11 dated 12 January 1949	Witbank Municipality's: Public Health By-laws	Whole
Administrator's Notice 239 dated 11 February 1987	Witbank Municipality's Standard Health By-laws relating to keeping of animals, birds and poultry and businesses involving the keeping of animals, birds, poultry or pets	Whole
Administrator's Notice 1387 dated 14 October 1981	Kriel Municipality's Standard By-laws for keeping of dogs	Whole

**LOCAL AUTHORITY NOTICE 66 OF 2008**

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**MUNICIPALITY  
EMALAHLENI LOCAL  
PUBLIC OPEN SPACES BY-LAWS**

**EMALAHLENI LOCAL MUNICIPALITY**

**(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL, A 15/07 ON  
THE 13<sup>th</sup> FEB 2007)**

**The Municipal Manager of the Emalahleni 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 Open Spaces By-laws, as set out hereunder.**

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## CHAPTER 1

### INTERPRETATION AND FUNDAMENTAL PRINCIPLES

#### 1. Definitions and interpretation

- (1) In these By-laws, unless the context otherwise indicates –
- "ACTIVE GAME"** means any physical sport, game or other activity participated in by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;
- "AUTHORIZED OFFICIAL"** means any official of the Council who has been authorized by the Council to administer, implement, and enforce the provisions of these By-laws;
- "CONSERVATION PUBLIC OPEN SPACE"** means public open space, which is managed by or on behalf of the Council for conservation purposes, and includes any nature reserve, greenbelt, ravine, bird sanctuary and site of historic, ecological or archaeological value;
- "COUNCIL"** means –
- (a) the Emalahleni Local Municipal Council
  - (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.
- "DESIGNATED AREA"** means an area designated by the Council as an area in which an active game or any other activity or conduct, which would otherwise be prohibited under Chapter 3 of these By-laws, may be undertaken; "environment" means the surroundings within which humans exist and that are made up of –
- (a) the land, water and atmosphere of the earth;
  - (b) micro-organisms, plant and animal life;
  - (c) any part or combination of paragraphs (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;
- "ENVIRONMENTALLY SUSTAINABLE"** means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –
- (a) the risk of harm to the environment and to human health and safety is minimized to the extent reasonably possible under the circumstances;

- (b) the potential benefits to the environment and to human health and safety are maximized to the extent reasonably possible under the circumstances; and
- (c) legislation intended to protect the environment and human health and safety is complied with;

**"LOCAL COMMUNITY"** means that body of persons comprising –

- (a) the residents of the area in which a public open space is situated;
- (b) the ratepayers of the area in which a public open space is situated; and
- (c) any civic organization and non-governmental or private sector organization or body which are involved in local affairs in the area in which a public open space is situated;

**"MUNICIPAL MANAGER"** means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);

**"MUNICIPAL PROPERTY"** means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes any building, lapa, kiosk, bench, picnic table, playground equipment, fountain, statue, monument, fence, pole, notice and sign; "notice" means a clear and legible official notice drawn up by the Council in English and Afrikaans and prominently displayed in a public open space;

**"NUISANCE"** means an unreasonable interference or likely interference with–

- (a) the health or well being of any person;
- (b) the use and enjoyment by an owner or occupier of his or her property; or
- (c) the use and enjoyment by a member of the public of a public open space;

**"ORGAN OF STATE"** means –

- (a) any department of State or administration in the national, provincial or local sphere of government; and
- (b) any other functionary or institution –
  - (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) or a provincial Constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court of law and a judicial officer;

**"PERSON"** means a natural person or a juristic person, and includes an organ of State;

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

**"PRINTED MATTER"** includes any advertisement, billboard, poster, book, pamphlet or handbill;

**"PROHIBITED ACTIVITY"** means any activity or behavior, which is prohibited in terms of Chapter 3 from being undertaken in a public open space, either completely or without permission in terms of section 21, 22 or 23;

**"PUBLIC OPEN SPACE"** means any land which –

- (a) is owned by an organ of State, or
- (b) over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- (c) is controlled and managed by the Council; and
- (d) is either –
  - (i) set aside in terms of any law, zoning scheme or spatial plan, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture; or
  - (ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

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

**"RECREATIONAL PUBLIC OPEN SPACE"** means public open space, which is managed by or on behalf of the Council for public recreational purposes, and includes any park, botanical garden, sports ground and playground, but excludes any golf course;

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

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

**"URBAN AGRICULTURAL PUBLIC OPEN SPACE"** means public open space, which is managed by or on behalf of the Council for urban agricultural purposes;

**"VEHICLE"** means a device designed or adapted mainly to travel on wheels, but excludes a wheelchair and children's pushchair and perambulator;

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

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

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

- (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 authorized by it.

## **2. Application of By-laws**

- (1) These By-laws apply to every public open space which falls under the jurisdiction of the Council, but do not apply to cemeteries.
- (2) These By-laws are binding on the State.

## **3. Purpose of By-laws**

- (1) The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-
  - (a) to ensure that the way in which the Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Emalahleni, including future generations; and
  - (b) which clearly defines the rights and obligations of the public in relation to public open spaces.

# **CHAPTER 2**

## **MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES**

### **4. Principles of By-laws**

- (1) Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –
  - (a) the long-term collective interests of the community of EMALAHLENI, and of South Africa, must be prioritized over the interests of any specific interest group or sector of society;
  - (b) a long-term perspective, which takes account the interests of future generations, must be adopted; and
  - (c) the interests of other living organisms, which depend on public open spaces, must be taken into account.
- (2) Public open spaces must be managed in an environmentally sustainable manner.
- (3) Subject to the provisions of subsection (5) and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) If necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.

- (5) Access to a public open space may be restricted in a manner, which does not unjustifiably discriminate against any person or class of persons—
  - (a) if the restriction is authorized by these By-laws or by any other law; or
  - (b) in order to achieve the purposes of these By-laws.
- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

#### **5. Application of principles**

- (1) The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998), must be considered and applied by any person –
  - (a) exercising a power or function or performing a duty under these By-laws;
  - (b) formulating or implementing any policy which is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
  - (c) exercising a public power or function or performing a public duty, which is likely to have a significant effect on, or which concerns the use of, public open spaces.

#### **6. General Powers of Council**

- (1) The Council may in relation to any public open space –
  - (a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and display a prominent notice to this effect at every entrance to the designated area;
  - (b) develop any public open space in accordance with the principles set out in section
  - (c) erect, construct, establish or demolish municipal property; and
  - (d) exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of these By-laws relating to the management of public open spaces.

#### **7. Fees**

- (1) Any member of the public must pay –
  - (a) a prescribed fee to use recreational or other facilities, which the Council provides, within any public open space;
  - (b) a prescribed fee for entrance to any public open space which is significantly more expensive to maintain than other public open spaces, such as botanical gardens;

- (c) a prescribed fee for the right to undertake a special event;
- (d) a prescribed fee for the right to exclusively use municipal property for a specific period;
- (e) a deposit prior to undertaking a prohibited activity permitted by the Council;
- (f) an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- (g) a prescribed fee for processing applications for permits or letters of permission under these By-laws, if the Council has determined such a fee or deposit.

## **8. Restricting access**

- (1) The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
  - (a) to protect any aspect of the environment within a public open space;
  - (b) to reduce vandalism and the destruction of property;
  - (c) to improve the administration of a public open space;
  - (d) to develop a public open space;
  - (e) to enable a special event which has been permitted in terms of section 22, to proceed; or
  - (f) to undertake any activity which the Council reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

## **9. Powers of authorized officials**

- (1) In relation to any public open space, an authorized official may –
  - (a) to the extent authorized by the Council administer, implement and enforce the provisions of these By-laws;
  - (b) issue a notice in terms of section 20;
  - (c) instruct any person to leave a public open space if the authorized official reasonably believes that the person is contravening any provision of these By-laws, and fails to immediately terminate such contravention upon the instruction of that official; and
  - (d) if such official is a peace officer, exercise any power, which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

## **10. Obligations in relation to public open spaces**

- (1) The Council must within a public open space display any notice required under these By-laws.
- (2) In relation to recreational public open spaces, the Council must –
  - (a) ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
  - (b) prominently display a notice at every entrance indicating:
    - (i) the opening and closing times of that recreational public open space; and
    - (ii) any rules made by the Council in relation to that recreational public open space.
- (3) Council must ensure the well maintenance of the public open spaces within its available means.

### CHAPTER 3

#### APPLICATIONS FOR AUTHORIZATION

##### 11. Application for permission

- (1) Any person who wants to undertake a prohibited activity must make application in writing to the Council for permission to do so, which application must be accompanied by the prescribed fee.
- (2) The Council may, after receiving an application, request the applicant to provide additional information, which the Council reasonably requires in order to consider the application.
- (3) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and if the prescribed fee has not been paid.
- (4) Subject to the provisions of subsections (2) and (3), the Council must consider the application within a reasonable time and must either:
  - (a) refuse the application; or
  - (b) grant permission in writing to the applicant subject to such conditions as the Council may consider appropriate to best achieve the purposes of these By-laws, which may include payment of a deposit, a prescribed fee or both.

##### 12. Application for a special event permit

- (1) An application for permission to hold a special event in a public open space must be made at least 21 days prior to the proposed date of the special event.
- (2) The time period referred to in subsection (1) may, on good cause shown, be reduced by the Council.
- (3) An application in terms of subsection (1), must contain the following information:
  - (a) The name and full contact details of the applicant, including name, postal address, telephone and fax numbers and email address, if available;
  - (b) the nature and purpose of the special event;
  - (c) the intended route or area proposed to be used for purposes of the special event; and
  - (d) any permission required under Chapter 3 of these By-laws.
- (4) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified in the permit to the exclusion of any other person during the period specified in the permit.

##### 13. Application for permission to farm in an urban agricultural public open space

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



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

## CHAPTER 4

### TREE PRESERVATION ORDERS

#### 14. General

- (1) If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order-
  - (a) must indicate the tree or trees to which it relates; and
  - (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- (3) The Council must prominently display a copy of a tree preservation order issued within 3 meters of the tree or trees to which the order relates.

#### 15. Procedure

- (1) Unless, in the Council's opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order in terms of section 25-
  - (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the *Provincial Gazette* and in two newspapers circulating in the area in which the tree or group of trees is situated;
  - (b) notify any affected organs of State; and
  - (c) consider any comments and objections received in response to the notice.

## CHAPTER 5

### CO-OPERATIVE MANAGEMENT AGREEMENTS

#### 16. Entering into agreements

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

## CHAPTER 6

### PROHIBITED CONDUCT

#### 17. Prohibited activities

- (1) Any person who undertakes an activity or behaves in a manner that is prohibited in terms of these By-laws, commits an offence unless, in addition to any exceptions contained in sections 12 to 19, that activity or conduct –
  - (a) takes place in a designated area within which that activity or conduct is allowed; or
  - (b) is authorized in terms of a permission granted or permit issued in terms of section 21, 22 or 23; or
  - (c) is deemed to be authorized by the Council under subsection (2).
- (2) Subject to the provisions of subsection (3), a person is not in contravention of any provision of section 12 to 19 if that person needs to undertake the prohibited activity –
  - (a) to perform his or her obligations as an employee, agent or contractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of these By-laws;
  - (b) to carry out public duties as an employee, agent or contractor of an organ of State within a public open space which is subject to a public utility servitude in favour of that organ of State;
  - (c) to fulfill his or her duties as an authorized official; or
  - (d) to fulfill his or her duties as a peace officer.
- (3) Subsection (2) must not be interpreted to allow a contravention of section 12(a) or (e) or any activity, which the Council has expressly refused to permit.

## **18. General prohibition**

- (1) No person may within a public open space –
  - (a) act in a manner, which is dangerous to life or property;
  - (b) contravene the provisions of any notice within any public open space;
  - (c) unlawfully enter a public open space to which access has been restricted in terms of section 8;
  - (d) cause a nuisance; or
  - (e) behave in an indecent or offensive manner.

## **19. Prohibited use**

- (1) No person may within a public open space –
  - (a) bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
  - (b) make, light or otherwise start a fire except in a facility provided by the Council for that purpose;
  - (c) camp or reside;
  - (d) consume, brew, store or sell any alcoholic beverage;
  - (e) use any sound equipment, including a radio, portable hi-fi or car stereo;
  - (f) play an active game, except in an area designated for that purpose on a sport playing field or on a golf course; or
  - (g) shoot a projectile of any nature.

## **20. Waste**

- (1) No person may within a public open space –
  - (a) deposit, dump or discard any waste, other than in a receptacle provided by the Council for that purpose; or
  - (b) pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

## **21. Vehicles**

- (1) No person may within a public open space –
  - (a) except at times specified and on roads or pathways provided by the Council, drive, and draw or propel any vehicle other than a bicycle;
  - (b) drive, draw or propel a vehicle in excess of five kilometers per hour; or
  - (c) park a vehicle in a public open space, except in designated area or other area where the Council otherwise permits parking.

## **22. Vegetation and animals**

- (1) Subject to the provisions of subsection (2), no person may within a public open space –
  - (a) disturb, damage, destroy or remove any tree, shrub or other vegetation;
  - (b) affix or place any printed matter on a tree;
  - (c) plant any vegetation;

- (d) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree or other plant;
- (e) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any animal, fish, or bird; (f) disturb, damage or destroy any bird nest or egg;
- (g) ride a horse, except-
  - (i) in a public open space or any part thereof designated by the Council for that purpose; and
  - (ii) a person who in the performance of his or her official duties, patrols a public open space on horseback;
- (h) walk, carry, ride or bring an animal other than a horse or dog; or
- (i) walk any dog unless-
  - (i) it is in a public open space or any part thereof which has not been designated by the Council as an area where no dogs are allowed, and it is on a leash and under control of a person; or
  - (ii) it is in a public open space or any part thereof designated by the Council as an area where dogs may run free:

Provided that if any dog excretes in a public open space, the person in control of the dog must immediately remove such excrement and dispose of it in a waste bin or other receptacle provided by the Council for that purpose.

- (2) The provisions of subsection (1)(a) and (c) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

### **23. Municipal property and erection of structures**

- (1) Subject to the provisions of subsection (2), no person may within a public open space –
  - (a) deface, damage, destroy or remove any municipal property;
  - (b) disturb the surface of any land, whether by digging, undertaking any earthworks or otherwise;
  - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
  - (d) affix or place on any municipal property, or distribute, any printed matter; or
  - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.
- (2) The provisions of subsection (1)(b) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

### **24. Selling and special events**

- (1) No person may within a public open space –
  - (a) use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or

- (b) except within a public open space or part thereof, which has been let to a person by the Council for that purpose, sell, hawk, offer or display any goods or articles for sale or hire;
- (2) No person may undertake a special event, except in terms of a permit issued in terms of section 22.

## **25. Community service**

Except in terms of an agreement entered into in terms of section 24, no person may within a public open space undertake any community or voluntary work of any description.

## **26. Restoration or removal notices**

- (1) Unless permission or a permit to do so has been obtained in terms of section 21, 22 or 23, an authorized official may issue a restoration or removal notice to any person who has in a public open space –
  - (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
  - (b) erected, built or assembled a structure; or
  - (c) dumped, discarded or deposited any waste, other than in a receptacle provided by the Council for that purpose.
- (2) The restoration or removal notice may direct the person concerned within a reasonable time specified in the notice to take stated reasonable steps specified in the notice-
  - (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
  - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

# **CHAPTER 7**

## **GENERAL**

## **27. Offences and penalties**

- (1) Any person who –
  - (a) contravenes or fails to comply with any provisions of these By-laws;
  - (b) fails to comply with any notice or other document issued or displayed in terms of these By-laws;
  - (c) fails to comply with any lawful instruction given in terms of these By-laws; or

- (d) obstructs or hinders any authorised official in the execution of his or her duties under these By-laws is guilty of an offence and liable on conviction to a fine of R1 500-00 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 R150, 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.

**28. Short Title and Commencement**

These By-laws shall be called the Emalahleni Public Open Spaces By-laws, 2006 and shall commence on the date as determined by resolution of council.

# **LOCAL AUTHORITY NOTICE 67 OF 2008**

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## **EMALAHLENI LOCAL MUNICIPALITY**

### **WASTE MANAGEMENT BY-LAWS**

**(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL .A 15/07 ON  
13<sup>TH</sup>**

**FEB 2007)**

The EMALAHLENI LOCAL MUNICIPALITY hereby publishes the Waste Management By-Laws set out below. They have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

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## CHAPTER 1 INTERPRETATION

### 1. Definitions

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

**"affected person"** means a person who has been issued, or who is being issued, with an enforcement notice;

**"approved"** means approved by the health officer with regard to the reasonable public health requirements of the particular case;

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

**"basic services"** means a service provided exclusively by the municipality or its service provider to collect domestic waste, business waste and dailies in accordance with the provisions of the Systems Act and Chapter 4 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;

**"Bill of Rights"** means chapter 2 of the Constitution of the Republic of South Africa, 1996;

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

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

**"building waste"** includes 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, in the opinion of the municipality, inconvenient to remove in the routine door-to-door basic service provided by the municipality;

**"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;

**"commercial services"** means any service, excluding basic services, relating or connected to 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 having a capacity greater than 1, 5 cubic metres for the temporary storage of waste in terms of these by-laws;

**"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 frequent (normally daily) basis, to prevent the waste from decomposing and being either a nuisance or a risk to the environment or public health;

**"domestic waste"** means waste generated on premises that are used solely for a residential purpose and for the purpose of public worship, 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 as a waste disposal facility, by the municipality;

**"enforcement notice"** means a notice issued by an authorised official under section 48 of these by-laws;

**"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 public health and well-being;

**"environmental emergency"** means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed;

**"firm"** includes any juristic person or any association of persons established or operating in the Republic of South Africa;

**"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 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, to any domestic, business, commercial or industrial premises;

**"garden waste handling facility"** means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

**"hazardous waste"** means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, a chemical or any other waste that has the potential, even in low concentrations, of having an 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 health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

**"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 basic service and the type of service point;

**"licensee"** means any person who has obtained a licence in terms of Chapter 8 of these by-laws;

**"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 municipality means that body of persons comprising-

- (a) the residents of the municipality,
- (b) the ratepayers of the municipality,
- (c) any civic organisation and non-governmental, private sector or labour organisation or bodies which are involved in local affairs within the municipality, and
- (d) persons who, despite residing outside the municipality, because of their presence in the municipality, make use of the services provided by the municipality;

**"local waste plan"** means any integrated waste management planning system which the municipality must develop under national or provincial legislation or in terms of the municipality's integrated development plan as more fully described in Chapter 2;

**"municipality"** includes, subject to the provisions of any other law, the municipal manager, but only if his inclusion is impliedly required or permitted by these by-laws and only in respect of the performance of any function, or the exercise of any duty, obligation or right in terms of these by-laws or any other law;

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

**"National Road Traffic Act regulations"** means the regulations made in terms of section 75 of the National Road Traffic Act, 1996 (Act 93 of 1996) and published as Notice 225 in the Regulation Gazette No 6748 of the Government Gazette No 20963 dated 17 March 2000;

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

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

**"panel"** means the Licence Adjudication Panel established in terms of section 32 of these by-laws;

**"person"** means a natural or juristic person and includes a licensee;

**"pollution"** means any change in the environment caused by—

- (a) substances;
- (b) radioactive or other waves; or
- (c) noise, odours, dust or heat;

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

**"premises"** means an erf or any other portion of land, including any building, or part of a building on it, or any other structure utilised for business, industrial or residential purposes;

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

**"public road"** means any road, street, pathway, or thoroughfare or any other place (whether a thoroughfare or not) of a similar nature which is commonly used by the public or to which the public or a segment of the public has a right of access and includes—

- (a) any section of such road, street or thoroughfare;
- (b) the verge of any such road, street or thoroughfare;
- (c) any bridge or drift traversed by any such road, street or thoroughfare; and
- (d) 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 re-use or reclamation;

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

**"resident"** means in relation to a municipality a person who is ordinarily resident within the jurisdiction of the municipality;

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

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

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

**"service provider"** means any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the Systems Act;

**"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 ninety days;

**"Structures Act"** means the Local Government: Municipal Structures Act, 1998 (Act 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 32 of 2000);

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

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

**"waste"** shall not exclude a substance merely because it may be reprocessed, re-used or recycled and shall include—

- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in a volume, constituency or manner so as to cause an alteration in the environment; or
- (b) any discarded, rejected, unwanted, surplus or abandoned substance; or
- (c) any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the substance, or
- (d) any substance prescribed as waste in these by-laws or any other legislation;

**"waste disposal facility"** means any facility or site which receives waste for treatment or disposal, and which is operated in terms of a permit obtained from the competent national authority, and includes garden waste handling facilities and incinerators;

**"waste generator"** means any person or firm that generates or produces waste;

**"waste handling facility"** means any facility that accepts, accumulates, handles, recycles, reprocesses, sorts, stores or treats waste 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 municipality on or in which or in connection with which, a person undertakes basic services or commercial services; and

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

## CHAPTER 2

### LOCAL WASTE PLAN

#### 2. Preparation of a Local Waste Plan

2.1 Subject to any other legislation, the municipality may prepare a local waste plan.

#### 3. Objectives of a Local Waste Plan

3.1. The objectives of a local waste plan include—

3.1.1. Establishing a means of ensuring that waste is collected, re-used, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without—

- (a) risk to water, air, soil, plants or animals;
- (b) causing nuisance through noise or odours; or
- (c) adversely affecting rural or urban areas or areas of special interest;

3.1.2. Establishing an integrated network of waste handling and waste disposal facilities to ensure that—

- (a) comprehensive and adequate basic and commercial services are established within the municipality;
- (b) the disposal of waste occurs at accessible waste disposal facilities; and
- (c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
- (d) encouraging the minimisation or reduction of waste;
- (e) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
- (f) any other object which would enhance sustainable development.

## CHAPTER 3

### WASTE MANAGEMENT INFORMATION SYSTEM

#### 4. Decision to Establishment a Waste Management Information System

4.1 The municipality may establish and maintain a waste management information system in terms of this chapter to record how waste is managed within the municipality.

4.2 A decision to establish a waste management information system in terms of **section 7** must be published by a notice in the Provincial Gazette and will come into operation on a date announced in the notice which must not be less than 3 months from the date of its publication.

**5. Purpose of the Information System**

- 5.1 The purpose of an information system is for the municipality to—
- (a) record data relating to the implementation of the local waste plan, if any, and the management of waste in the municipality;
  - (b) record information held by the municipality in relation to any of the matters referred to in subsections 10.
  - (c) furnish information upon request or as required by law to the provincial or national government;
  - (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees;
  - (e) provide information to waste generators, service providers, licensees and the local community in order to—
    - (i) facilitate monitoring of the performance of the municipality, service providers and licensees, and, where applicable, waste generators;
    - (ii) stimulate research; and
    - (iii) assist the municipality to achieve the main objects of these by-laws.

**6. Content of the Information System**

- 6.1 An information system established by the Municipality may include any information relating to or connected to the management of waste within the municipality.
- 6.2 The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law.
- 6.3 In giving effect to the right in subsection (6.2), the municipality must—
- (a) at the request of a member of the local community, provide information contained in the information system;
  - (b) take steps to ensure that the information provided is in a format appropriate for lay readers; and
  - (c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

**7. Provision of Information**

- 7.1 The municipality 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 basic services or commercial services within the municipality to furnish information to the municipality that may reasonably be required for the information system.
- 7.2 The information referred to in subsection (7.1) may concern—
- (a) significant sources of waste generation and the identification of the generators of waste;
  - (b) quantities and classes of waste generated;
  - (c) waste handling, waste treatment and waste disposal facilities;
  - (d) population and development profiles;
  - (e) reports on progress in achieving any waste management targets;
  - (f) the management of radioactive waste;
  - (g) markets for waste by class of waste or category; and
  - (h) any other information required by legislation, regulation or guidelines.

- 7.3 The municipality may, at its sole discretion, determine when and how often information must be furnished.

#### CHAPTER 4

#### BASIC SERVICES

##### Part I: Providing Access to Basic Services

##### 8. The Provision of Basic Services

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

##### 9. Requirements for Basic Services

- 9.1 The following matters in respect of basic services shall be determined by the municipality, and the power to make a determination in this section may not be assigned to a service provider in terms of chapter 7
- (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require basic services more frequently than the regular collection service for reasons of health, safety and environmental protection; and
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff.
- 9.2 The following additional matters in respect of basic services may be determined by the municipality-
- (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 determine 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 where such waste is determined to be unsuitable for collection, a process for the collection of these items must be recommended to the owner of the waste.
- 9.3 The municipality must notify in writing all generators of domestic waste, business waste and dairies of any decisions taken in terms of subsections (9.1) or (9.2), and may at any time review these decisions.
- 9.4 The municipality may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dairies pending collection.
- 9.5 Where a receptacle referred to in subsection (9.4) is provided by the municipality, it remains the property of the municipality.
- 9.6 The municipality may require a generator of dairies and business waste to compact that portion of the waste that is compactable when—
- (a) the quantity of dairies or business waste generated on premises requires daily removal of more than the equivalent of 24x85 litre bins; and
  - (b) in the opinion of the municipality, the major portion of such waste is compactable.

- 9.7 The occupier of premises may elect to compact any volume of such waste and place it into a receptacle or wrapper that is approved by the municipality: Provided that—
- (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms; and
  - (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.

**Part II: Using Basic Services**

**10. Obligations of Generators of Domestic Waste, Business Waste and Dailies**

- 10.1 Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the municipality as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.
- 10.2 No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- 10.3 The occupier of premises must ensure that—
- (a) no hot ash, unwrapped glass or other domestic waste, business waste and dailies, which may cause damage to approved receptacles or which may cause injury to employees of the municipality while carrying out their duties in terms of these by-laws, is placed in approved receptacles;
  - (b) no material, including any liquid, which because of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the municipality to handle or carry, is placed in a receptacle;
  - (c) every approved receptacle on the premises is kept closed except when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
  - (d) the approved receptacle delivered by the municipality is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container.
  - (e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the municipality by notice to the owner or occupier of the premises, except where, on written application to the municipality, the municipality has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
  - (f) the approved receptacle, placed in accordance with subsection 10.3 (e), must be undamaged 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 other waste streams.
- 10.4 The owner or occupier of premises must provide adequate space considered necessary by the municipality, on the premises for the storage of approved receptacles.
- 10.5 The space provided in terms of subsection (10.4) must—
- (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
- 10.6 Where dailies are generated on the premises—
- (a) be in such a position as will allow their collection and removal by the municipality's employees without hindrance; and
  - (b) be placed not more than 20m from the entrance to the premises used for the collection of waste by the municipality;
  - (c) be so located as to permit convenient access and egress for the municipality's waste-collection vehicles;

- (d) comply with any further reasonable requirements imposed by the municipality by written notice to the owner or occupier of the premises; and
  - (e) be constructed in accordance with the requirements of any applicable building regulations.
- 10.7 The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (10.4) and must at all times keep them there, except where the municipality is unable to collect and remove waste from the space provided in terms of subsection (10.4).
- 10.8 The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the municipality may require.

#### **11. Liability to Pay for Basic Services**

The owner of premises is liable to the municipality for the payment of rates or tariffs or both for the provision of basic services, and is not entitled to exemption from the liability to make payment because no use or only partial or limited use is made of basic services.

### **CHAPTER 5**

#### **COMMERCIAL SERVICES**

##### **Part I: Provision of Commercial Services by Licensees and Flow Control**

##### **12. Provision of Commercial Services by Licensees**

- 12.1 Except in the case of garden waste, and subject to subsection 29(3), only a licensee may provide commercial services.
- 12.2 Any person requiring commercial services must satisfy him that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these by-laws.

##### **13. Provision for Municipality Co-Ordination of Waste Disposal**

The municipality may direct, by a notice published in the Provincial Gazette, that a category of waste be disposed of at a particular depot or disposal site; and no person may dispose of waste other than as specified in a notice that has been gazetted under this section or as specified by the municipality under other legislation prior to the coming into operation of these by-laws.

##### **Part II: Business, Industrial and Recyclable Waste**

##### **14. Storage of Business, Industrial and Recyclable Waste**

- 14.1 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 within a bulk container or other approved receptacle; and
  - (b) no nuisance or health risk of any kind whatsoever is caused by the waste in the course of generation, storage, or collection.

##### **15. Collection and Disposal of Industrial, Business and Recyclable Waste**

- 15.1 The owner or occupier of premises where business, industrial and recyclable waste is generated must ensure that—
  - (a) the container in which the waste is stored is not kept in a public place except for the purpose of collection;
  - (b) the waste is collected by a licensee within a reasonable time after its generation; and



- (c) that the service rendered by a licensee is in respect only of that portion of the business, industrial or recyclable waste authorised in its license.

- 15.2 A licensee must dispose of business, industrial or recyclable waste at an appropriately permitted waste handling facility or waste disposal facility; and in disposing of waste, a licensee must comply with any notice given in terms of section 13 and with the provisions of section 28.

### **Part III: Garden Waste and Bulky Waste**

#### **16. Storage, Collection and Disposal of Garden Waste and Bulky Waste**

- 16.1 The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, but may do so only if the composting does not cause a nuisance or public health risk.
- 16.2 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 its generation.
- 16.3 Any person or licensee may remove garden waste and bulky waste, but may do so only if the waste is deposited at a **garden waste handling facility** in accordance with the provisions of section 28.
- 16.4 At the written request of the occupier of premises, the municipality may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; and the provisions contained in section 9, must apply to an approved receptacle delivered in terms of this section.-
- 16.5 The Council shall deliver the bulk refuse containers mentioned in subsection 16.4 on the outside of the premises next to street boundary near the entrance or driveway entrance, in accordance with all road traffic and safety legislation;
- 16.6 The Council shall not be liable for the loss or for any damage to private property, which is caused on or in a private stand, due to the delivery of a bulk refuse container mentioned in subsection 16.4.
- 16.7 Where, in the course of providing basic services, the municipality or the service provider providing the service, is of the opinion that it would cause inconvenience to members of the public not to remove garden and bulky waste at the same time, the municipality may remove such waste, in which event the tariff for domestic waste applies.
- 16.8 At the request of the owner or any occupier of any premise, the Council may remove bulk garden and other bulk refuse from a premise, provided that the Council is able to do so with its refuse removal equipment. All such refuse be placed within 3 meters of the boundary loading point, but not on the sidewalk. The cost of this service will be the same as the tariff charge when a container or containers were requested.

### **Part IV: Building Waste**

#### **17. Generation of Building Waste**

- 17.1 The owner or occupier of premises on which building waste is to be generated must ensure that –
  - (a) until disposal, all building waste, together with the containers used for its storage, collection or disposal 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 instructions from the municipality, any structure necessary to contain the building waste is constructed.

**18. Storage of Building Waste**

- 18.1 The municipality may establish conditions, subject to subsection (18.2), to place a receptacle for the storage and collection of building waste in the road reserve.
- 18.2 Every receptacle used for the removal of building waste, must—
- (a) have clearly marked on it the name, address and telephone number of the person in control of such receptacle;
  - (b) be fitted with reflecting chevrons or reflectors on its front and back; and
  - (c) be covered at all times other than when actually receiving or being emptied of building waste so that no displacement of its contents can occur.

**19. Collection and Disposal of Building Waste**

- 19.1 The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.
- 19.2 All building waste must be disposed at a waste disposal facility designated for that purpose by the municipality in terms of a notice under section 13, unless the municipality has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.
- 19.3 Any consent given in terms of subsection (19.2) shall be subject to such conditions as the council may deem necessary: Provided that in giving or refusing its consent or in laying down conditions the Council shall have regard to the following;
- (a) Public safety;
  - (b) The environment of the proposed landfill site;
  - (c) The suitability of the area including the drainage thereof;
  - (d) The expected manner and times of depositing of refuse at the site;
  - (e) The levelling of the site;
  - (f) The control of dust;
  - (g) Other relevant factors as may be determined by Council.

**Part V: Special Industrial, Hazardous or Health Care Risk Waste****20. Generation of Special Industrial, Hazardous or Health Care Risk Waste**

- 20.1 No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the municipality in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste:

Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must give the municipality such notice within 6 months of the commencement of these by-laws.

- 20.2 If so required by the municipality, the notification referred to in subsection (20.1) must be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- 20.3 The person referred to in subsection (20.1) must notify the municipality in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

**21. Storage of Special Industrial, Hazardous or Health Care Risk Waste**

- 21.1 Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored, until it is collected, on the premises.

- 21.2 Special industrial, hazardous or health care risk waste stored on premises must be stored in a manner that does not become a nuisance or cause harm to public health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.
- 21.3 Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding three months or any other period stipulated by the Department of Water and Environmental Affairs, the Provincial Government, or the municipality.
- 21.4 The municipality may enact additional by-laws providing guidelines for the management of health care risk waste.

## **22. Collection and Disposal of Special Industrial, Hazardous or Health Care Risk Waste**

- 22.1 Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the municipality, stipulated as licence conditions or in additional by-laws, as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of the type of vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.
- 22.2 A licensee, who is licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the municipality prior to the date of collection of the date of collection, the quantity and the composition of the waste collected and the facility at which the waste has been disposed.
- 22.3 A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by notice by the municipality as a waste disposal facility for that purpose in terms of section 13 and in accordance with the provisions of section 28.

## **CHAPTER 6**

### **TRANSPORTATION AND DISPOSAL OF WASTE**

## **23. Transportation of Waste**

- 23.1 No person may—
  - (a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain the vehicles 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;
  - (d) cause or permit any waste being transported in or through the municipality to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility; and
  - (e) knowingly dispose waste at a waste disposal facility that is not permitted to accept that waste.
- 23.2 Subject to subsection (23.1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act 93 of 1996).

## **24. Disposal of Waste**

- 24.1 Waste generated within the municipality must be disposed of at a waste disposal facility that has been appropriately permitted by the competent national authority.
- 24.2 In disposing of waste, licensees must comply with any notices issued in terms of section 13 and in accordance with the provisions of any other law regulating the disposal of waste.
- 24.3 No person may dispose of waste by burning it, either in a public or private place.

- 24.4 No person may incinerate waste either in a public or private place except in an incinerator permitted by the relevant national and provincial authorities to do so, or at a place designated by the municipality for such purpose.
- 24.5 Notwithstanding the provisions of subsection (24.1), any person may dispose of those forms of recyclable waste specified by the municipality in a notice in terms of section 15 at designated garden waste handling facilities, but may do so only if the waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.
- 24.6 The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by the competent national authority, be subject to any condition the municipality may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the manner of disposing of waste and any other matters which the municipality considers necessary to ensure the environmentally sound management of waste.
- 24.7 Every person who enters a waste disposal facility must—
- (a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
  - (b) on request, provide the municipality or the operator of the waste disposal facility with any information regarding the composition of the waste; and
  - (c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.
- 24.8 No person may—
- (a) bring any liquor or intoxicating or narcotic substance on to a waste disposal facility or enter such facility in an intoxicated state;
  - (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 operator of the waste disposal facility or the municipality and then only at such times and on such conditions as the municipality or operator may from time to time determine;
  - (c) dispose of waste at a waste disposal facility which is not permitted for waste of that kind; or
  - (d) light any fire upon or near any disposal area without authorisation.
- 24.9 Any person who contravenes subsection 24(8)(c) will be liable for all reasonable costs incurred by the municipality in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- 24.10 The operator of the waste disposal facility **or any authorised official** may at any time require a vehicle, or a container on a vehicle, that has entered the waste disposal facility for the purposes of disposing waste, to be weighed at a weighbridge.
- 24.11 The municipality, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the municipality 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.
- 24.12 Any person contravening any of the provisions of this section may be refused entry or be removed from a waste disposal facility.
- 24.13 No person may store waste for more than ninety consecutive days without a permit from the competent national authority in terms of section 20(1) of the Environment Conservation Act, 1989 (Act 73 of 1989).

## CHAPTER 7 SERVICE PROVIDERS

### 25. Agreement, Delegation and Customer Charter

- 25.1 The municipality may, subject to its responsibilities under section 81 of the Systems Act, discharge any of its obligations under section 8 of these by-laws by entering into a service delivery agreement with a service provider or service providers.
- 25.2 Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these by-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- 25.3 If a municipality has entered into a service delivery agreement with a service provider, it must publish a notice in the Provincial Gazette for the province in which it is situated listing which rights and powers of the municipality under which provisions of these by-laws have been assigned to the service provider.
- 25.4 Where the term "municipality" appears in a provision of these by-laws listed in the notice in subsection (25.3) it shall be read as "service provider" in that provision.

### 26. Customer Charter

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

## CHAPTER 8 LICENSEES

### 27. Establishment of a Licensing System

- 27.1 A municipality may establish a licensing system in terms of this chapter.
- 27.2 A decision to establish a licensing system in terms of subsection (27.1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.
- 27.3 If a municipality has not established a licensing system, firms providing waste management services may be treated as licensees by generators of waste for the purpose of chapter 4 of these by-laws.

### 28. Licence Requirements

- 28.1 If a licensing system is established in terms of section (27.1), no person may collect or transport any of the waste streams listed in subsection (28.2)—
  - (a) without having first obtained and being in possession of a valid licence; and
  - (b) except in properly constructed, watertight vehicles or in containers that prevent spillage of waste and are suitable for the waste stream which is being collected or transported, as specified in the National Road Traffic Act, 1996 (Act 93 of 1996).

28.2 There are seven categories of waste covered by licences issued under chapter 8 of these by-laws—

- (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.

28.3 Licences issued under these by-laws—

- (a) may not be ceded or assigned without the prior written consent of the municipality;
- (b) are valid only for the category of waste specified; and
- (c) expire within one year of the date of issue unless extended by the municipality in terms of section 32(8) or section 34(2).

## 29. Licence Application

29.1 An application for a licence must be in writing on a form prescribed by the municipality.

29.2 The form prescribed by the municipality must specify the information to be included in the application, as well as any necessary documentation, and the time available for making the application, which period must not, subject to section 32(8) or section 34(2), be less than two months in duration.

29.3 The information provided in the application form must include the following:

- (a) the name and the residential and postal address of the person providing commercial services and, if the person providing commercial services is a company or close corporation, its registration number, the names of its directors or members and the address of its registered head office; and
- (b) the nature of the commercial services to be provided or intended to be provided by the person.

29.4 The municipality must determine the fees to be imposed on each vehicle used by a person to collect or transport waste, and the application must be accompanied by the relevant fees.

## 30. The Licence Adjudication Panel

30.1 The municipality must appoint a panel to adjudicate licence applications on its behalf known as the Licence Adjudication Panel.

30.2 A person appointed to the panel must not be an employee or director of a service provider or licensee

or

30.3 A councillor of the municipality; and must be suitably qualified to adjudicate applications in terms of this section,

30.4 Where the panel consists of two or more persons—

- (a) the municipality must appoint one person from amongst the panel members to act as a chairperson;
- (b) all decisions of the panel must be taken by a majority vote of panel members present and voting at the meeting at which the matter is considered;
- (c) where there is an equality of votes, the chairperson must cast a second or casting vote.

- 30.5 The panel must consider each application, having regard to the following:
- (a) the applicant's compliance with the National Road Traffic Act, 1996 (Act 93 of 1996) and with these by-laws;
  - (b) the environmental, health and safety record of the applicant;
  - (c) the nature of the commercial service to be provided; and
  - (d) any other matter which the panel considers relevant.
- 30.6 After considering the application in terms of subsection (30.4), the panel must either—
- (a) approve the application by issuing a licence subject to any term or condition it considers appropriate; or
  - (b) refuse the application, which refusal must be accompanied by written reasons.
- 30.7 The panel may refuse an application only because the applicant—
- (a) failed to submit a complete and satisfactory application to the municipality; or
  - (b) failed to comply with the standards established in these by-laws.
- 30.8 If the panel refuses an application for a licence, the applicant may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Structures Act, or if no such committee has been established, to the municipal manager of the municipality, on the basis set out in section 50(1) to 50(5) of these by-laws with all the changes that may be necessary to apply those provisions.
- 30.9 If the panel fails to consider and grant or refuse the licence application within two months of its receipt of the application, the validity of an existing licence is automatically extended until the panel makes its decision, and the municipality must—
- (a) inform the applicant in writing that the period for consideration is extended; and
  - (b) inform the applicant of the date by which the decision will be made.

### **31. Licence Terms and Conditions**

- 31.1 When issuing a licence the municipality may, subject to the provisions of subsection (31.2), impose any reasonably necessary licence conditions in furtherance of national, provincial or municipal waste management policy.
- 31.2 Licences issued by the municipality must—
- (a) specify the licence period and the procedure for the renewal of a licence;
  - (b) specify the category or categories of waste that the licence holder may collect and transport;
  - (c) contain a requirement that the licence holder must comply, and ensure compliance by its employees, agents and sub- (d) contractors, with these by-laws and applicable provincial and national legislation; and
  - (d) require the licence holder to keep monthly written records on a form prescribed by the municipality in respect of the quantities of each category of waste it collects and transports during the licence period, which quantities must be confirmed and verified by the municipality in any application for renewal of a licence or application for a new licence by the same contractor.

### **32. In prescribing licence conditions in terms of this section, the municipality must comply with its local waste plan if it has one.**

### **33. Renewal of Licences**

- 33.1 If licence holders intend to renew their licence, they must do so within two months before the expiry of an existing licence; and the panel must assess and grant or refuse the licence application within two months of the receipt of that application in accordance with section 34.

- 33.2 If the panel fails to consider or to grant or refuse the licence renewal application within two months, the validity of an existing licence is automatically extended until the panel makes its decision, and the municipality must—

- (a) inform the applicant in writing that the period for consideration is extended; and
- (b) inform the applicant of the date by which the decision will be made.

- 33.3 When considering whether to grant another licence, the panel must confirm and verify the previous records kept by the licence holder in terms of section 31(2)(d) of these by-laws.

**34. Display of Waste Licence**

- 34.1 Upon issuing a licence to a contractor to collect or transport a specific category of waste, the municipality must issue to the contractor a numbered sticker for each vehicle to be used by him which shall—

- (a) confirm that the licence holder is authorised to collect or transport the category of waste specified on the sticker; and
- (b) be colour coded for easy identification of the waste stream to which the licence applies.

- 34.2 The contractor must affix the sticker referred to in subsection (34.1) to each vehicle to be utilised in providing the service and display it at all times.

- 34.3 A waste disposal facility is authorised and directed to admit waste to its facility for processing or disposal only from contractors who are licensed and whose vehicles display the necessary sticker as required in subsection (34.1) above.

**35. Prohibited Conduct**

- 35.1 Licence holders may not—

- (a) operate in contravention of the terms and conditions of their licence;
- (b) fail or refuse to give information, or give false or misleading information when required to do so in terms of these by-laws; or
- (c) fail to take all reasonable steps to prevent an act or an omission by an employee acting in the course and scope of his duties which is unlawful in terms of these by-laws.

**36. Suspension and Revocation of Licences**

- 36.1 A licence issued under these by-laws may be suspended or revoked by the municipal manager of the municipality on the grounds that the licence holder—

- (a) has failed to comply with the obligations set out in these by-laws; or
- (b) has failed to comply with any national or provincial legislation which regulates the collection, transportation or disposal of any waste; or
- (c) has failed to comply with the terms of a licence and any condition set out in section 35.
- (d) on any other ground that the municipal manager considers relevant, and which is fair and reasonable in the circumstances.

- 36.2 A licence may only be suspended or revoked by the municipal manager after—

- (a) he has given adequate notice to the licence holder in terms of section 3(2)(b)(i) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) that he intends to make a decision regarding the suspension or revocation of the licence; and
- (b) after the licence holder has been given a reasonable opportunity to make representations to the municipal manager as to why its licence should not be suspended or revoked in terms of section 3(2)(b)(ii) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).



- 36.3 The length of time given to the licence holder to make representations and the nature of the representations allowed must be fair and reasonable in the circumstances, taking into account the nature and severity of the infringement, the potential risk of harm to the environment, human life or property, or any other factor relevant in the circumstances.
  - 36.4 The municipal manager must make a decision within two weeks of receiving the representations, if any, of the licence holder, or within two weeks after the closing date for making representations specified by the municipal manager in terms of subsection (36.3); and must inform the licence holder of his decision within seven days of making it.
  - 36.5 If a licence is suspended or revoked in terms of subsection (36.4), the holder of the suspended licence may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Structures Act, or if no such committee has been established – to the executive committee or executive mayor of the municipality, on the basis set out in section 52 with all the necessary amendments of the wording to those provisions.
  - 36.6 At no time may the municipality disclose any confidential commercial information submitted as part of the licence application procedure to any other party, other than to the party who disclosed such information to the municipality.
- 37. Transitional Provisions and Exemptions**
- 37.1 Any person lawfully providing commercial services within the municipality when a notice is issued in terms of section (37.2) that the municipality intends to establish a licensing system, must, if that service requires a licence, apply for a licence but may continue to provide commercial services while the licence application is being considered by the municipality, but may do so only if that person has submitted an application for a licence within three months after the section 27 notice is issued.
  - 37.2 The municipality may, having regard to the main object of these by-laws and its Local Waste Plan, exempt any form of commercial service from the provisions of Chapter 5 of these by-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

## CHAPTER 9

### LITTERING, DUMPING AND ABANDONED ARTICLES

**38. Duty to Provide Facilities for Litter**

- 38.1 The municipality, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- 38.2 The municipality, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are—
  - (a) maintained in good condition;
  - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
  - (d) of suitable size to contain all litter likely to be generated on the premises and by the users of the receptacle;
  - (e) placed in locations convenient for the use by users or occupants of the premises in order to discourage littering or the unhealthy accumulation of waste; and
  - (f) emptied and cleansed regularly or when full, and the emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or health hazard or provide reasonable grounds for complaint.

**39. Prohibition of Littering****39.1 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 the contents of the receptacle to spill or fall onto the ground around it; and
- (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.

**39.2** Notwithstanding the provisions of subsection (39.1), the municipality, or 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; and for the purposes of this section, a reasonable time means that period of time before the litter becomes a nuisance, a health hazard or a cause for complaint.

**40. Street refuse bins**

A street refuse bin is solely for the use of pedestrians and no person, other than a pedestrian, may dispose or cause any domestic or business waste to be disposed in a street refuse bin.

**41. Damaging of street bins and other refuse equipment**

- 41.1** No person may damage or cause a street refuse bin or other refuse equipment to be damaged, or put any unauthorized stickers or advertisements on any Council street refuse bin or equipment.
- 41.2** It is the responsibility of the person, or in the case of an organization, business, institution or any other institution, the responsible person, who has put any sticker or advertisement on a Council street refuse bin or other refuse equipment, to remove such a sticker/s or advertisement.
- 41.3** If it can be proved that a person, organization, business, institution or any other institution has damaged a Council street refuse bin or other refuse equipment, or has put any sticker or advertisement on such a bin or equipment, the person, organization, business, institution or any other institution shall be responsible for the cost involved for the repairs which are necessary on the street refuse bin or refuse equipment.

**42. Private street refuse bins**

- 42.1** No private person or company may place any street refuse bin within the Council's jurisdiction, without prior written approval of the Council.
- 42.2** The Council shall, in consultation with the private company determine the positions where private street refuse bins can be placed.

**43. Placing of street refuse bins**

- 43.1** The Council shall determine the number, type and position of any Council or private street refuse bin within the Municipality.
- 43.2** No person may remove, replace or shift any Council or private street refuse bin without the approval of the Council.
- 43.3** Any person found guilty of this offence shall be liable to a fine of R1 000-00 or imprisonment for a period not exceeding 6 months or both such fine or imprisonment.

**44. Prohibition of Dumping and Abandoning Articles**

- 44.1** No person may, without authorisation in writing by the municipal manager, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except when he does so in accordance with the provisions of these by-laws.

44.2 Subject to any provisions to the contrary contained in these by-laws, no person may leave any article, or allow any article under his control, to be left at a place with the intention of abandoning it.

44.3 No person may dump waste.

44.4 Any article, other than a motor vehicle deemed to have been abandoned in terms of regulation 320 of the National Road Traffic Act regulations, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the municipality as having been abandoned, may be removed and disposed of by the municipality as it may consider fit; but if the article is, in the opinion of the municipality, of significant financial value, the municipality must place a notice in a daily newspaper indicating its intention to sell the article for the best price reasonably obtainable, as well as consult with the police prior to selling the article.

**45. No handbill or advertisement on vehicle, street or public place without permission**

45.1 No person shall deposit or leave any circular, dodger, handbill or other advertisement on any vehicle in any street or public place without having permission to do so from the Council.

45.2 For the purposes of this section any person found depositing or leaving any circular, dodger, handbill or other advertisement on a vehicle in a street or public place, shall be presumed to have done so without the permission in terms of subsection (45.1) unless he shall produce satisfactory evidence of such permission.

**CHAPTER 10**

**ADMINISTRATIVE ENFORCEMENT PROVISIONS**

**Part I: Appointment of Authorised Officials**

**46. Appointment of Authorised Officials**

46.1 The municipality must appoint authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the Systems Act.

46.2 An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act 51 of 1977) and has no powers of arrest in respect of any offence created in these by-laws.

46.3 In appointing an authorised official, the municipality must have regard to—

- (a) a person's technical understanding and experience of matters related to waste management; and
- (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.

46.4 An authorised official may be an employee of the municipality or any service provider of the municipality, but neither the service provider nor any of its employees may be involved in enforcing compliance with these by-laws by licensees.

46.5 Upon appointment, authorised officials must be issued with a means of identification by the municipality which must state the name and function of the authorised official, and must include a photograph of the officer.

46.6 An authorised official, acting within the powers vested in him by these by-laws, is required to:

- (a) present identification on demand by any member of the public;
- (b) liaise with or co-ordinate action with any environmental management inspector designated under the National Environmental Management Act, 1998 (Act 107 of 1998) enforcing the National Environmental Management Act, 1998 (Act 107 of 1998) or any specific environmental management Act within the municipality.

**Part II: Powers of Authorised Officials****47. Powers to Execute Work and Inspect Vehicles and Premises**

- 47.1 In addition to the powers an authorised official has as an authorised representative of the municipality under section 101 of the Systems Act or any other legislation, an authorised official, may—
- (a) enter any land or premises to execute work or conduct an inspection; and
  - (b) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- 47.2 Where consent is not obtained in terms of subsection 47(1) (b), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued in accordance with the procedure set out in section 47.
- 47.3 A search conducted in terms of these by-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 47.4 To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause harm to public health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 47.5 Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these by-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to public health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to public health or damage to the environment.
- 47.6 In the event of the seizure of any vehicle under subsection (47.5), the municipality must—
- (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to public health or damage to the environment; and the cost of such disposal must be borne by the owner of the vehicle; and
  - (b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

**48. Procedure for Issuing a Warrant**

- 48.1 An authorised official may search any vehicle or other mode of conveyance if a magistrate or a justice has issued a written authorisation allowing the authorised official to do so.
- 48.2 A magistrate or a justice may issue a written authorisation to search any vehicle or other mode of conveyance, if, from information on oath, there are reasonable grounds to believe either—
- (a) that, in the interest of the public, it is necessary to search a vehicle or other mode of conveyance; or
  - (b) that there is non-compliance with the terms of these by-laws or any other law in respect of the vehicle or other mode of conveyance.

- 48.3 A written authorisation in terms of subsection (48.2) may be issued at any time and must specifically—
- (a) identify the vehicle or other mode of conveyance; and
  - (b) authorise the authorised official to conduct the search of the vehicle or other mode of conveyance.
- 48.4 A written authorisation in terms of subsection (48.2) remains valid until—
- (a) it is carried out;
  - (b) it is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
  - (c) the purpose for which it was issued has lapsed; or
  - (d) three months have passed since it was issued.
- 48.5 Before commencing any work or inspection, designated officers who carry out a written authorisation must either—
- (a) if the owner of or a person apparently in control of the vehicle or other mode of conveyance is present;
  - (b) identify themselves and explain their authority to that person or furnish proof of their authorisation; and
  - (c) hand a copy of the written authorisation to that person; or
  - (d) if the owner or person apparently in control of the vehicle or other mode of conveyance is absent or refuses to accept a copy, attach a copy of the written authorisation to the land or premises in a prominent and visible place.

#### 49. Powers to Question

- 49.1 In order to monitor or enforce compliance with these by-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate, require that the disclosure be made on oath or affirmation, and exercise any other power of an authorised official.
- 49.2 An authorised official may be accompanied by an interpreter and any other person reasonably required assisting the authorised official in conducting the inspection.
- 49.3 An authorised official must, on request, provide his identification as an authorised official.

#### 50. Supervision of Licensees

- 50.1 If a licensing system has been established in terms of section 27 of these by-laws, authorised officials must inspect the workplace of a licensee not less than twice a year, and an authorised official is entitled to enter the workplace of a licensee for this purpose.
- 50.2 Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law and, in particular, an authorised official in conducting an inspection under subsection (50.1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 50.3 If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these by-laws, he may, subject to the provisions of subsection (50.4), issue the licensee with a certificate confirming compliance, which must state –
- (a) the name and residential and postal address of the licensee;
  - (b) the time, date and scope of the inspection; and
  - (c) any remarks which in the opinion of the authorised official may be relevant.

50.4 If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the municipality review the licence, and should there be reasonable grounds, the municipality may revoke the licence in terms of section 37, but may do so only if the consecutive inspections occur at not less than four month intervals.

50.5 Authorised officials must keep a register recording each inspection that has been undertaken.

**51. Supervision of Owners and Occupiers**

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to public health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of his employment, from committing an act or omission that may cause a nuisance, harm to public health or damage to the environment.

**Part III: Enforcement Notices**

**52. Enforcement Notices**

52.1 If, in the opinion of the authorised official, a person is—

- (a) causing a nuisance, harm to public health or damage to the environment; or
- (b) as licensee, is failing to comply with the terms of a licence granted in terms of these by-laws; or
- (c) as owner or occupier, has failed to satisfy an obligation in terms of section 50 of these by-laws,
- (d) the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.

52.2 An enforcement notice issued under this section must state—

- (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
- (b) the nature of the nuisance, harm to public health or damage to the environment that the affected person is causing or is likely to cause;
- (c) the steps required to forestall or remediate the nuisance, harm to public health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
- (d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
- (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil and criminal liability; and
- (f) that written representations may be made to the municipality, in terms of section 54, or a designated committee or internal functionary to which or to who powers under these by-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.

52.3 If an affected person fails to comply with an enforcement notice, the municipality or anyone authorised by the municipality, may perform the steps required in the enforcement notice, provided that the municipality does so in conformity with the requirements of the Bill of Rights and any other law, and, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

52.4 Where the municipality incurs any expenditure as a result of performing such steps, the municipality may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.

- 52.5 If a licensee commits an offence in terms of section 38 and has, within the last two years, been convicted of the same offence, the municipality may revoke his licence immediately.

### 53. Complaints

Any person may lodge a complaint with an authorised official, or through any other channel established by the municipality, that any other person is causing harm to public health or damage to the environment by engaging in basic services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous, must investigate the complaint and may, if he is satisfied that such harm is, or is likely to be, caused, issue an enforcement notice.

### 54. Representations

- 54.1 Any affected person may make representations to the municipality, or a designated committee or internal functionary of the municipality to which the municipality has delegated its powers, in the manner specified in the enforcement notice.
- 54.2 Representations must be made by submitting a written statement that has been sworn or affirmed to the municipality, designated committee or internal functionary within 21 calendar days of the service of the notice.
- 54.3 Any representation not lodged within 21 calendar days shall not be considered, except where the affected person has shown good cause and the municipality, the designated committee or internal functionary condones the late lodging of the representation.
- 54.4 The municipality, or designated committee or internal functionary, must duly consider the representations and any response to them by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigation to verify the facts if that, in its opinion, is necessary.
- 54.5 If the municipality, or designated committee or internal functionary, should conduct any further investigations, the results of the investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the municipality, or designated committee or internal functionary, must also consider his further response.
- 54.6 After the municipality, or designated committee or internal functionary, is satisfied that the requirements of subsection (54.5) have been satisfied, the municipality, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order must –
- (a) confirm, alter or set aside in whole or in part, an enforcement notice; and
  - (b) if compliance with the order (or the altered order) is required, specify the period within which the affected person must comply with any order made by it.
- 54.7 If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the municipality, or designated committee or internal functionary, must inform the affected person that he must discharge the obligations set out in the enforcement notice.
- 54.8 If an affected person lodges a representation, any requirement in terms of section 48 of these by-laws requiring compliance with an enforcement notice, is suspended unless, in the opinion of the municipality, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered by the municipality, orally or in writing, to do so.
- 54.9 If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (54.8), fails to comply with it, the municipality may itself cause the environmental emergency to be stopped, reversed or abated, in which event the municipality may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting

**Part IV: Administrative Penalties****55. Establishment of an Administrative Penalty System**

- 55.1 The municipality may establish an administrative penalty system in terms of this part.
- 55.2 A decision to establish an administrative penalty system in terms of subsection (55.1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.

**56. Infringement Notices**

- 56.1 If a municipality has established an administrative penalty system, an authorised official may issue an infringement notice to any person whom he believes may have committed an offence listed in Column A of Schedule 2.
- 56.2 The infringement notice must—
- (a) specify, at the time when the notice is issued, the name and also the - residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
  - (b) state the particulars of the infringement;
  - (c) specify the amount of the penalty payable in respect of that infringement designated in Column B of Schedule 2;
  - (d) specify the place where the penalty may be paid; and
  - (e) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he may –
  - (f) pay the penalty; or
  - (g) inform the municipality in writing at an address set out in the notice that he elects to be tried in court on a charge of having committed an offence in terms of Chapter 10 of these by-laws.
- 56.3 If it appears to the authorised official that an alleged offence cannot adequately be punished by the payment of an administrative penalty then the authorised official may refrain from accepting the administrative penalty and may cause civil or criminal proceedings to be brought against the alleged offender in an appropriate court in terms of Chapter 10 of these by-laws if, in his opinion, there are good grounds for doing so.

**57. Trial**

If a person who elects to be tried in court in terms of subsection 56.2(g), notifies the municipality of his election, the authorised official must, if he believes that there are sufficient grounds in law for doing so, within 10 calendar days, take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event, or in the event of his considering that there are no grounds for taking further steps, the infringement notice is cancelled.

**58. Withdrawal of Infringement Notice**

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



**59. Infringement Notice Not an Admission**

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

**CHAPTER 11**

**JUDICIAL ENFORCEMENT PROVISIONS**

**60. Offences**

60.1 Subject to the provision of these by-laws

- (a) contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for basic services;
- (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws, or
- (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these by-laws,
- (e) is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding **R1 000-00** 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 municipality and served on the person concerned requiring the discontinuance of such an offence.

60.2 No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.

60.3 Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

**CHAPTER 12**

**GENERAL PROVISIONS**

**61. Responsibility of business owners with regard to public pavements**

61.1 The owner of a business premises shall accept full responsibility with regard to the public appearance of a pavement in front of his premises, and shall not allow the accumulation of dirt, or any other un-cleanliness to occur.

61.2 Any person contravening subsection (61.1) shall be instructed by Council or authorized official to restore the pavement area in front of his premises to a clean and hygienic condition.

**62. Access to premises**

62.1 Where the Council provides a refuse collection service, the occupier of a premise shall grant the Council access to the premise for the purpose of collection and removing refuse and shall ensure that nothing obstructs, prevent or hinders the Council in the carrying out of its services.

62.2 Where in the opinion of the Council the collection or removal of refuse from any premise is likely to result in damage to the premise or the Council's property, or injury to the refuse collectors or any other person, it may, as a condition of rendering a refuse collection service in respect of the premise, require the owner or occupier to indemnify the Council in writing in respect of any such damage or injury or any claims arising out of either.

- 62.3 If an occupier does not want to indemnify the Council in writing in respect of any such damage, injury or claim, he must provide access to the premise where no damage can occur.

**63. Charges**

- 63.1 Services rendered by the Council in respect of which a monthly tariff charge is prescribed, shall only be discontinued by the Council after receipt of a written notification from the owner or occupier of the premises to which the services are rendered that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the Council that the generation of such refuse on the premises has ceased.
- 63.2 Monthly tariff charges shall be payable until receipt by the Council of the notice mentioned in subsection (63.1), or when it has become obvious to the Council that the generation of such refuse on the premises has ceased.

**64. Ownership**

- 64.1 A person holding a permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- 64.2 Domestic waste belongs to the generator of that waste until such time as it is placed in a bin and placed outside of the premises with the intention that the municipality collect and dispose of that waste, at which time the waste becomes the property of the municipality.
- 64.3 A person who abandons an article, even if it constitutes waste under these by-laws, remains liable for any damage which that article may cause, as well as the cost of removing the article, notwithstanding the fact that that person may no longer be the owner of the article.

**65. Service of Documents and Process**

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of basic services, the address of the owner of the premises on which domestic waste and dailies is generated is the place where service of documents and process shall be made.

**66. Service of Notices**

- 66.1 Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having duly been served—
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
  - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by paragraphs (a), (c) or (d); or
  - (c) if that person's address and the identity or the address of his agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (d) if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- 66.2 When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.

66.3 Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

66.4 Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

**67. Repeal of By-Laws**

The by-laws specified in the first column of Schedule 1 are hereby repealed to the extent set out in the second column of Schedule 1: Provided that the repeal of such by-laws shall not affect anything done in terms of or any right, obligation or liability acquired or incurred under those by-laws.

**68. Date of commencement**

These by-laws commence on the date of their publication in the Provincial Gazette.

**SCHEDULE 1: BY-LAWS REPEALED**

TITLE OF BY-LAW	EXTENT OF REPEAL
<b>WITBANK MUNICIPALITY: REFUSE (SOLID WASTE) AND SANITARY BY-LAWS as amended, AN 527 of 13 May 1981</b>	<b>The Whole</b>

**SCHEDULE 2: ADMINISTRATIVE PENALTIES**

Column A: Offence Section	Column B: Administrative Penalty
Section 10	R 500
Section 12	R 1000
Section 14	R 500
Section 15	R 300
Section 16	R 600
Section 17, 18, 19	R 1000
Section 20-22	R 1000
Section 23	R 1000
Section 24	R 1000
Section 34 & 35	R 400
Section 39	R 400
Section 40	R 1000
Section 41	R 1000
Section 42	R 100
Section 43	R 1000
Section 44	R 1000
Section 45	R 600
Section 61	R 1000

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18 September 2006

13 December 2006