

NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE

NOORD-KAAP PROVINSIE



IPHONDO LOMNTLA KOLONI

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GENERAL NOTICES ALGEMENE KENNISGEWINGS

NOTICE 103 OF 2008

Alg 103/2008

FRANCES BAARD DISTRICT MUNICIPALITY

**IN ACCORDANCE WITH SECTION 162(1) OF THE CONSTITUTION OF THE REPUBLIC
OF SOUTH AFRICA, 1996 NOTICE IS HEREBY GIVEN:**

PUBLICATION OF DISTRICT MUNICIPALITY BY-LAWS: FRANCES BAARD DISTRICT MUNICIPALITY

The following municipal by-laws, adopted by the Council of Frances Baard District Municipality on the 25th of June 2008, are hereby published as By-laws of Frances Baard District Municipality:

Cemetery By-law (By-law No. 1 of 2008); and

Water Services By-law (By-law No.2 of 2008)

T.J. NOSI

MUNICIPAL MANAGER

CEMETERIES DRAFT BY-LAW, 2008**DRAFT BY-LAW**

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

BE IT ENACTED by the Frances Baard District Municipality, as follows:-

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CHAPTER 1 Interpretation

Definitions

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

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

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

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

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

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

“cemetery” means land or part thereof, including the buildings and works thereon, that is owned and controlled by the Municipality, duly set aside and reserved for the purpose of burials and made available for public use from time to time for burials;

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

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

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

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

“holder” means a person to whom a reservation certificate for a specific grave has been issued in terms of a law repealed by section 24;

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

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

“Municipality” means the Frances Baard District Municipality;

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

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

“prescribed fees” means the fees as determined from time to time by the Municipality by means of resolution;

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

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

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

CHAPTER 2 Establishment and management of cemeteries

Establishment of cemeteries

2. (1) The Municipality may from time to time set aside and reserve suitable municipal land within the Municipality for the establishment and management of a cemetery.
- (2) The Municipality may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Municipality may deem necessary.
- (3) A cemetery established under a law repealed by this By-law, shall be deemed to be established under this section.
- (4) The Municipality may set aside, reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Municipality may deem expedient for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, members of security forces or war heroes, or for the creation and management of –
 - (a) a berm section where memorial work of a restricted size may be erected only on a concrete base provided by the Municipality at the top or bottom end of a grave, while the top surface of the grave is levelled;
 - (b) a monumental section where memorial work erected shall cover the entire grave area;
 - (c) a semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base

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at the top end of a grave, which base will not be provided by the Municipality;

- (d) a natural-grass section where the surface of graves are levelled and identified by numbers affixed on top of the graves in such a way that a lawnmower can be used to cut the natural grass without damaging the numbers;
- (e) a traditional section where the surface of graves are levelled and memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the berm section;
- (f) a columbarium section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Municipality.

Official hours

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

Register

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

Numbering of graves

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

Reservation of graves

- 6. No reservation of a grave in a cemetery shall be allowed: Provided that reservation of graves made and recorded in the official records of the

Municipality in terms of a law repealed by section 24, shall still be valid and the Municipality shall honour such reserved rights.

Transfer of reserved rights

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

Number of corpses in a grave

8. (1) Only one corpse may be buried in a grave with measurements as contemplated in section 14(1) or (2).
- (2) Only two corpses may be buried in a grave with measurements as set out in section 14(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by submitting an application mentioned in section 9(1) before the first corpse is buried.
- (3) After the reopening of a grave for the purpose of the burial of a second corpse as mentioned in subsection (2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.
- (4) If on reopening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation shall be handled in consultation with the Medical Officer of Health.

CHAPTER 3 Burials

Application for a burial

9. (1) Application for permission for a burial in a cemetery shall be made to the caretaker on the prescribed application form and such application shall be accompanied by –
 - (a) the prescribe burial order;
 - (b) the prescribed fees; and (as per tariff policy of Council)
 - (c) a reservation certificate, where applicable.

- (2) No person shall, without the prior written approval of the Municipality, execute, cause or allow a burial, including the burial of ashes or a cadaver, in any other place in the Municipality than in a cemetery established and managed by the Municipality.
- (3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (4) No person shall execute a burial or cause or allow a burial to be executed in a cemetery, unless written approval for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the caretaker.
- (5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives and their religion or church affiliation.
- (6) The allocation of a specific grave is the responsibility and in the sole discretion of the caretaker and a burial shall be executed only in a grave allocated by him or her: Provided that in allocating a grave the caretaker shall as far as practicable allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice, but not the individual grave of his or her choice.
- (7) The Municipality may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.
- (9) The granting of approval for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

Burial of a corpse

10. (1) All graves shall be provided by the caretaker, with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.
- (2) There shall be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses shall be placed in a coffin for the burial thereof, except as provided for the Muslim community.

- (4) No person shall, without the prior permission of the caretaker, conduct any religious ceremony or service according to the rites of one denomination in any portion of a cemetery reserved by the Municipality in terms of the provisions of section 2(4) for the use of some other denomination.
- (5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the cemetery.
- (7) No person shall convey, or expose a corpse or any part thereof, in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to a burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Municipality for a period of not less than ten years.

Burial of ashes

11. (1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave as contemplated in section 14(4): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written approval for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker.
- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility, shall be made to the caretaker on the prescribed application form.
- (4) Niches shall be allocated by the caretaker strictly in the order in which the applications therefor are received and no reservations for future use shall be made.
- (5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

- (6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Municipality and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein whereafter it shall once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker on the prescribed application form.
- (9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein, unless and until –
 - (a) approval for the burial has been obtained in terms of the provisions of section 9;
 - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of section 17(1); and
 - (c) the prescribed fees have been paid.
- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker as set out in section 3.
- (11) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.
- (12) The columbarium may be visited daily during the official hours set out in section 3.
- (13) Plaques shall be made of material approved by the Municipality and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

Burial of a cadaver

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

Persons dying outside the area of the Municipality

- 13. The provisions of this By-law shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the Municipality.

Measurements of graves

14. (1) The excavation of a grave for an adult shall be at least 1820 mm deep, 2300 mm long and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1370 mm deep, 1520 mm long and 610 mm wide.
- (3) In the event that a grave of a greater depth, length and width than those specified above is required, an application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker, together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep, 2300 mm long and 760 mm wide.
- (5) Permitted deviation from measurements of graves shall be as follows:
- | | |
|-------------------|------------------------------|
| Extra wide | 2300 mm long
840 mm wide |
| Extra long | 2530 mm long
760 mm wide |
| Rectangular small | 2300 mm long
810 mm wide |
| Rectangular big | 2400 mm long
900 mm wide |
| Brick-nogging | 2600 mm long
1050 mm wide |
- (6) The area of a rectangular grave for an adult shall be 1500 mm wide and 2600 mm long.
- (7) The area of a grave for an adult shall be 1210 mm wide and 2430 mm long.
- (8) The area of a grave for a child shall be 1210 mm wide and 1520 mm long, and if a coffin is too large, an adult grave shall be used.

**CHAPTER 4
Cremation**

Cremation

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

CHAPTER 5

Exhumation**Exhumation**

16. (1) No person shall, without the written approval contemplated in section 3 of the Exhumation Ordinance, 1980 (Ordinance No. 12 of 1980), and then only after notifying the Municipality, exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed.
- (2) Any person duly authorised to exhume a corpse as set out above, shall furnish such authority to the caretaker at least 8 working hours before the time proposed for the exhumation of such corpse, and shall at the same time pay the prescribed fees.
- (3) An exhumation and removal of any corpse shall be made only in the presence of the caretaker or any authorised member of the cemetery personnel, accompanied by the funeral undertaker and in accordance with the stipulated legislation applicable to exhumations and reburials.
- (4) A grave from which any corpse is to be removed shall, if required by the caretaker, be effectively screened from public view during the exhumation.
- (5) The person who applied for the exhumation of a corpse shall provide an acceptable receptacle for the remains and shall remove the remains after the exhumation.
- (6) No person shall be permitted to reopen a grave, unless he or she has satisfied the caretaker that he or she is authorised thereto.
- (7) After the exhumation of a corpse and the removal of the remains, all rights in the grave shall revert to the Municipality, and the reuse of the grave shall be done in consultation with the Medical Officer of Health.
- (8) If at any time and for whatever reason the exhumation and transfer of a corpse to another grave shall become necessary, the Municipality may, after the relatives of the deceased person have been notified accordingly, exhume such body and transfer it to another grave.

CHAPTER 6
Memorial work**Memorial work**

17. (1) Application for the erection of memorial works shall be made to the caretaker on the prescribed application form.
- (2) The erection of a trellis around a grave is prohibited.
- (3) No person shall bring or cause any material to be brought into any cemetery for the purpose of the erection or construction of any memorial work, unless and until –
- (a) approval for the burial has been obtained in terms of the provisions of section 9;

- (b) approval for the erection of the memorial work has been obtained in terms of the provisions of subsection (1); and
 - (c) the prescribed fees have been paid.
- (4) Graves of war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognised body or by the government of any foreign country, shall upon application to the Municipality, be exempted from the requirement of payment of the prescribed fees.
- (5) The Municipality may refuse its consent for the erection of any proposed memorial work if the plan and specification thereof reveals that it will be of inferior quality or in any manner likely to disfigure a cemetery or which bears any inscription likely to cause offence to users of the cemetery or to visitors thereto.
- (6) No person engaged upon any memorial work in a cemetery shall at any time disturb any adjacent graves and on completion of such work he or she shall leave the grave and the cemetery in a clean and tidy condition and remove any building material or surplus ground there from.
- (7) A person engaged in the erection of a memorial work in a cemetery, shall –
- (a) make arrangements beforehand with the caretaker with regard to the date and time of the intended erection;
 - (b) ensure that all separate parts of any memorial work other than masonry-construction are affixed by copper or galvanised iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work;
 - (c) ensure that any part of such work which rests upon any stone or other foundation is fairly squared and pointed;
 - (d) ensure that the underside of every flat stone memorial and the base or landing of every headstone is set at least 50 mm below the natural level of the ground;
 - (e) ensure that all headstones are securely attached to their bases;
 - (f) ensure that flat stones consist of one solid piece in the case of all graves;
 - (g) ensure that all headstones consist of granite, marble, bronze or any other durable metal or stone approved by the Municipality;
 - (h) ensure that all curbing or memorial work on graves are erected on concrete foundations at least 1210 mm wide and 200 mm deep over the full width in the case of adults' graves and 910 mm wide and 200 mm deep in the case of children's graves;

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- (i) ensure that the sizes of monumental tombstones (all inclusive) are:
- | | |
|--------------|-------------------------------|
| Single grave | 2440 mm long
1070 mm wide |
| Child grave | 1370 mm long
760 mm wide |
| Double grave | 2440 mm long
2290 mm wide; |
- (j) ensure that all curbs on larger graves than single graves shall be fixed on substantial concrete mats at the four corners and where joints occur;
- (k) ensure that any concrete foundation on any grave, upon instruction of the Municipality, is reinforced where it is considered necessary owing to the weight of the memorial work.
- (8) No person shall erect any memorial work within a cemetery, unless the number and section-letter of the grave upon which such work is to be erected, are engraved thereon in such a position that it will be legible at all times from a pathway, and, only with the consent of the family of the deceased, the name of the maker of such memorial work may be placed upon any footstone.
- (9) Memorial work shall be constructed and erected in a cemetery only during the official office hours as contemplated in section 3.
- (10) No person shall fix or place any memorial work in a cemetery during inclement weather or where the soil is in an unsuitable condition.
- (11) Every person carrying out work within a cemetery shall under all circumstances comply with the directions of the caretaker.
- (12) The Municipality may, after due notice, at any time change or alter the position of any memorial work in any cemetery: Provided that in any case where any memorial work has originally been placed in a certain position with the express consent of the caretaker, any alterations of such position in terms of the provisions of this By-law, shall be executed at the expense of the Municipality.

Graves supplied with a berm

18. (1) Notwithstanding anything to the contrary contained in this By-law, a grave which is supplied with a berm shall be subject to the conditions set out in subsection (2).
- (2) (a) No kerbing shall be erected at such grave.
- (b) The berm provided by the Municipality shall be 1200 mm long, 500 mm wide and 300 mm deep.
- (c) The base of the memorial work to be erected on the berm of a single grave shall not be larger than 1000 mm long and 230

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mm wide, and the memorial work, together with the base, may not be higher than 1200 mm from the ground surface.

- (d) A memorial work shall not protrude beyond the base.
- (e) No object shall be placed and kept on any grave: Provided that a memorial work or a vase for flowers or foliage placed in the orifice provided in the berm, may be placed and kept on a grave until such time as the ground surface over the grave is levelled.

CHAPTER 7 Maintenance

Maintenance of graves

19. (1) (a) A memorial work erected upon a grave shall at all times be maintained in good order and condition by the responsible person.
- (b) Should any such work fall into a state of disrepair or constitute a danger or be a disfigurement of the cemetery, the Municipality may by written notice addressed to the responsible person by registered post at his or her last known postal address, require of him or her to effect such repairs as may be considered necessary.
- (c) On failure to effect the required repairs within 1 month of the date of such notice, the Municipality may have the repairs effected or may have the memorial work removed as it deem fit and may recover the costs for such repairs or removal from the responsible person.
- (2) Unless otherwise provided for in this By-law, the Municipality shall be responsible for keeping cemeteries in a neat and tidy condition.
- (3) Grass may be planted on a grave by family members of the deceased, subject to the directions of the caretaker: Provided that the Municipality shall maintain the grave, as part of the cemetery, at its own cost and in accordance with its own standards and programs.
- (4) (a) All memorial work which has been dismantled for purposes of a further burial, shall be re-erected or removed from the cemetery within 2 months of the date of such dismantling.
- (b) On failure to do so, the Municipality shall be entitled to remove any such dismantled memorial work from the cemetery without further notice, and to recover the costs of such removal from the responsible person.
- (5) No person shall plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (6) The Municipality shall have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.

- (7) No person shall deposit any flowers, grass, weeds or other materials removed from a grave, on any other grave, roadway or any other place in the cemetery, except in the refuse bins intended for that purpose.

CHAPTER 8 General conduct in cemeteries

General conduct in cemeteries

20. (1) No person under the age of 12 years shall enter a cemetery unless he or she is in the care of an adult or with the approval of the caretaker.
- (2) No person shall enter or leave any cemetery, except through the gates provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery, except on business or with the consent of the caretaker.
- (3) No person shall make a false statement or provide false information in an application or other form or document to be completed and submitted in terms of this By-law.
- (4) No person shall carry on any trade or hawking activity, or solicit any business, or exhibit, distribute or leave any business card or advertisement within any cemetery or on any public place within 30 m of the boundary of any cemetery, except with the written approval of the Municipality and on such conditions as the Municipality may determine.
- (5) No person shall sit, stand or climb upon or over any tombstone, memorial work, gate, wall, fence or building in any cemetery.
- (6) No person shall hold a demonstration of any kind in any cemetery or allow or participate in such demonstration.
- (7) No person shall bring into or allow any animal to enter any cemetery, and any animal found in a cemetery may be impounded.
- (8) Directives from the caretaker to ensure the orderly procession of the ceremony concerning the placement of structures, chairs, voice amplification equipment, volume and the type of music to be played, shall be adhered to.
- (9) No person shall within any cemetery obstruct, resist or oppose the caretaker or any official of the Municipality, whilst acting in the course of his or her official duty, nor refuse to comply with any reasonable order or request of the caretaker or any official of the Municipality.
- (10) No person shall remove from the cemetery any soil, sand or other substance or thing of a similar nature without the express permission of the caretaker.
- (11) No person shall wantonly or wilfully damage or cause to be damaged, nor shall any person mark, draw or erect any advertisement, bill or placard upon or in any manner deface any grave, tombstone, monument, wall, building, fence, path or other construction within any cemetery.

- (12) No person shall bribe or try to bribe any employee in the service of the Municipality in regard to any matter in connection with a cemetery or burial, neither with money, gifts or any other benefit.
- (13) No person shall, except where expressly permitted by this By-law, or with the consent of the caretaker, disturb the soil, or plant or uproot any plant, shrub or flower, or in any way interfere with any grave or construction in any cemetery.
- (14) No person shall play any game or take part in any sport, or discharge any firearm, except as a salute at a military funeral, or discharge any airgun or catapult within any cemetery, or disturb or annoy any person present therein.
- (15) No musical instrument shall be played in a cemetery without the consent of the caretaker.

CHAPTER 9 Miscellaneous

Injuries and damages

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

Firearms and traditional weapons

- 22. No firearm or traditional weapon shall be allowed in a cemetery.

Penalty clause and expenses

- 23. (1) Any person contravening or failing to comply with any of the provisions of this By-law, shall be guilty of an offence and upon conviction by a court be liable to a fine or imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.
- (2) Any expense incurred by the Municipality as a result of a contravention of this By-law, or in the doing of anything which a person was directed to do under this By-law, and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

Short title

- 24. This By-law shall be called the Cemeteries By-law, 2008

WATER SERVICES BY-LAW, 2008**FRANCES BAARD DISTRICT MUNICIPALITY WATER SERVICES BY-LAW**

To provide for the provision of water services for the Frances Baard District Municipality; and for matters connected therewith.

BE IT ENACTED by the Frances Baard District Municipality, as follows:-

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**PART 2
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3. Special agreements for water services

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6. Payment of deposit
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GENERAL

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CHAPTER I
GENERAL PROVISIONS

PART 1
DEFINITIONS

Definitions

1. (1) In this By-law, unless the context otherwise indicates -
- “**accommodation unit**” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;
- “**Act**” means the Water Services Act, 1997 (Act No. 108 of 1997), as amended from time to time;
- “**adequate**” means adequate in the opinion of the Municipality;
- “**approved**” means approved by an authorised officer;
- “**authorised agent**” means a person authorised by the Municipality to perform any act, function or duty in terms of, or exercise any power under this By-law;
- “**borehole**” means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;
- “**Building Regulations**” means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
- “**communal water services work**” means a consumer connection through which water services are supplied to more than one person;
- “**connecting point**” means the point at which the drainage installation joins the connecting sewer;
- “**connecting sewer**” means a pipe owned by the Municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;
- “**connection pipe**” means a pipe, the ownership of which is vested in the Municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe” referred to in SABS 0252, Part I;

"consumer" means --

- (a) any occupier of any premises to which or on which the Municipality has agreed to provide water services or is actually providing water services, or if there be no occupier, then any person who has entered into a current agreement with the Municipality for the provision of water services to or on such premises, or, if there be no such person, then the owner of the premises: Provided that where a water service is provided through a single connection to a number of occupiers, it shall mean the occupier, or person, to whom the Municipality has agreed to provide a water service; or
- (b) a person that obtains access to water services that are provided through a communal water services work;

"device" means any structure, chamber, tank, trap, meter or gauge erected or installed in terms of this By-law;

"drain" means that portion of the drainage installation that conveys sewage within any premises;

"drainage installation" means a system situated on any premises and vested in the owner thereof and is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

"drainage work" includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

"effluent" means any liquid whether or not containing matter in solution or suspension;

"emergency" means any situation that poses a risk or potential risk to life, health, the environment or property;

"environmental cost" means the full cost of all measures necessary to restore the environment to its condition prior to a damaging incident;

"fire hydrant" means a potable water installation that conveys water for fire fighting purposes only;

"fixed quantity water delivery system" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"flood level (1 in 50 years)" means that level reached by flood waters resulting from a storm of a frequency of 1 in 50 years;

"flood plain (1 in 50 years)" means the area subject to inundation by flood waters from a storm of a frequency of 1 in 50 years;

"industrial effluent" means effluent emanating from industrial use of water and includes effluent other than standard domestic effluent or stormwater;

"installation work" means work in respect of the construction of, or carried out on a water installation;

"main" means a pipe, other than a connection pipe, vesting in the Municipality and used by it for the purpose of conveying water to a consumer;

"measuring device" means any method, procedure, process, device, apparatus, or installation that enables the quantity of water services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed;

"meter" means a water meter as defined by the regulations published in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973), or, in the case of water meters of a size greater than 100 mm, a device which measures the quantity of water passing through it;

"Municipality" means the Frances Baard District Municipality or its authorised agent, as the case may be, being the water services authority as defined in the Act;

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

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

"owner" means –

- (a) the person in whom, from time to time, is vested the legal title to premises;
- (b) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;

- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) in relation to --
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;

"person" means any natural person, local government body or like authority, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"pollution" means the introduction of any substance into the water supply system, a water installation or a water resource that may directly or indirectly alter the physical, chemical or biological properties of the water found therein so as to make it --

- (a) less fit for any beneficial purpose for which it may reasonably be expected to be used; or
- (b) harmful or potentially harmful --
 - (i) to the welfare, health or safety of human beings;
 - (ii) to any aquatic or non-aquatic organism;

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

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986); or
- (c) a register held by a tribal authority;

"prescribed tariff or charge" means a charge prescribed by the Municipality;

"public notice" means a notice in the *Provincial Gazette*, and, where practicable, in a newspaper in at least two of the official languages in general use within the Province or area in question, and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice;

"public water" means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or to which the public has the right of access;

"sanitation services" has the meaning assigned to it in terms of the Act and includes water for industrial purposes and the disposal of industrial effluent;

"service pipe" means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

"sewage" means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include stormwater;

"sewage disposal system" means the structures, pipes, valves, pumps, meters or other apparatus used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Municipality and which may be used by it in connection with the disposal of sewage and includes sea outfall;

"sewer" means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for the conveyance of sewage from the connecting sewer, but not a drain as defined;

"standard domestic effluent" means domestic effluent with prescribed strength characteristics in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the Municipality, but not industrial effluent;

"stormwater" means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

"tariff sample" means a sample taken in accordance with section 74;

"terminal water fitting" means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

"waste water" means used water which is not polluted by soil water or industrial effluent and does not include stormwater;

"water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"water installation" means the pipes and water fittings which are situated on any premises and vested in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the Municipality;

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“**water services**” has the meaning assigned to it in terms of the Act and includes water for industrial purposes and the disposal of industrial effluent;

“**water supply services**” has the meaning assigned to it in terms of the Act and includes for purposes of this By-law, water for industrial purposes and the disposal of industrial effluent;

“**water supply system**” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto, which are vested in the Municipality and are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

“**working day**” means a day other than a Saturday, Sunday or public holiday.

- (2) Subject to subsection (1), any word or expression used in this By-law to which a meaning has been assigned in –
- (a) the Act, shall bear that meaning; and
 - (b) the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and the Building Regulations published in terms of that Act, shall in respect of Chapter III, bear that meaning, unless the context indicates otherwise.
- (3) Any reference in Chapter I of this By-law to water services or services must be interpreted as referring to water supply services or sanitation services depending on the services to which they are applicable.

PART 2 PROVISION OF WATER SERVICES

Application for water services

2. (1) No person shall gain access to water services from the water supply system, sewage disposal system or through any other sanitation services, unless he or she has applied to the Municipality on the prescribed form for such services for a specific purpose and to which such application has been agreed.
- (2) Where a premises or person (hereinafter referred to as “the consumer”) is provided with water services, it shall be deemed that an agreement in terms of subsection (1) exists.
- (3) The Municipality must on application for the provision of water services by a consumer inform that consumer of the different levels of services available and the tariffs or charges associated with each level of services.

- (4) A consumer must elect the available level of services to be provided to him or her.
- (5) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into: Provided that such services are available and that any costs and expenditure associated with altering the level of services shall be payable by the consumer.
- (6) An application agreed to by the Municipality shall constitute an agreement between the Municipality and the applicant, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (7) A consumer shall be liable for all the prescribed tariffs or charges in respect of water services rendered to him or her until the agreement has been terminated in accordance with this By-law or until such time as any arrears have been paid.
- (8)
 - (a) In preparing an application form for water services the Municipality shall ensure that the document and the process of interaction with the owner, consumer or any person making application are understood by that owner, consumer or other person.
 - (b) In the case of illiterate or similarly disadvantaged persons, the Municipality shall take reasonable steps to ensure that the person is aware of and understands the contents of the application form.
- (9) An application form shall require –
 - (a) certification by an authorised agent that the applicant is aware of and understands the contents of the form;
 - (b) acceptance by the consumer of the provisions of this By-law and acceptance of liability for the cost of water services rendered until the agreement is terminated or until such time as any arrears have been paid;
 - (c) the name of the consumer;
 - (d) the address or stand number of the premises to or on which water services are to be rendered or the communal water services work where water services will be used;
 - (e) the address where accounts will be sent;
 - (f) the source of income of the applicant;
 - (g) the name and address of the applicant's employer, where applicable;
 - (h) if water will be supplied, the purpose for which the water is to be used; and

- (i) the agreed date on which the provision of water services will commence.
- (10) Water services rendered to a consumer are subject to the provisions of this By-law and the conditions contained in the relevant agreement.
- (11) If the Municipality refuses an application for the provision of water services because it is unable to render such water services on the date requested for such provision of water services to commence or is unable to render the water services, the Municipality shall inform the consumer of such refusal or inability, the reasons therefor and, if applicable, when the Municipality will be able to provide such water services.

Special agreements for water services

- 3. The Municipality may enter into a special agreement for the provision of water services to –
 - (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the prescribed form; and
 - (b) an applicant outside its area of jurisdiction, if such application has been approved by the municipality having jurisdiction in the area in which the premises is situated.

PART 3 TARIFFS AND CHARGES

Prescribed tariffs and charges for water services

- 4. All tariffs or charges payable in respect of water services rendered by the Municipality in terms of this By-law, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest in respect of failure to pay such tariffs or charges on the specified date shall be set by the Municipality in accordance with –
 - (a) its tariff policy;
 - (b) any By-law in respect thereof; and
 - (c) any regulations in terms of section 10 of the Act.

Fixed charges for water services

- 5. (1) The Municipality may, in addition to the tariffs or charges prescribed for water services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge in respect of the provision of water services in accordance with –
 - (a) its tariff policy;

- (b) any By-law in respect thereof; and
 - (c) any regulations in terms of section 10 of the Act.
- (2) Where a fixed charge is levied in terms of subsection (1), it shall be payable by every owner or consumer in respect of water services provided by the Municipality to him or her, whether or not water services are used by him or her.

PART 4 PAYMENT

Payment of deposit

6. (1) Every consumer shall on application for the provision of water service and before such water services shall be provided by the Municipality, deposit with the Municipality, a sum of money equal to the estimated tariff or charge for an average month's water services as determined by the Municipality, except in the case of a pre-payment measuring device being used by the Municipality.
- (2) The Municipality may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- (3) The Municipality may from time to time review the sum of money deposited by a consumer in terms of subsection (1) and, in accordance with such review –
- (a) require that an additional amount be deposited by the consumer; or
 - (b) refund to the consumer such amount as may be held by the Municipality in excess of the reviewed deposit.
- (4) Subject to subsection (5), an amount deposited with the Municipality in terms of subsections (1) or (2), shall not be regarded as being in payment or part payment of an account due for water services rendered.
- (5) If, upon the termination of the agreement for the provision of water services, an amount remains due to the Municipality in respect of water services rendered to the consumer, the Municipality may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer.
- (6) No interest shall be payable by the Municipality on the amount of a deposit held by it in terms of this section.
- (7) An agreement for the provision of water services may contain a condition that a deposit shall be forfeited to the Municipality if it has

not been claimed within twelve months of the termination of the agreement.

Payment for water services provided

7. (1) Water services provided by the Municipality to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with sections 4 and 5 for the particular category of water services provided.
- (2) A consumer shall be responsible for payment for all water services provided to the consumer from the date of an agreement until the date of termination thereof.
- (3) The Municipality may estimate the quantity of water services provided in respect of a period or periods within the interval between successive measurements and may render an account to a consumer for the services so estimated.
- (4) If a consumer uses water supply services for a category of use other than that for which it is provided by the Municipality in terms of an agreement and as a consequence is charged at a rate lower than the rate which should have been charged, the Municipality may make an adjustment of the amount charged in accordance with the rate which should have been charged and recover from the consumer the tariffs and charges payable in accordance with such adjustment.
- (5) If amendments to the prescribed tariffs or charges for water services provided become operative on a date between measurements for the purpose of rendering an account in respect of the tariffs or charges --
 - (a) it shall be deemed that the same quantity of water services was provided in each period of twenty-four hours during the interval between the measurements; and
 - (b) any fixed charge shall be calculated on a *pro rata* basis in accordance with the charge that applied immediately before such amendment and such amended charge.
- (6)
 - (a) A consumer shall pay his or her account at the offices of the Municipality, or that of an approved agent of the Municipality, as the case may be.
 - (b) A consumer shall remain liable for the payment of an account not paid with the Municipality, its authorised agent or approved agent.
- (7) The Municipality must inform a consumer as to who the approved agents for payment of accounts are, if applicable.

**PART 5
ACCOUNTS****Accounts**

- B.**
- (1) Monthly accounts shall be rendered to consumers for the amount due and payable, at the address last recorded with the Municipality.
 - (2) Failure by the Municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable.
 - (3) An account rendered by the Municipality for water services provided to a consumer shall be paid not later than the last date for payment specified in such account, which date shall be at least twenty-one days after the date of the account.
 - (4) If payment of an account is received after the date referred to in subsection (3), a late payment charge or interest as may be prescribed must be paid by the consumer to the Municipality.
 - (5) Accounts shall –
 - (a) show –
 - (i) the consumption or estimated consumption or assumed consumption as determined for the measuring or consumption period;
 - (ii) the measuring or consumption period;
 - (iii) the applicable tariff;
 - (iv) the amount due in terms of the actual, estimated or assumed consumption;
 - (v) the amount due and payable for any other service rendered by the Municipality;
 - (vi) the amount in arrears, if any;
 - (vii) the interest payable on arrears, if any;
 - (viii) the final date for payment;
 - (ix) the methods, places or approved agents where payment may be made; and
 - (b) state that –
 - (i) the consumer may conclude an agreement with the Municipality for payment of the arrears amount in instalments, at the Municipality's offices before the final date for payment, if a consumer is unable to pay the full amount due and payable;

- (ii) if no such agreement is entered into, the Municipality shall limit the water services after sending a final demand notice to the consumer;
- (iii) the defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter;
- (iv) the account may be handed over to a debt collector for collection;
- (v) legal action may be instituted against any consumer for the recovery of any amount 60 days in arrears;
- (vi) proof of registration as an indigent consumer in terms of the Municipality's indigent policy must be handed in before the final date for payment, if applicable; and
- (vii) an indigent consumer is only entitled to basic water services and that an indigent consumer shall be liable for payment in respect of water services used in excess of the quantity of basic services.

Queries or complaints in respect of account

9. (1) A consumer may lodge a query or complaint in respect of the accuracy of the amount due and payable in terms of an account rendered to him or her.
- (2) A query or complaint must be lodged with the Municipal Manager before or on the due date for payment of the account or as soon as reasonably possible thereafter.
- (3) Where a query or complaint is lodged after the due date of the account queried or complained about, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount that was due and payable during the preceding three months.
- (4) The Municipal Manager shall register the query or complaint and provide the consumer with a reference number.
- (5) The Municipal Manager shall –
- (a) investigate or cause the query or complaint to be investigated within 14 days after the query or complaint was registered; and
 - (b) within 30 days after the query or complaint was registered, inform the consumer, in writing, of his or her finding and, if the query or complaint is turned down, state the reasons for his or her finding.

Appeals against finding of Municipal Manager in respect of queries or complaints

10. (1) A consumer may, in writing, appeal to the Municipality against a finding of the Municipal Manager contemplated in section 9.
- (2) An appeal in terms of subsection (1) must be made in writing and lodged with the Municipality within 21 days after the consumer became aware of the finding referred to in section 9 and must –
- (a) set out the reasons for the appeal;
 - (b) be accompanied by any deposit determined for the testing of a measuring device, if applicable.
- (3) The Municipality may on appeal by a consumer request him or her to pay the full amount due and payable in terms of the account appealed against, pending the outcome of the appeal.
- (4) The consumer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (5) An appeal must be decided by the Municipality within 21 days after an appeal was lodged and the consumer must forthwith be informed of the outcome in writing.
- (6) The decision of the Municipality is final and the consumer must pay any amounts due and payable in terms of the decision within 14 days of him or her being informed of the outcome of the appeal.
- (7) The Municipality may condone the late lodging of an appeal.
- (8) (a) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy.
- (b) The consumer must be informed of the possible cost implications including the estimated amount of such test, as set out in subsection (9)(a) below, prior to such test being undertaken.
- (9) If the outcome of any test shows that a measuring device is –
- (a) within a prescribed range of accuracy, the consumer shall be liable for the costs of such test and any other amounts outstanding and such costs shall be debited against the consumer's account;
 - (b) is outside a prescribed range of accuracy, the Municipality shall be liable for the costs of such test and the consumer must be informed of the amount of any credit to which he or she is entitled.
- (10) The prescribed charge referred to in subsection (2)(b), if applicable –

- (a) may be retained by the Municipality if the measuring device is found not to be defective; or
 - (b) shall be refunded to the applicant if the measuring device is found to be defective.
- (11) A measuring device shall be deemed to be defective if, when tested in accordance with a standard industry test or if the measuring device is a meter, the regulations published under section 9 of the Act, it does not meet generally accepted specifications or the specifications as set out in the regulations.
- (12) The Municipality shall, if the measuring device is found to be defective –
- (a) repair the measuring device or install another device which is in good working order, without charge to the consumer, unless the costs thereof are recoverable from the consumer due to a contravention of section 37(6); and
 - (b) determine the quantity of water for which the consumer shall be charged in lieu of the quantity measured by the defective measuring device by taking as basis for such determination, and as the Municipality may decide –
 - (i) the quantity representing the average monthly consumption of the consumer during the 3 months preceding the month in respect of which the measurement is disputed and adjusting such quantity in accordance with the degree of error found in the reading of the defective water meter;
 - (ii) the average consumption of the consumer during the succeeding 3 metered periods after the defective water meter has been repaired or replaced; or
 - (iii) the consumption of water on the premises recorded for the corresponding period in the previous year.

Arrears

11. (1) If a consumer fails to pay the amount due and payable on or before the final date for payment, the unpaid amount is in arrears and a final demand notice may be hand delivered or sent, per registered mail, to the most recent recorded address of the consumer, within 7 working days.
- (2) Failure to deliver or send a final demand notice within 7 working days does not relieve a consumer from paying such arrears.
- (3) The final demand notice shall state –
- (a) the amount in arrears and any interest payable;

- (b) that the consumer may conclude an agreement with the Municipality for payment of the arrear amount in instalments within 14 days of the date of the final demand notice;
 - (c) that if no such agreement is entered into within the stated period that the water services may be limited and that legal action may be instituted against any consumer for the recovery of any amounts 60 days in arrears;
 - (d) that the defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter;
 - (e) that the account may be handed over to a debt collector for collection;
 - (f) that proof of registration, as an indigent consumer, in terms of the Municipality's indigent policy must be handed in before the final date of the final demand notice;
 - (g) that an indigent consumer is only entitled to basic water services and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.
- (4) Interest may be levied on all arrears at a rate determined by the Municipality from time to time.
- (5) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, shall be allocated in reduction of the consolidated debt –
- (a) towards payment of the current account;
 - (b) towards payment of arrears; and
 - (c) towards payment of interest.
- (6) The Municipality shall, within 7 working days after the expiry of the 14-day period allowed for payment in terms of the final demand notice –
- (a) limit the provision of water services to the defaulter; and
 - (b) hand deliver or send, per registered mail, to the last recorded address of the consumer, a discontinuation notice informing him or her that the provision of water services will be disconnected within 14 days of the date of the discontinuation notice if –
 - (i) no payment was received within the allowed period;
 - (ii) no agreement was entered into for the payment of arrears in instalments;

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- (iii) no proof of registration as indigent was handed in within the 14-day period allowed; or
 - (iv) no payment was received in accordance with an agreement for payment of arrears.
- (7) A discontinuation notice shall contain –
 - (a) the amount in arrears and any interest payable;
 - (b) a statement that the consumer may conclude an agreement with the Municipality for payment of the arrear amount in instalments, within 14 days of the date of the discontinuation notice;
 - (c) that if no such agreement is entered into within the stated period, the Municipality may discontinue the provision of water services with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the consumer for the recovery of the arrears amount; and
 - (d) proof of registration, as an indigent consumer, must be handed in within 14 days of the date of the discontinuation notice.
- (8) The Municipality may, within 10 working days after the expiry of the 14-day period allowed for payment in terms of the discontinuation notice, discontinue water services to the defaulting consumer, if
 - (a) no payment of the outstanding amount was received within the allowed period;
 - (b) no agreement was entered into for the payment of arrears in instalments;
 - (c) no proof of registration as an indigent consumer was furnished within the 14-day period allowed; or
 - (d) no payment was received in accordance with an agreement for payment of arrears.
- (9) Where an account rendered to a consumer remains outstanding for more than 60 days –
 - (a) the defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter: Provided that the agreement for the provision of water services provides therefore; and
 - (b) may be handed over to a debt collector or an attorney for collection.
- (10) A consumer shall be liable for any administration fees, costs incurred in taking action for recovery of arrears and any penalties, including the payment of a higher deposit.

- (11) Where a body corporate is responsible for the payment of any arrears amount to the Municipality in respect of a sectional title development, the liability of the body corporate shall be extended to the members thereof, jointly and severally.
- (12) No action taken in terms of this section due to non-payment may be suspended or withdrawn, unless the arrears, any interest thereon, administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable, are paid in full.
- (13) The Municipality shall not be liable for any loss or damage suffered by a consumer due to his or her water services being disconnected.
- (14) An agreement for payment of the arrear amount in instalments, entered into after the water service was discontinued, shall not result in the water service being restored until the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full.

Agreement for the payment of arrears in instalments

12. (1) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, shall be allowed to enter into an agreement for the payment of arrears in instalments.
- (2) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, shall be allocated in reduction of the consolidated debt –
 - (a) towards payment of the current account;
 - (b) towards payment of arrears;
 - (c) towards payment of interest; and
 - (d) towards costs incurred in taking relevant action to collect amounts due and payable.
- (3) A consumer may be required to complete a debit order for the payment of arrears.
- (4) No agreement for the payment of arrears shall be longer than 24 months, unless the circumstances referred to in subsection (5) prevail.
- (5) The Municipality may, on an individual basis, allow a longer period than 36 months for the payment of arrears if special circumstances prevail, that in the opinion of the Municipality, warrants such an extension and which the consumer reasonably could not prevent or avoid, and documentary proof of such special circumstances must be furnished by the consumer on request by the Municipality.

- (6) The Municipality may, in exercising its discretion under subsection (5), have regard to a consumer's –
- (a) credit record;
 - (b) consumption;
 - (c) level of service;
 - (d) previous breaches of agreements for the payment of arrears in instalments (if any); and
 - (e) any other relevant factors.
- (7) A copy of the agreement shall, on request, be made available by the Municipality to the consumer.
- (8) If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will immediately be due and payable, without further notice or correspondence.
- (9) If a consumer fails to comply with an agreement for the payment of arrears in instalments entered into after receipt of a discontinuation notice, access to services may be discontinued without further notice or correspondence in addition to any other actions taken against or that may be taken against such a consumer.
- (10) No consumer shall be allowed to enter into an agreement for the payment of arrears in instalments where that consumer failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice.

PART 6

TERMINATION, LIMITATION AND DISCONTINUATION OF WATER SERVICES

Termination of agreement for the provision of water services

13. (1) A consumer may terminate an agreement for the provision of water services by giving to the Municipality not less than 30 working days' notice in writing of his or her intention to do so.
- (2) The Municipality may, by notice in writing of not less than 30 working days, advise a consumer of the termination of his or her agreement for the provision of water services if –
- (a) he or she has not used the water services during the preceding 6 months and has not made arrangements to the satisfaction of the Municipality for the continuation of the agreement;

- (b) he or she has failed to comply with the provisions of this By-law and has failed to rectify such failure to comply on notice in terms of section 23 or to pay any tariffs or charges due and payable after the procedure set out in section 11 was applied;
 - (c) in terms of an arrangement made by it with another water services institution to provide water services to the consumer.
- (3) The Municipality may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.

Limitation or discontinuation of water services provided

14. (1) The Municipality may limit or discontinue water services provided in terms of this By-law –
- (a) on failure to pay the prescribed tariffs or charges on the date specified, after the provisions of section 11 were applied;
 - (b) on failure to comply with any other provisions of this By-law, after notice in terms of section 23 was given;
 - (c) at the written request of a consumer;
 - (d) if the agreement for the provision of services has been terminated in terms of section 13 and it has not received an application for subsequent services to the premises within a period of 90 days of such termination;
 - (e) the building on the premises to which services were provided has been demolished;
 - (f) if the consumer has interfered with a limited or discontinued service; or
 - (g) in an emergency.
- (2) The Municipality shall not be liable for any damages or claims that may arise from the limitation or discontinuation of water services provided in terms of subsection (1).

Restoration of water services

15. When a consumer enters into an agreement for the payment of the arrear amount in instalments after the receipt of a final demand notice or a discontinuation notice, the water services shall be restored to the type of service the consumer elected in terms of the agreement for the provision of water services, within 7 working days.

**PART 7
GENERAL**

Responsibility for compliance with this By-law

16. (1) The owner of premises is responsible for ensuring compliance with this By-law in respect of all or any matters relating to any installation.
- (2) The consumer is responsible for compliance with this By-law in respect of matters relating to the use of any installation.

Exemption

17. (1) The Municipality may, in writing, exempt an owner, consumer, any other person or category of owners, consumers or other persons from complying with a provision of this By-law, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable: Provided that the Municipality shall not grant exemption from any section of this By-law that may result in –
- (a) the wastage or excessive consumption of water;
 - (b) the evasion or avoidance of water restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not approved in terms of this By-law;
 - (f) unfair discrimination; and
 - (g) the Act or any regulations made in terms thereof, not being complied with.
- (2) The Municipality may at any time after giving written notice of at least 30 days, withdraw any exemption given in terms of subsection (1).

Unauthorised use of water services

18. (1) No person may gain access to water services from the water supply system, sewage disposal system or any other sanitation services, unless an agreement has been entered into with the Municipality for the rendering of these services.
- (2) The Municipality may, irrespective of any other action it may take against such person in terms of this By-law, by written notice order a person who has gained access to water services from the water supply system, sewage disposal system or any other sanitation services without an agreement with the Municipality for the rendering of those services –

- (a) to apply for such services in terms of section 2 or 3; and
 - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of this By-law.
- (3) The provisions of section 23 shall apply to a notice in terms of subsection (2).

Change in purpose for which water services are used

19. Where the purpose or extent for which water services are used is changed, the consumer shall enter into a new agreement with the Municipality.

Interference with water supply system or any sanitation services

20. (1) No person other than the Municipality shall manage, operate or maintain the water supply system or any sanitation system, unless authorised by this By-law.
- (2) No person other than the Municipality shall effect a connection to the water supply system or sewage disposal system or render any other sanitation services.

Obstruction of access to water supply system or any sanitation services

21. (1) No person shall prevent or restrict physical access to the water supply system or sewage disposal system.
- (2) If a person contravenes subsection (1), the Municipality may –
- (a) by written notice, require such person to restore access at his or her own expense within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice, restore access and recover the cost from such person.

Notices and documents

22. (1) A notice or document issued by the Municipality in terms of this By-law shall be deemed to be duly authorised if the Municipal Manager signs it.
- (2) If a notice or document is to be served on an owner, consumer or any other person in terms of this By-law, such service shall be effected by –
- (a) delivering it to him or her personally or to his or her duly authorised agent;
 - (b) delivering it at his or her residence, village or place of business or employment to a person not less than 16 years of age and apparently residing or employed there;

- (c) if he or she has nominated an address for legal purposes, delivering it to such an address;
 - (d) if he or she has not nominated an address for legal purposes, delivering it to the address given by him or her in his or her application for the provision of water services, for the reception of an account for the provision of water services;
 - (e) sending by prepaid registered or certified post addressed to his or her last known address;
 - (f) in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or
 - (g) if service cannot be effected in terms of subsections (a) to (f), by affixing it to a principal door of entry to the premises concerned.
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

Power to serve and compliance with notices

23. (1) The Municipality may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with the provisions of this By-law, or of any condition imposed thereunder to remedy such breach within a period specified in the notice, which period shall not be less than 30 days.
- (2) If a person fails to comply with a written notice served on him or her by the Municipality in terms of this By-law within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including –
- (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
 - (b) limiting or discontinuing the provision of services; and
 - (c) instituting legal proceedings.
- (3) A notice in terms of subsection (1) shall –
- (a) refer to the provision of this By-law not complied with;
 - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his or her case, in writing, to the Municipality within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
 - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;

- (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
- (e) indicate that the Municipality –
 - (i) may undertake such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
 - (ii) may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency, the Municipality may without prior notice undertake the work contemplated in subsection (3)(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the Municipality in terms of subsection (3) or (4) is the full cost associated with that work and includes, but is not limited to any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the work and the environmental cost.

Power of entry and inspection

24. The Municipality may enter and inspect any premises –
- (a) for the purposes set out in and in accordance with the provisions of section 80 of the Act;
 - (b) for any purpose connected with the implementation or enforcement of this By-law, at all reasonable times, after having given reasonable written notice of the intention to do so, unless it is an emergency situation.

False statements or information

25. No person shall make a false statement or furnish false information to the Municipality or falsify a document issued in terms of this By-law.

Offences

26. A person who –
- (a) unlawfully and intentionally or negligently interfere with any water services works of the Municipality;
 - (b) fails to provide information or provide false information reasonably requested by the Municipality;

- (c) fails or refuses to give access required by the Municipality in terms of section 24;
- (d) obstructs or hinders the Municipality in the exercise of its powers or performance of its functions or duties under this By-law;
- (e) contravenes or fails to comply with a provision of this By-law;
- (f) contravenes or fails to comply with a condition or prohibition imposed in terms of this By-law;

- (g) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of this By-law; or
- (h) fails to comply with the terms of a notice served upon him or her in terms of this By-law,

shall be guilty of an offence and liable on conviction to a fine or in default of payment, to imprisonment for a period not exceeding 1 year and in the event of a continued offence, to a further fine not exceeding R1000.00 for every day during the continuance of such offence after a written notice from the Municipality has been issued, and in the event of a second offence, to a fine or in default of payment, to imprisonment for a period not exceeding 2 years.

Availability of By-law

- 27. (1) A copy of this By-law shall be included in the Municipality's Municipal Code as required in terms of legislation.
- (2) A copy of this By-law shall be available for inspection at the municipal offices or at the offices of the authorised agent of the Municipality, as the case may be, at all reasonable times.
- (3) A copy of this By-law may be obtained against payment of R10.00 from the Municipality.

CHAPTER II

WATER SUPPLY SERVICES

PART 1

CONNECTION TO WATER SUPPLY SYSTEM

Provision of connection pipe

28. (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the prescribed charge for the installation of such a pipe.
- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.

Location of connection pipe

29. (1) A connection pipe provided and installed by the Municipality shall –
- (a) be located in a position agreed to between the owner and the Municipality and be of a suitable size as determined by the Municipality;
 - (b) terminate at –
 - (i) the boundary of the land owned by or vested in the Municipality, or over which it has a servitude or other right; or
 - (ii) the outlet of the water meter if it is situated on the premises; or
 - (iii) the isolating valve if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the Municipality shall ensure that the owner is aware of –
- (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe;
 - (c) whether or not the Municipality requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her

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premises where the connection is required, for the Municipality to connect to such installation.

- (3) The Municipality may at the request of any person agree, subject to such conditions as it may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises: Provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the Municipality and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner shall pay the prescribed connection charge.

Provision of single water connection for supply to several consumers on same premises

- 30. (1) Notwithstanding the provisions of section 29, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the Municipality may, in its discretion, provide and install either –
 - (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the Municipality has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be, -
 - (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connection pipe to the different accommodation units –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and
 - (b) shall be liable to the Municipality for the tariffs and charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
- (4) Notwithstanding subsection (1), the Municipality may authorise that more than one connection pipe be provided on the water supply

system for the supply of water to any premises comprising sectional title units or if, in the opinion of the Municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.

- (5) Where the provision of more than one connection pipe is authorised by the Municipality under subsection (4), the tariffs and charges for the provision of a connection pipe are payable in respect of each water connection so provided.

Interconnection between premises or water installations

31. An owner of premises shall ensure that no interconnection exists between –
- (a) the water installation on his or her premises and the water installation on other premises; or
 - (b) where several accommodation units are situated on the same premises, the water installations of the accommodation units,
- unless he or she has obtained the prior written consent of the Municipality, and complies with any conditions that it may have imposed.

Disconnection of water installation from connection pipe

32. The Municipality may disconnect a water installation from the connection pipe and remove the connection pipe if –
- (a) the agreement for supply has been terminated in terms of section 13 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
 - (b) the building on the premises concerned has been demolished.

PART 2 COMMUNAL WATER SERVICES WORKS

Provision of a water services work for water supply to several consumers

33. The Municipality may install a communal water services work for the provision of water services to several consumers at a location it deems appropriate: Provided that the consumers to whom water services will be provided through that water services work have been consulted in respect of the level of service, tariff that will be payable and location of the work.

**PART 3
TEMPORARY SUPPLY**

Water supplied from a hydrant

34. (1) The Municipality may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and period as may be determined by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1), must apply for such water services in terms of section 2.
- (3) The supply of water in terms of subsection (1) must be measured.
- (4) The Municipality may for purposes of measuring provide a portable water meter to be returned to the Municipality on termination of the temporary supply, which portable meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant, shall remain the property of the Municipality and will be provided subject to any conditions imposed by the Municipality.

**PART 4
STANDARDS AND GENERAL CONDITIONS OF SUPPLY**

Quantity, quality and pressure

35. Water supply services provided by the Municipality shall comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

General conditions of supply

36. (1) The Municipality may specify the maximum height to which water shall be supplied from the water supply system and where a consumer requires water to be supplied at a greater height or pressure, the consumer shall be responsible therefor.
- (2) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If, in the opinion of the Municipality, the consumption of water by a consumer adversely affects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first-mentioned consumer in order to ensure a reasonable supply of water to the other consumer and shall inform that consumer of such restrictions.

**PART 5
MEASUREMENT OF WATER SUPPLY SERVICES**

Measuring of quantity of water supplied

37. (1) The Municipality shall measure the quantity of water supplied at regular intervals.

- (2) Any measuring device through which water is supplied to a consumer by the Municipality and its associated apparatus, shall be provided and installed by the Municipality, shall remain its property, and may be changed and maintained by the Municipality when deemed necessary by it.
- (3) The Municipality may install a measuring device, and its associated apparatus, on premises at any point on the service pipe.
- (4) If the Municipality installs a measuring device on a service pipe in terms of subsection (3), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section shall be deemed to form part of the water supply system.
- (5) If the Municipality installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (3), the owner shall –
 - (a) provide a place satisfactory to the Municipality in which to install it;
 - (b) ensure that unrestricted access is available to it at all times;
 - (c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal wear and tear;
 - (d) ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation; and
 - (e) make provision for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the Municipality on the measuring device.
- (6) No person other than the Municipality shall –
 - (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
 - (b) break a seal which the Municipality has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.
- (7) If the Municipality considers that, in the event of the measuring device being a meter that the size of that meter is unsuitable by reason of the quantity of water supplied to such premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.

- (8) The Municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit: Provided that where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

Quantity of water supplied to consumer

38. (1) For purposes of assessing the quantity of water measured by a measuring device installed by the Municipality on the premises of a consumer or, where applicable, estimated or determined by the Municipality in terms of any provision of this By-law, it will, for the purposes of this By-law, be deemed, unless the contrary can be proved, that –
- (a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;
 - (b) the measuring device was accurate during such period;
 - (c) the entries in the records of the Municipality were correctly made; and
 - (d) provided that if water is supplied to, or taken by, a consumer without its passing through a measuring device, the estimate by the Municipality of the quantity of such water shall be deemed to be correct.
- (2) Where water supplied by the Municipality to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the Municipality, the Municipality may for the purpose of rendering an account estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period from the last previous reading of the water meter until the date it is discovered that water is so taken by the consumer.
- (3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer shall be based on, as the Municipality may decide –
- (a) the average monthly consumption of water on the premises during any 3 consecutive measuring periods during the 12 months' period prior to the date on which the taking of water in the manner mentioned in subsection (2) was discovered; or
 - (b) the average monthly consumption on the premises registered over 3 succeeding measuring periods after the date referred to in paragraph (a).
- (4) Nothing in this By-law shall be construed as imposing on the Municipality an obligation to cause any measuring device installed by the Municipality on any premises to be measured at the end of every month or any other fixed period, and the Municipality may estimate the

quantity of water supplied over any period during the interval between successive measurements of the measuring device and render an account to a consumer for the quantity of water so estimated.

- (5) The Municipality must, on receipt from the consumer of written notice of note less than 7 days and subject to payment of the prescribed charge, measure the quantity of water supplied to the consumer at a time or on a day other than that upon which it would normally be measured.
- (6) If a contravention of section 37(6) occurs, the consumer shall pay to the Municipality the cost of such quantity of water as in the Municipality's opinion was supplied to him or her.
- (7) Until such time as a measuring device has been installed in respect of water supplied to a consumer, the estimated or assumed consumption of that consumer must be based on the average consumption of water supplied to the specific zone within which the consumer's premises is situated, during a specific period.
- (8) Where, in the opinion of the Municipality, it is not reasonably possible or cost-effective to measure water supplied to each consumer within a determined zone, the Municipality may determine a basic tariff or charge to be paid by each consumer within that zone irrespective of actual consumption.
- (9) A tariff or charge determined in terms of subsection (8) shall be based on the estimated average consumption of water supplied to that zone.
- (10) Where water supply services are provided through a communal water services work, the amount due and payable by consumers gaining access to water supply services through that communal water services work shall be based on the estimated average consumption of water supplied to that water services work.

Defective measurement

39. (1) If a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her by the Municipality, is defective, he or she may, against payment of the prescribed charge, make application in writing for the measuring device to be tested.
- (2) The provisions of section 10(8) to (12) shall apply to such an application.

Special measurement

40. (1) If the Municipality wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner concerned of its intention to install a measuring device at such point in the water installation as it may specify.

- (2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such removal, shall be carried out at the expense of the Municipality.
- (3) The provisions of section 37(5) and (6) shall apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

No reduction of amount payable for water wasted

41. A consumer shall not be entitled to a reduction of the amount payable for water wasted or water losses in a water installation: Provided that such waste or loss is not caused by the fault of the Municipality.

Adjustment of quantity of water supplied through defective measuring device

42. (1) If a measuring device is found to be defective in terms of section 10(10), the Municipality may estimate the quantity of water supplied to the consumer concerned during the period in which, in its opinion, such measuring device was defective, on the basis of the average daily quantity of water supplied to him or her over –
- (a) a period between 2 successive measurements subsequent to the replacement of the measuring device; or
 - (b) a period in the previous year corresponding to the period in which the measuring device was defective; or
 - (c) the period between 3 successive measurements prior to the measuring device becoming defective,
- whichever it considers the most appropriate.
- (2) If the quantity of water supplied to a consumer during the period when his or her measuring device was defective cannot be estimated in terms of subsection (1), the Municipality may estimate the quantity on any reasonable basis.

**PART 6
INSTALLATION WORK**

Approval of installation work

43. (1) If an owner wishes to have installation work done, he or she must first obtain the Municipality's written approval: Provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SABS Code 0400 or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1), shall be made on the prescribed form and shall be accompanied by –
- (a) the prescribed charge, if applicable;

- (b) copies of the drawings as prescribed by the Municipality, giving information in the form required by clause 4.1.1 of SABS Code 0252, Part I; and
 - (c) a certificate certifying that the installation has been designed in accordance with SABS Code 0252, Part I or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) shall not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.
- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of 24 months after the first day of the month succeeding the month in which the authority was given.
- (5) A complete set of approved drawings of installation work shall be available at the site of the work at all times until such work has been completed, where approval was required in terms of subsection (1).
- (6) If installation work has been done in contravention of subsection (1) or (2), the Municipality may by written notice require the owner of the premises concerned to –
 - (a) comply with subsection (1) or (2) within a specified period;
 - (b) if work is in progress, to cease the work; or
 - (c) to remove all such work which does not comply with this By-law.

Provision and maintenance of water installations

- 44. (1) An owner must provide and maintain his or her water installation at his or her own cost and, where permitted in terms of subsection (2), must ensure that the installation is situated within the boundary of his or her premises.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his or her premises, an owner shall obtain the written consent of the Municipality or the owner of the land on which such portion is situated, as the case may be.

Use of pipes and water fittings to be authorised

- 45. (1) No person shall, without the prior written authority of the Municipality, install or use a pipe or water fitting in a water installation within the Municipality's area of jurisdiction, unless it is included in a schedule of approved pipes and fittings as compiled by the Municipality, if any.

- (2) Application for the inclusion of a pipe or water fitting in the schedule referred to in subsection (1), shall be made on the form prescribed by the Municipality and be accompanied by the prescribed charge.
- (3) A pipe or water fitting may be included in the schedule referred to in subsection (1) if –
 - (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or
 - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS mark specification or a provisional specification issued by the SABS: Provided that no certification marks shall be issued for a period exceeding 2 years.
- (4) The Municipality may, in respect of any pipe or water fitting included in the schedule referred to in subsection (1), impose such additional conditions, as it may deem necessary, in respect of the use or method of installation thereof.
- (5) A pipe or water fitting shall be removed from the schedule referred to in subsection (1), if it –
 - (a) no longer complies with the criteria upon which its inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current schedule, if any, shall be available for inspection at the office of the Municipality at any time during working hours.
- (7) The Municipality may sell copies of the current schedule, if any, at the prescribed charge.

Labelling of terminal water fittings and appliances

46. All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item –
 - (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate; and
 - (b) the flow rates, in litres per minute, related to the design pressure range: Provided that this information shall be given for at least the following water pressures:
 - (i) 20 kPa;
 - (ii) 100 kPa; and
 - (iii) 400 kPa.

PART 7
WATER POLLUTION, RESTRICTION AND WASTEFUL USE OF WATER

Owner to prevent pollution of water

47. An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into –
- (a) the water supply system; and
 - (b) any part of the water installation on his or her premises.

Water restrictions

48. (1) The Municipality may, by public notice, to prevent the wasteful use of water in terms of section 49 or in the event of a water shortage, drought or flood –
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –
 - (i) specified purposes;
 - (ii) during specified hours of the day or on specified days; and
 - (iii) in a specified manner; and
 - (b) determine and impose –
 - (i) limits on the quantity of water that may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of water in excess of such limit; and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The Municipality may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas or categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (3) The Municipality may –

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- (a) take, or by written notice require a consumer at his or her own expense to take such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
 - (b) discontinue or, for such period as it may deem fit, limit the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), subject to notice in terms of section 23; and
 - (c) where the supply has been discontinued, it shall only be restored when the prescribed charge for discontinuation and reconnecting the supply has been paid.
- (4) The provisions of this section shall also apply in respect of water supplied directly by the Municipality to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

Waste of water unlawful

49. (1) No consumer shall permit –
- (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes or water fittings to leak;
 - (c) the use of maladjusted or defective water fittings;
 - (d) an overflow of water to persist; or
 - (e) an inefficient use of water to persist.
- (2) An owner shall repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the Municipality may, by written notice in terms of section 23, require the owner to comply with the provisions of subsection (1).
- (4) A consumer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.
- (5) The Municipality may, by written notice, prohibit the use by a consumer of any equipment in a water installation if, in its opinion, its use of water is inefficient and such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the Municipality.

**PART 8
WATER AUDIT****Water audit**

50. (1) Water users using more than 3 650 Kl per annum, excluding those comprising multiple dwelling units, must within 1 month after the end of each financial year of the Municipality, undertake an annual water audit at their own cost.
- (2) A copy of the audit must be available for inspection by officials from the Department of Water Affairs and Forestry, the water board, if applicable, and the Municipality.
- (3) The audit must contain details in respect of –
- (a) the quantity of water used during the financial year;
 - (b) the amount paid for water for the financial year;
 - (c) the number of people living on the stand or premises;
 - (d) the number of people permanently working on the stand or premises;
 - (e) seasonal variation in demand through monthly consumption figures;
 - (f) water pollution monitoring methods;
 - (g) current initiatives to manage demand for water;
 - (h) plans to manage their demand for water;
 - (i) estimates of consumption by various components of use; and
 - (j) a comparison of the above factors with those reported in each of the previous 3 years, where available.

**PART 9
GENERAL****Notification of boreholes**

51. (1) The Municipality may, by public notice, require –
- (a) the owner of any premises within the area of jurisdiction of the Municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and

- (b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.
- (2) The Municipality may require the owner or occupier of any premises who intends to sink a borehole to undertake an environmental impact assessment for such intended borehole, to the satisfaction of the Municipality, before sinking the borehole.
- (3) Boreholes are subject to any requirements of the National Water Act, 1998 (Act No. 36 of 1998).
- (4) The Municipality may by notice to an owner or occupier or by public notice require owners and occupiers who has existing boreholes used for water services to –
 - (a) obtain approval from it for the use of a borehole for water services in accordance with sections 6, 7 and 22 of the Act;
 - (b) impose conditions in respect of the use of a borehole for water services; and
 - (c) impose a fixed charge in respect of the use of such a borehole.

Sampling of water

- 52. (1) The Municipality may take samples of water obtained from a source, authorised in terms of section 6 or 7 of the Act, other than the water supply system for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The prescribed charge for the taking and testing of the samples referred to in subsection (1), shall be paid by the person to whom approval to use the water for potable water was granted in terms of section 6(1) of the Act.

Supply of non-potable water by Municipality

- 53. (1) The Municipality may on application in terms of section 3 agree to supply non-potable water to a consumer, subject to such terms and conditions as the Municipality may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purposes, which, in the opinion of the Municipality, may give rise to a health risk.
- (3) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the Municipality or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any

consequential damage or loss arising to himself, herself or others arising directly or indirectly therefrom, including the consequences of any *bona fide* fault of the Municipality or the malfunction of a treatment plant.

Testing of pressure in water supply systems

54. The Municipality may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request.

Pipes in streets or public places

55. No person shall for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of the Municipality, except with the prior written permission of the Municipality and subject to such conditions as it may impose.

CHAPTER III

SANITATION SERVICES

PART 1

STANDARDS AND GENERAL PROVISIONS

Standards for sanitation services

56. Sanitation services provided by the Municipality shall comply with the minimum standards set for the provision of sanitation services in terms of section 9 of the Act.

Objectionable discharge to sewage disposal system

57. (1) No person shall discharge, or permit the discharge or entry into the sewage disposal system of any sewage or other substance –
- (a) which does not comply with the standards and criteria prescribed in section 74 below;
 - (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent produces for discharge at any sewage treatment plant or in any public water, any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
 - (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;

- (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
 - (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant not complying with standards prescribed under the National Water Act, 1998 (Act No. 36 of 1998);
 - (f) which may cause danger to the health or safety of any person or may be injurious to the structure or materials of the sewage disposal system or may prejudice the use of any ground used by the Municipality for the sewage disposal system, other than in compliance with the permissions issued in terms of this By-law; and
 - (g) which may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) No person shall cause or permit any stormwater to enter the sewage disposal system.
 - (3) The Municipality may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with this By-law and to report such findings to an authorised agent.
 - (4) If any person contravenes any provision of subsection (1) or (2), he or she shall within 12 hours, or earlier if possible, advise the Municipality of the details of the contravention and the reasons for it.

**PART 2
ON-SITE SANITATION SERVICES AND ASSOCIATED SERVICES**

Application for infrastructure

- 58. (1) If an agreement for on-site sanitation and associated services in accordance with section 2 exists, and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on the approved form and –
 - (a) pay the prescribed charge for the installation of necessary infrastructure; or
 - (b) with the approval of the Municipality and at the request of the owner, install the connecting sewer or on-site sanitation services in accordance with the specifications of the Municipality.
- (2) The Municipality may specify the type of on-site sanitation services to be installed.

Services associated with on-site sanitation services

59. (1) The removal or collection of conservancy tank contents, night soil or the emptying of pits shall be undertaken by the Municipality in accordance with a removal and collection schedule determined by the Municipality.
- (2) Copies of the collection and removal schedule shall be made available on request.

Charges in respect of services associated with on-site sanitation services

60. (1) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits shall cover all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues.
- (2) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits shall be based on the volume removed by vacuum tank or otherwise.
- (3) If the volume of conservancy tank contents, night soil or the emptying of pits removed or collected cannot be quantified, the Municipality may charge a fixed charge as prescribed.
- (4) Charges may be in the form of a monthly contribution or it may be levied as a single payment when the service is rendered.

**PART 3
SEWAGE DISPOSAL****Provision of a connecting sewer**

61. (1) If an agreement for the use of the sewage disposal system in accordance with section 2 exists and no connecting sewer exists in respect of the premises, the owner must immediately make application on the approved form and –
- (a) pay the prescribed charge for the installation of such a connecting sewer; or
- (b) with the approval of the Municipality and at the request of the owner, install the connecting sewer in accordance with any specifications of the Municipality.
- (2) If an application is made for use of the sewage disposal system to a premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.

Location of connecting sewer

62. (1) A connecting sewer provided and installed by the Municipality, or owner in terms of section 61, shall –
- (a) be located in a position agreed to between the owner and the Municipality and be of a size determined by an authorised officer of the Municipality;
 - (b) terminate at a connection point approximately 1 meter inside the premises from the boundary of the land owned by or vested in the Municipality or over which it has a servitude or other right or when subsection (3) applies, at the connecting point designated in terms of that subsection.
- (2) In reaching agreement with an owner concerning the location of a connecting sewer, the Municipality shall ensure that the owner is aware of –
- (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
 - (b) the cost implications of the various possible locations of the connecting sewer;
 - (c) whether or not the Municipality requires the owner to fix the location of the connecting sewer by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the Municipality to connect to such installation.
- (3) The Municipality may at the request of any person agree, subject to such conditions as it may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises: Provided that the applicant shall be responsible for any extension of the drainage installation to the connecting point designated by an authorised officer and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, the rate and time of discharge into the sewer shall be subject to the approval of the Municipality.

Provision of one connecting sewer for several consumers on same premises

63. (1) Notwithstanding the provisions of section 61, only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.

- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different accommodation units, the Municipality may, in its discretion, provide and install either –
- (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate connecting sewer for each accommodation unit or any number thereof.
- (3) Where the Municipality has installed a single connecting sewer as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be, –
- (a) shall, if the Municipality so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units –
 - (i) a separate connecting sewer; and
 - (ii) an isolating valve; and
 - (b) shall be liable to the Municipality for the tariffs and charges for all sewage disposed from the premises through such a single connecting sewer, irrespective of the different quantities disposed by the different consumers served by such connecting sewer.
- (4) Notwithstanding subsection (1), the Municipality may authorise that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the Municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorised by the Municipality under subsection (4), the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

Interconnection between premises

64. An owner of premises shall ensure that no interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises, unless he or she has obtained the prior written consent of the Municipality and complies with any conditions that it may have imposed.

Disconnection of draining installation from connecting sewer

- 65.** The Municipality may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –
- (a) the agreement for provision has been terminated in terms of section 12 and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
 - (b) the building on the premises concerned has been demolished.

CHAPTER IV

SHORT TITLE

Short title

- 66.** This By-law shall be called the Water Services By-law, 2008

NOTICE 104 OF 2008
GA-SEGONYANA MUNICIPALITY
REMOVAL OF RESTRICTIONS ACT, 1967
(ACT 84 OF 1967)
NORTHERN CAPE PLANNING AND DEVELOPMENT ACT
(ACT NO 7 OF 1998)

APPLICANT: AB SMIT

NATURE OF APPLICATION:

Removal of title conditions as enumerated in Title Deed T1742/2004, to facilitate the Rezoning of a **Portion of Erf 2842, Kuruman** from Residential Zone I to Business Zone II, restricted to the use of an Art Gallery, Gift Shop and Coffee Shop.

Particulars of the application will be available at the Municipal Offices, c/o School and Voortrekker Streets, Kuruman, (Tel. **053 – 712 1095**) on **11 DECEMBER 2008**, from Mondays to Fridays, during normal office hours. Any person or organization that is of the intention to lodge an objection against the application must lodge such application in writing, with the Municipal Manager at the above address of through the post, to Private Bag X1522, KURUMAN, 8460, on or before **8 JANUARY 2009**. Should no objections, as prescribed be lodged on the said date, it shall be regarded that there are no objections against the application.

Notice is further given of a public information meeting with regard to the application, which will be held on **9 JANUARY 2009** at **9:00** at c/o **HIBISCUS & KEULER STREET, KURUMAN**.

Any person or organization is welcome to attend this meeting.

ADDRESS OF APPLICANT:

JORDAAN & MANS INC
P O BOX 27
KURUMAN, 8460

KENNISGEWING 104 VAN 2008

Alg 104/2008

**GA-SEGONYANA MUNISIPALITEIT
WET OP OPHEFFING VAN BEPERKINGS, 1967
(WET 84 VAN 1967)**

**NOORDKAAPSE WET OP ONTWIKKELING EN BEPLANNING
(WET NO 7 VAN 1998)**

AANSOEKER: AB SMIT

AARD VAN AANSOEK:

Opheffing van beperkende titelvoorwaardes, soos vervat in titelakte T1742/2004, ten einde die Hersonering van **'n Gedeelte van Erf 2842, KURUMAN** vanaf **Residensieel Sone I na Besigheid Sone II** vir die gebruik van beperkte Besigheidsdoeleindes, te wete **'n Kunsgalery, Geskenkwinkel en Koffiewinkel.**

Besonderhede van die aansoek, lê ter insae by die Munisipale Kantore, h/v Skool en Voortrekkerstrate, Kuruman (Tel. **053 – 712 1095**) **11 DESEMBER 2008** vanaf Maandae tot Vrydae, gedurende normale kantoorure. Enige persoon of instansie wat van voorneme is om beswaar teen die aansoek aan te teken, moet sodanige beswaar skriftelik by die Munisipale Bestuurder by bogenoemde adres indien, of pos na Privaatsak X1522, KURUMAN, 8460, voor of op **8 JANUARIE 2009**. Sou geen besware, soos voorgeskryf, ingedien word nie, sal aanvaar word dat daar geen beswaar teen die aansoek is nie.

Kennis geskied voorts, dat 'n openbare inligtingsvergadering met betrekking tot die aansoek gehou sal word op **9 JANUARIE 2009 om 9:00 te h/v HIBISCUS- & KEULERSTRAAT, KURUMAN.**

Enige persoon of instansie is welkom om die vergadering by te woon.

ADRES VAN APPLIKANT:

JORDAAN & MANS
Posbus 26
KURUMAN, 8460