



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
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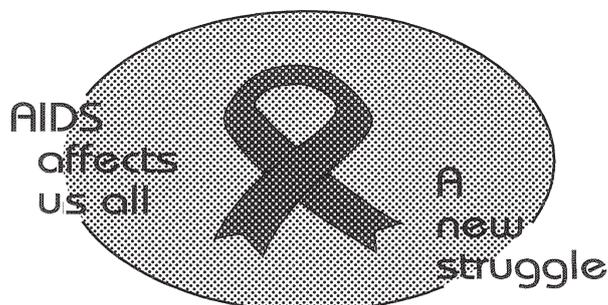
Vol. 10

31 MARCH 2016
31 MAART 2016
31 KUNDASA 2016

No. 1647

PART 1 OF 3

We all have the power to prevent AIDS



**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

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Government Printing Works

Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website www.gpwonline.co.za to familiarise yourself with the new deadlines.

CANCELLATIONS

Don't forget!

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above. Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette.**

Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

take note!

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

CUSTOMER INQUIRIES



Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

PROOF OF PAYMENTS

REMINDER

GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to submit.egazette@gpw.gov.za, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

REMINDER OF THE GPW BUSINESS RULES

- Single notice, single email – with proof of payment or purchase order.
- All documents must be attached separately in your email to GPW.
- 1 notice = 1 form, i.e. each notice must be on a separate form
- Please submit your notice **ONLY ONCE**.
- Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 72 OF 2016**DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:
PUBLICATION OF STANDARD DRAFT BY-LAWS**

1. The Member of the KwaZulu-Natal Executive Council responsible for local government, under the powers vested in her by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), proposes to publish the following notice:

"I, in my capacity as Member of the KwaZulu-Natal Executive Council responsible for local government, and under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), after having consulted the Minister of Cooperative Governance and Traditional Affairs, Organised Local Government in the Province and Municipalities in the Province, hereby make the standard draft By-laws contained in the Schedule hereto."

2. Municipalities, the public and interested parties are invited to submit comments in writing on the standard draft by-laws, by no later than thirty days after the publication hereof, by –

- (a) post to the Head of Department, Co-operative Governance and Traditional Affairs, Pietermaritzburg, Private Bag X 9123, 3200, for the attention of Ms. Sinegugu Makhaye;
- (b) hand delivered to the 7th Floor, Southern Life Plaza, 271 Church Street, Pietermaritzburg, 3201, for the attention of Ms. Sinegugu Makhaye;
- (c) facsimile to 033 - 355 6559; or
- (d) email to sinegugu.makhaye@kzncogta.gov.za

SCHEDULE

1. Liquor Trading By-law
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3. Nuisances and behaviour in public places By-law
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5. Municipal Parks and Recreational Grounds By-law
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_____ MUNICIPALITY: LIQUOR TRADING DAYS AND HOURS
BY-LAW,

20__

To provide for the regulation of trading days and hours of liquor establishments and for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the _____ Municipality to control and regulate the operating days and hours for liquor establishments within its jurisdiction;

AND WHEREAS the _____ Municipality is authorised according to Section 78 of the Kwazulu-Natal Liquor Licensing Act No. 6 of 2010, to make by-laws for the control and regulation of trading hours and days for liquor establishments within its area of jurisdiction;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 78 (1)(b) of the Kwazulu-Natal Liquor Licensing Act No. 6 of 2010, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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11. Short title and commencement
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Definitions

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

“authorised official” means a person authorised to implement the provisions of the By-laws, including but not limited to-

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act of 1977;
- (b) Municipal or Metropolitan Police Officers as contemplated in the South African Police Services Act of 1995; and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard;

“drinking in public” includes

“establishment” includes any premises, business, outlet or land use activity from which liquor is sold;

“liquor” means-

- (a) a liquor product as defined in section 1 of the Liquor Product Act No. 60 of 1989;
- (b) beer or traditional African beer, or
- (c) any other substance or drink declared to be liquor under the Liquor Act No. 59 of 2003, but does not include mentholated spirits;

“liquor establishment” means any place where liquor is sold for on-site or off-site consumption;

“off-site consumption” means where liquor is consumed on a premises other than where it was purchased;

“**on-site consumption**” means where liquor is consumed on the premises on which it was purchased;

“**Municipality**” means the _____ Municipality, a category ____ municipality as envisaged in terms of Section 115(1) of the Constitution of South Africa;

“**special event**” means an event organised at a specific place for a specified duration;

“**trader**” means any individual or business who has a business license and a liquor license and is authorised to sell liquor to the public in any quantity for consumption or retail; and

“**tavern**” means any residentially zoned premises where liquor is sold for consumption on the premises and where food may be provided incidentally.

Objects of the By-law

2.(1) The objects of this By-law are to—

- (a) regulate and control the trading days and hours for—
 - (i) the on-site consumption of liquor;
 - (ii) the off-site consumption of liquor; and
 - (iii) the different categories of liquor establishments, and
- (b) impose penalties for the contravention of this By-law.

Application of the By-law

3.(1) This By-law applies throughout the Municipality's area of jurisdiction in respect of liquor establishments.

Trading days and hours

4.(1) The council of _____ Municipality hereby resolves that the trading days and hours for each category of liquor establishments are as set out in Schedule A of this By-law.

(2) The Municipality may by resolution alter the trading days and hours contained in Schedule -All of this By-law.

(3) A departure from the days and times listed in Schedule A shall only occur upon an application being made to the Municipality in terms of section 5 of this By-law.

Extension of trading hours

5.(1) Where a trader desires to depart from the trading days and hours set out in Schedule A of this by-law, an application to the Municipality may be made, after paying a non- refundable prescribed fee, for an extension of the trading hours.

(2) The Municipality, when considering such application, shall take into account —

- (a) the area in which the premises is based;
- (b) the impact on the environment in that area; (c) the impact on the community in that area; (d) the impact on businesses in that area;
- (e) any nuisance that may be caused; and
- (f) any other relevant factor.

(3) The Municipality must consider the application and subject to its discretion decide to grant or decline such application based on subsection (2) above.

(4) The Municipality reserves the right to determine the duration of the extended trading days and hours and to impose any other condition.

(5) Where an application is refused, the Municipality shall provide the applicant with written reasons for the refusal.

Powers of officials

6.(1) An authorised official may request a liquor trader to produce their liquor license upon demand.

(2) Where an authorised official suspects that an establishment is selling liquor outside of the designated time frame as set out in Schedule A, they may enter such premises to conduct an inspection.

Offences

7.(1) An offence is committed where a trader or an employee of a trader-

- (a) interferes with or hinders the inspection and the investigation of an official; (b) fails to comply with an instruction of an official;
- (c) fails to produce a liquor license;
- (d) is not in possession of an extended days and hours trading permit and trades outside of the trading days and hours prescribed within Schedule A; or
- (e) contravenes any other section of this by-law.

(2) It is an offence for a person to drink in public within the jurisdiction of the municipality.

Penalties

8.(1) A warning shall be issued against a trader or an employee of a trader who contravenes this by-law.

(2) The warning shall include the following:

- a) the name of the trader or employee of the trader;
- b) the offence;
- c) the steps to be taken by the trader or the employee of a trader to rectify the offence;
- d) the period within which the offence may be rectified by the trader or the employee of a trader; and
- e) consequences where the offence remain unrectified after the expiry of the period contemplated in 8(2)(d).

(3) Where a trader or an employee of a trader is found guilty of an offence in terms of this by-law, s/he shall be liable on conviction to—

- (a) a minimum fine of R2 000-00 and a maximum of R3 000 000-00; (b) imprisonment for a minimum period of 2 years; or
- (c) both a fine and imprisonment.

(4) Upon conviction all liquor products will be confiscated and destroyed

(5) All fines and sentences imposed are subject to the discretion of the chief magistrate.

Appeals

9.(1) A person whose rights are affected by a decision taken by the Head of Health or any authorised official in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No.

32 of 2000) by giving written notice of the appeal and reasons thereof to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within 6 weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Delegations

10.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation;
- (c) conditions attached to the delegation or sub-delegation; and

Short title and commencement

11. This By-law is called the _____ Municipality: Liquor Trading Days and Hours By-law, 20___, and takes effect on the date of publication in the *Provincial Gazette*.

SCHEDULE A

CATEGORY A	TRADING DAYS	TRADING HOURS
ONSITE CONSUMPTION		
Accommodation Establishments	Daily	10h00-02h00
Restaurants	Daily	10h00-02h00
Clubs	Daily	10h00-02h00
Night Clubs	Daily	10h00-04h00
Casinos	Daily	24 hours
Sports Facilities	Daily or whenever in use	10h00- 23h00
Pub	Daily	10h00-02h00
Tavern	Daily	10h00-24h00
Theatres	Daily	10h00-24h00
Restaurants	Daily	10h00-02h00
CATEGORY B	TRADING DAYS	TRADING HOURS
OFFSITE CONSUMPTION		
Liquor Store	Monday -Friday	08h00-20h00
	Saturday	08h00-17h00
	Sunday	10h00-15h30
Grocers Wine and Liquor Store	Monday -Friday	08h00-20h00
	Saturday	08h00-17h00
	Sunday	10h00-15h30
CATEGORY C	TRADING DAYS	TRADING HOURS
SPECIAL EVENTS		
Event days	Any Day	Trading days and hours are subject to the permit issued by the council
CATEGORY D	TRADING DAYS	TRADING HOURS
Micro Manufacturers	Daily	07h00-22h00

CHILD CARE FACILITIES BY-LAW, 20__

To require the operators of child care facilities to be licensed; to set out requirements for the premises on which child care facilities are operated; to regulate certain services provided at child care facilities; to provide for the safety and medical care of children in child care facilities; to impose record keeping and other administrative requirements on operators; to prohibit certain conduct; to create offences and penalties; to provide for the withdrawal of licences; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of section 24(a) of the Constitution;

WHEREAS in terms of section 152(d) of the Constitution, one of the objects of the _____ municipal council is the promotion of a safe and healthy environment;

WHEREAS there is a need to regulate child care facilities within the area of jurisdiction of the _____ Municipality in order to ensure the well-being and safety of children;

WHEREAS the _____ municipal council has the competence in terms of Part B of Schedule 4 of the Constitution to control child care facilities;

AND WHEREAS the _____ municipal council has competence, in terms of the section 156 (2) of the Constitution of the Republic of South Africa, to make and administer by-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the _____ municipal council, acting in terms of section 156 read with Part B of Schedule 4 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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SCHEDULE: LAWS REPEALED

**CHAPTER 1
INTERPRETATION**

Definitions

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

"Act" means Children's Act No. 38 of 2005, including the regulations made under that Act;

"adequate" means that which is adequate in the reasonable opinion of the Municipality after having regard to applicable law and guidelines;

"approved" means that which has been approved by the Municipality, after having regard to the reasonable environmental health requirements that may apply in the circumstances;

"approved premises" means any premises that have been approved for the operation of a child care facility and in respect of which a health compliance certificate has been issued;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to—

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the municipality as are specifically authorised by the municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"certificate of acceptability" means a certificate of acceptability issued by the Municipality in terms of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012;

"child" means any person under the age of 18 years and **"children"** has a corresponding meaning;

"child care facility" means any premises at which six or more children at a time are provided with temporary or partial care apart from their parents, whether for profit or otherwise, and excludes –

- (a) boarding schools; (b) school hostels; and
- (c) any establishments which operate mainly for the tuition or training of children and which are controlled by the State or registered or approved by the State;

"compulsory school-going age" means the age at which it is compulsory for a child to enter grade 1 in terms of the applicable law;

"council" or **"municipal council"** means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

"health compliance certificate" means a health compliance certificate issued by the Municipality in terms of section 6;

"health compliance certificate holder" means a person to whom a health compliance certificate has been issued in terms of this By-law, and includes–

- (a) a legal person; (b) a partnership; (c) an association;
- (d) a trust; and
- (e) a person acting on behalf of a health compliance certificate holder;

"Municipality" means the _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of Provincial Notice No. 43 of 2000 (KZN);

"municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

"National Building Regulations" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and any amendments thereto; **"person in charge"**

includes–

- (a) the owner of a child care facility;
- (b) the principal of a child care facility; and
- (c) any person who is apparently in control of a child care facility; "**play area**" means a

portion of a premises set apart for children to play;

"**premises**" means any land or building or part of any land or building in or on which a child care facility is operated; and

"**suitable**" means that which is suitable in the reasonable opinion of the Municipality.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to –

- (a) regulate the operation of child care facilities by requiring operators to apply for a health compliance certificate;
- (b) ensure that the premises on which child care facilities are operated are age- appropriate and suitable for the health and well-being of children;
- (c) impose minimum safety standards; and
- (d) make provision for the medical care of children while attending child care facilities.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality.

Existing child care facilities

5.(1) An authorised official may grant an extension of time to a person who was operating a child care facility before the date of commencement of this By-law so that such person may comply with the provisions of this By-law within 9 months of the date of commencement.

- (2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than a further 12 months.

CHAPTER 2 CERTIFICATES

Health compliance certificates

6.(1) No person may operate a child care facility on any premises unless he or she has been issued with a health compliance certificate by the Municipality confirming that the premises, and the facilities and services available on those premises, comply with this By-Law.

(2) Every health compliance certificate must contain the following minimum information:

- (a) the maximum number of children which may be cared for on the approved premises;
- (b) the maximum number of children of different age groups which may be cared for on the approved premises;
- (c) the minimum and the maximum ages of the children permitted to be cared for on the approved premises;
- and
- (d) the hours during which the child care facility may operate.

(3) A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.

(4) The authorised official may issue a health compliance certificate if he or she is satisfied that the—

- (a) premises on which it is proposed to operate the child care facility; and
- (b) facilities and services available on those premises, comply with this

By-law.

(5) A health compliance certificate is issued in respect of specific approved premises. This means that a health compliance certificate—

- (a) becomes invalid if a health compliance certificate holder dies or ceases to operate a child care facility from the approved premises;
- (b) is not transferable to any other person;
- (c) is not transferable to, or valid for, any other child care facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;
- (d) is not transferred when the holder of the health compliance certificate disposes of the child care facility concerned or of the approved premises; and
- (e) may not be bequeathed by the health compliance certificate holder to any heir or legatee.

(6) If a health compliance certificate holder wishes to move his or her child care facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.

(7) If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must—

- (a) bring his or her intention to the attention of the Municipality before commencing the alterations; and
- (b) apply for and obtain a new health compliance certificate before beginning to operate a child care facility from those altered premises.

CHAPTER 3

GENERAL REQUIREMENTS FOR PREMISES

Compliance with National Building Regulations

7.(1) Every structure on premises on which any child care facility is operated or is to be operated must comply with the requirements of the National Building Regulations.

(2) The authorised officer shall be entitled to approve an informal structure on any premises on which a child care facility is operated or is to be operated, provided that the structure—

- (a) is stable;
- (b) is waterproof;

- (c) is sufficiently ventilated;
- (d) is constructed of materials which are safe;
- (e) is supplied with a portable fire extinguisher or other appropriate fire fighting equipment;
- (f) does not contain any physical features which present or might present a risk to children; and
- (g) complies with any other additional requirements determined by the Municipality from time to time.

(3) The Municipality may at any time amend the list in subsection (2) to keep in accordance with the safety and well-being of children.

Indoor play areas

8.(1) A separate indoor play area must be provided on every premises on which a child care facility is operated.

(2) The indoor play area must—

- (a) be used for play only;
- (b) provide not less than 1,5 m² of free floor area per child;
- (c) separate children under the age of three years from children over the age of three years (movable partitions may be used to create this separation);
- (d) have exterior walls and a roof which is impermeable to wind and rain;
- (e) have windows which open to provide sufficient natural light and cross-ventilation; (f) have a floor which has a smooth, impermeable surface that is easy to wash; and (g) have sufficient safe indoor play equipment.

Outdoor play areas

9.(1) An outdoor play area must be provided on every premises on which a child care facility is operated.

(2) The outdoor play area must—

- (a) comprise of not less than 2 m² of outdoor area per child;
- (b) be, in the opinion of the Municipality, a safe area for children of the age concerned to play;

- (c) not have any excavations, steps, projections, levels or surfaces that may, in the opinion of the Municipality, be dangerous or may constitute a hazard; and
- (d) have sufficient safe outdoor play equipment.

(3) If no outdoor play area is available at a premises, the health compliance certificate holder may, subject to the approval of the Municipality, substitute an additional indoor play area of 1.5 m² per child for the outdoor play area.

Toilets

10.(1) Adequate toilets must be provided for the children on every premises on which a child care facility is operated.

(2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of water, are available on the premises, one approved toilet must be provided for every 20 children.

(3) Where neither a sewer reticulation system or other sewage disposal system approved by the Municipality, and no supply of running water, are available on the premises, then the following must be provided:

- (a) an approved toilet on the premises or immediately adjacent to the premises; or
- (b) one container for every eight children.

(4) Where containers are provided as contemplated in subsection (3)(b) –

- (a) the contents of the containers must be disposed of regularly during the day into an approved toilet;
- (b) the containers must be kept in a clean and sanitary condition at all times;
- (c) the container must be of a size suitable for use as a toilet and must be placed under a properly constructed seat; and
- (d) the container must have a tight-fitting lid which is applied when the containers are removed for emptying.

(5) Toilets must have an adequate—

- (a) supply of toilet paper, soap and paper towels available and accessible to the children; and

(b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

Washing facilities

11.(1) Adequate washing facilities must be provided for the children on every premises on which a child care facility is operated.

(2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of running water, are available on the premises, hand washbasins must be provided as follows:

- (a) 1 hand washbasin must be provided for every 20 children;
- (b) hand washbasins must be placed at a height convenient for children; and
- (c) hand washbasins must be supplied with running water.

(3) Where neither a sewer reticulation system or other sewage disposal system approved by the Municipality, nor a supply of running water, are available on the premises—

- (a) the washing facilities must be supplied with a minimum of 25 litres of potable water a day in a potable water container which—
 - (i) can be closed; and
 - (ii) must be accessible for supply to the hand washbasins: Provided that water is dispensed from the container for use in the hand washbasin and that no children wash in the container;
- (b) one suitable container must be supplied for every 20 children; and
- (c) a container or containers must be placed at a height convenient for children.

(4) Washing facilities must have an adequate:

- (a) supply of soap and paper towels available and accessible to the children; and
- (b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

(5) If water supply to the child care facility is interrupted for any reason, the person in charge of the child care facility must—

- (a) implement an alternate water supply arrangement within 24 hours of interruption of water supply; or
- (b) close the child care facility until water supply is restored.

Kitchens

12.(1) Every child care facility which provides meals to children from a kitchen on the premises must have a separate approved area set aside, with due regard for the safety of children, as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils.

(2) The kitchen must –

- (a) have a double bowl sink;
- (b) have a separate hand wash basin;
- (c) be arranged so that the utensils and other kitchen equipment are inaccessible to children; and
- (d) meet the requirements of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012.

(3) No person may provide meals to children in a child care facility from a kitchen on the premises unless he or she has been issued with a certificate of acceptability by the Municipality in respect of that kitchen.

(4) If any child at a child care facility is bottle-fed,–

- (a) the bottles must be clearly marked with the name of the child; (b) the bottles must be supplied with suitable lids or caps;
- (c) any filled bottles brought from home must be suitably stored in the kitchen in a cooler box or refrigerator in such manner as to prevent contamination and spoilage; and
- (d) the child's bottles must be suitably rinsed in the kitchen.

(5) The children must not have access to a kitchen contemplated in subsections (1), (2) or (3), or to any storage space or storage facility contemplated in subsection (4).

(6) Where there is no formal kitchen as stated in section 12(2), an area must be demarcated and set aside for the above activities to take place.

Storage

13.(1) Any premises on which a child care facility is operated must have adequate and suitable storage space and storage facilities for–

- (a) food, crockery, cutlery and kitchen utensils, if a kitchen is provided; (b) the personal belongings of each child; and
- (c) the personal belongings of the staff of the child care facility.

(2) The storage facilities must be lockable and reasonable steps must be taken to ensure that children do not have access to any storage space or storage facility contemplated in subsection (1).

Seating and resting

14.(1) Any premises on which a child care facility is operated must–

- (a) if seating is provided, have suitable and safe seating; and
- (b) if tables are provided, have suitable and safe tables which are the correct size to ensure that each child sits comfortably.

(2) If full day care is provided at a child care facility, then every child at the facility must have an approved resting or sleeping mat or mattress which is–

- (a) marked with the name or symbol of the child to whom the mat or mattress is allocated;
- (b) made of suitable waterproof material; and
- (c) covered with a removable washable cover which is also marked with the name or symbol of the child to whom the mat or mattress is allocated.

(3) If blankets are provided at the child care facility, then they must be marked with the name or symbol of the child to whom the blanket is allocated.

(4) Reasonable steps must be taken to ensure that a child does not share a sleeping mat or mattress, or any blanket, with another child.

Fencing

15.(1) Any premises on which a child care facility is operated must be enclosed with approved fencing so as to prevent–

- (a) a child from leaving the premises on his or her own accord;
- (b) the entrance of domestic animals onto the premises; and
- (c) unauthorised access or entry.

(2) Fencing around a child care facility must meet the following requirements: (a) the fencing must be not less than 2m high;

- (b) there must be no gaps in the fencing wider than 100mm;
- (c) vertical members must be placed not more than 1000mm apart;
- (d) horizontal members must be placed at intervals which make it difficult for a child to climb; and
- (e) the fence must be constructed of material which cannot reasonably cause harm to children.

(3) A fence referred to in subsection (2) must have a gate which is self-closing and self-locking. A gate will only be regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person. In this regard, a gate which closes by means of a latch only, with no other means of securing the gate, will not be regarded as self-locking.

(4) If a pool is permitted on any premises on which a child care facility is operated, the pool must be–

- (a) built in accordance with an approved plan, supported by an acceptable certificate from an engineer or other competent person;
- (b) provided with an approved net;
- (c) fenced in the manner contemplated in subsection (2); and
- (d) provided with a suitable twin gate system with gates that are self-closing and self-locking (which may close by means of a latch).

(5) Portable pools are not permitted on any premises on which a child care facility is operated.

CHAPTER 4**ADDITIONAL REQUIREMENTS FOR TOILETS: CHILDREN UNDER AND OVER THE AGE OF 3****Toilets: older than three years**

16.(1) Toilets for children over the age of three years must be in an approved, screened-off and roofed area of the premises, separate to toilet facilities for children who are younger than three years.

(2) Separate toilets must be provided for boys and girls of school-going age.

Toilets: under three years

17.(1) Toilets for children who are under three years of age, or who are still in nappies, must include an approved separate nappy-changing area.

(2) The nappy-changing area must have—

- (a) a nappy-changing unit with an impermeable surface that can be easily cleaned; (b) at least 1 hand washbasin;
- (c) access to water: Provided that if no running water is available on the premises, an approved source of clean potable water must be available and accessible to the nappy-changing area on a daily basis;
- (d) disposable material for the cleaning of children who are in nappies;
- (e) approved facilities for the cleaning of cloth nappies if children in cloth nappies attend the child care facility;
- (f) approved separate containers for the storage of clean nappies and soiled nappies and other waste, as well as an approved area for the storage of containers containing soiled nappies and other waste; and
- (g) approved facilities for the cleaning of cloth nappies.

CHAPTER 5**ADDITIONAL REQUIREMENTS FOR PREMISES: AFTER CARE CENTRE****Separate facilities for after-care centre**

18. If a child care facility cares for children of compulsory school-going age and children under compulsory school-going age on the same premises, facilities available for the children of compulsory school-going age must be separate from the facilities available for the children under compulsory school-going age.

Indoor study area

19.(1) An indoor study area consisting of 1.5 m² of free floor area per child must be provided on any premises on which a child care facility operates an after-school centre for children of compulsory school-going age.

(2) The indoor study area must have—

- (a) exterior walls and a roof which is impermeable to wind and rain;
- (b) windows which open to provide sufficient natural light and cross-ventilation; and
- (c) a floor which has a smooth, impermeable surface that is easy to wash.

CHAPTER 6**STAFF FACILITIES****Staff toilet and hand-washing facilities**

20.(1) Any premises on which a child care facility is operated must have toilet and hand-washing facilities for the staff of the child care facility.

(2) The staff toilet and hand-washing facilities must be—

- (a) easily accessible to the staff;
- (b) separate from the toilet and wash facilities used by the children; and
- (b) provided with soap and towels at all times.

Bathroom facilities of staff resident on the premises

21. If any staff member of a child care facility resides on the premises on which the child care facility is operated, the toilet and bathroom facilities for the staff must be easily accessible from their living quarters.

CHAPTER 7 SAFETY AND MEDICAL CARE

Sickbay

22.(1) Every premises on which a child care facility is operated must have an area set aside as a sickbay for the treatment and care of any child who becomes ill or who is injured until such time as the child is collected by his or her parents or guardian.

(2) The sickbay may only be used for the treatment of ill or injured children and may not, in the ordinary course of events, be used for the treatment or care of children who have become ill or injured outside the hours of operation of the child care facility.

(3) The sickbay must be equipped with –

- (a) an approved, fully lockable and fully equipped first-aid unit, which must be kept out of the children's reach; and
- (b) a bed or a mattress.

(4) In addition, every sickbay must have an approved method for washing hands and every premises on which a child care facility is operated must have a working telephone available to notify parents or guardians of illness or injury and, where applicable, to summon medical assistance.

Medical care for children

23. (1) The person in charge of a child care facility must–

- (a) if a child becomes ill, or suffers an injury, requiring medical attention –
 - (i) notify the child's parent or guardian immediately; and
 - (ii) summon medical assistance or take the child to his or her medical practitioner;

- (b) if a child becomes ill, or suffers an injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay;
- (c) if a child has a notifiable disease, notify the relevant authority immediately;
- (d) if a child is under compulsory school-going age, ensure that he or she has completed the basic immunisation schedules as determined by the National Immunisation Programme;
- (e) comply with the provisions of the regulations relating to the exclusion of children from school on account of an infectious disease, made under the Health Act, 1977 (Act No. 63 of 1977); and
- (f) report cases of head lice to parents and ensure that children are not allowed back on the premises until the head lice have been eradicated.

(2) The person in charge of a child care facility may only allow medication to be administered to a child in terms of written consent from the child's parents, which—

- (a) identifies the medication;
 - (b) specifies the dosage and frequency at which the medication must be administered;
- and
- (c) the period for which the medication must be administered.

Safety

24. The person in charge of a child care facility must ensure that—

- (a) the children are adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child;
- (b) adequate fire extinguishers are provided and that the premises otherwise comply with the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
- (c) if the children are under compulsory school-going age, any slats or rails forming part of a fence, security gate, playpen, bed, cot, balustrade or any other object or structure whatsoever are -
 - (i) not more than 75 mm apart;
 - (ii) suitably installed and maintained in a good state of repair; (iii) painted only with non-toxic paint; and
 - (iv) not less than 1m high, with the exception of fences which must, in terms of section 16(2), be not less than 2m high;

- (d) all medicines, pesticides, detergents and other substances that may be harmful to children are locked in a storage facility and are stored so as not to be accessible to any child;
- (e) no noxious or poisonous plants or shrubs grow on the premises;
- (f) no animal is kept on the premises without the approval of the authorised official;
- (g) no person known or suspected to be suffering from an infectious or contagious disease or who has been in contact with such a person is allowed on the premises while that person is, in the opinion of the authorised official, capable of transmitting the infectious or contagious disease;
- (h) if the children are under compulsory school-going age, no swimming pool, sand pit or other structure is permitted on the premises without the approval of the authorised official; and
- (i) any reasonable measures that may, in the opinion of the authorised official, be necessary to protect the children from any physical danger are taken.

Maintenance

25. Any person in charge of a child care facility must ensure that every part of the premises on which the child care facility is operated, including any outdoor area and all structures and equipment, is maintained in good repair and in a clean and tidy condition.

Refuse

26. Any person in charge of a child care facility must provide—

- (a) an adequate number of bins with liners, inside the premises, for the disposal of paper, paper towels, tissues and other waste materials;
- (b) an approved refuse area, which is roofed and is graded to a gully; and
- (c) adequate refuse bins within the refuse area for the storage of refuse pending removal by the Municipality.

Staff

27.(1) Any person in charge of a child care facility must ensure that—

- (a) every employee working on the premises is physically clean and in a state of good health;

- (b) no person on the premises uses tobacco, any tobacco product, alcohol or any drug or other harmful substance in the presence of any child; and
- (c) no person on the premises is under the influence of alcohol, drugs or any other harmful substance.

(2) All employees must be subjected to criminal clearance checks before employment can be secured with the child care facility.

Meals

28. Any person in charge of a child care facility must ensure that, if meals are provided for children, the meals meet the requirements of the relevant authority.

Transport

29.(1) Any person in charge of a child care facility must, if transport is provided to children to or from the premises or elsewhere, ensure that—

- (a) the doors of the vehicle have child locks, such that they cannot be opened from inside the vehicle by a child;
- (b) no child is transported in the front seat of a vehicle or placed under the seat of a vehicle;
- (c) no baby in a carry cot is placed under a seat of a vehicle;
- (d) the vehicle in which any child is transported is not overloaded in terms of any applicable legislation;
- (e) the driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable legislation;
- (f) the vehicle in which any child is transported is licensed to transport passengers, has car seats and seat belts and is roadworthy in accordance with the applicable legislation; and
- (g) the vehicle is fitted with seat belts and car seats which, given the age of the children transported, comply with the applicable legislation.

(2) If children under compulsory school-going age are transported, then the person who operates the child care facility must ensure that while being transported, the children are supervised by at least one adult apart from the driver of the vehicle.

- (3) Any person in charge of a child care facility must ensure compliance with the provisions of subsections (1) and (2) regardless of whether transport is provided by that person, the child care facility, or by a third party on behalf of that person or the child care facility.

CHAPTER 8

ADMINISTRATIVE REQUIREMENTS

Applications for admission

30.(1) The person in charge of a child care facility must ensure that every child's parent or guardian makes written application for the child to attend the facility.

(2) Every application for a child to attend a child care facility must include the following minimum information:

- (a) the child's full name;
- (b) the child's date of birth; (c) the child's age;
- (d) the child's identity number, where applicable; (e) the child's sex;
- (f) the name of each parent or guardian;
- (g) the residential address and telephone numbers (landline and, if applicable, cell phone) of each parent or guardian;
- (h) the place of work and work telephone numbers of each parent or guardian;
- (i) the name, address and telephone numbers of a responsible person (other than a parent or guardian) who may be consulted in emergencies; and
- (j) the name, address and telephone number of the child's medical practitioner.

(3) Every application for a child to attend a child care facility must include the parent's or guardian's consent to the owner consulting the child's medical practitioner when the child is in need of medical attention.

(4) The person in charge of a child care facility must ensure that the date on which the child is admitted to the facility and the date on which the child ceases to be cared for at the facility are recorded on the application form.

Medical reports

31. The person in charge of a child care facility must, at the same time that the application form is completed, obtain from the parent or guardian of each child admitted to the child care facility a report which contains the following minimum information:

- (a) the child's general state of health and physical condition;
- (b) the nature and dates of any operations that the child has undergone;
- (c) the nature and dates of any illnesses or communicable diseases that the child has suffered from;
- (d) the details of allergies that the child suffers from;
- (e) information about any medical treatment that the child is undergoing or has undergone; and
- (f) if the child is under compulsory school-going age, the details of any immunisation that the child has received.

Registers

32. The person in charge of a child care facility must keep—

- (a) a general register in which is recorded the details listed in sections 30(2) and 31 regarding every child presently admitted at the facility; and
- (b) an attendance register in which is recorded the presence or absence of each child on a daily basis and, in the case of absence, the reasons for the absence.

Incident book

33. The person in charge of a child care facility must keep a journal, diary or other similar book in which important or significant events relating to the child care facility and the children, including illnesses and accidents, and the details of medications administered, are recorded.

Communication book

34. The person in charge of a child care facility must ensure that each child is issued with a communication book which is sent home with the child each day and which provides the basis for communication between the child care facility and parents.

Retention of records

35.(1) The person in charge of a child care facility must keep records for the following time periods:

- (a) application forms and medical forms: a minimum of 2 years after the date on which the child ceases to be cared for at the facility; and
- (b) general registers, attendance registers and journals: a minimum of 2 years after the date of the last entry in each of those documents.

(2) The records must be retained in a safe place allowing ready access by the person who operates the child care facility. Reasonable steps must be taken to prevent damage to or destruction of the records.

Suspension or termination of operation

36. A health compliance certificate holder must notify the Municipality in advance and in writing if he or she intends suspending or terminating the operation of the child care facility to which his or her health compliance certificate relates.

CHAPTER 9**OFFENCES, PENALTIES AND WITHDRAWAL OF CERTIFICATES****Offences**

37.(1) A person is guilty of an offence under these By-laws if he or she—

- (a) unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
- (b) obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised official;
- (c) refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (d) knowingly gives false or misleading information to an authorised official; (e) impersonates an authorised official;

- (f) contravenes or fails to comply with any provision of this By-law;
- (g) contravenes any provision or condition in respect of his or her health compliance certificate; or
- (h) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

Penalties

38.(1) Any person who is convicted of an offence under this By-law is liable to a fine not exceeding an amount of R2000-00 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R 200 per day or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such a fine and imprisonment, will be imposed.

Withdrawal of health compliance certificates

39. The Municipality may, in its discretion, withdraw a health compliance certificate and a certificate of acceptability (if applicable) if the health compliance certificate holder is convicted of a breach of any of the provisions of this By-law.

Right of entry and inspection of premises and records

40. A duly authorised official of the Municipality may, for any purpose connected with the enforcement of this By-law, at all reasonable times and without prior notice enter any premises—

- (a) on which a child care facility is being operated; or
- (b) if he or she has reasonable grounds to suspect that a child care facility is being operated on the premises,

in order to carry out such examination, inquiry or inspection on the premises as he or she may deem necessary.

CHAPTER 10**MISCELLANEOUS PROVISIONS****Delegations**

41.(1) Subject to the Constitution and applicable national and provincial laws, any— (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty,

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

42. (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

43. (1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All notices published under the PROVINCIAL NOTICE NO. 94 OF 1991 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

44. This By-law is called the Child Care Facilities By-law, 20__ and takes effect on the date on which it is published in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE LAWS**REPEALED** (*Section 43(1)*)

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

NUISANCES AND BEHAVIOUR IN PUBLIC PLACES BY-LAW, 20__

To provide for measures for preventing, minimising or managing public nuisances; to prohibit certain activities or conduct in public places; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has competence in terms of the section 156 (2) of the Constitution of the Republic of South Africa to make and administer By-laws for the effective administration of the matters which it has the right to administer;

WHEREAS the Municipality has competence in terms of Part B of Schedule 5 of the Constitution relating to such matters as the control of public nuisances, municipal roads, public places, and traffic and parking;

AND WHEREAS there is a need to develop legislation to deal with the prevention or minimisation of public nuisances and to regulate behaviour in public places;

NOW THEREFORE The Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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SCHEDULE 1: REPEALS

**CHAPTER 1
INTERPRETATION**

Definitions

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

"authorised official" means a person authorised to implement the provisions of this

By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"Head of Health" means the official of the _____ Municipality in charge of or responsible for the department of the Municipality dealing with matters relating to Public Health;

"motor-vehicle" means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on any road of one or more persons or any material, item, substance or object, and includes a trailer, motor-bike, quad-bike or earth-moving or earth-working vehicle, but excludes any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms which is specially designed and constructed solely for mobility of any person suffering from some physical defect or disability;

"municipal council" or **"council"** means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

"Municipality" means _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of PN343 of 2000 (KwaZulu- Natal);

"municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

"Nuisance" means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or

creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

"overnight" means the period from 20h00 in the evening to 06h00 in the morning;

"public place" means –

- (a) a public road;
- (b) any parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has –
 - (i) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (ii) at any time been dedicated to the public;
 - (iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or
 - (iv) at any time been declared or rendered as such by the Municipality or other competent authority; or
- (c) a public transportation motor-vehicle,

but will not include public land that has been leased or otherwise alienated by the Municipality;

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

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

"public transportation motor-vehicle" includes any train, bus, minibus or motor- vehicle travelling on land, water or in the air, conveying members of the public at a fee; and

"waste" means any substance, whether or not that substance can be reduced, re- used, recycled and recovered–

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of; (b) which the generator has no further use of for the purposes of production; (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the *Gazette*,

and includes waste generated by the mining, medical or other sector, but –

- (i) a by-product is not considered waste; and
- (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 OBJECTS OF BY-LAW

Objects of By-law

3. The objects of this By-law are to provide–

- (a) measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public place, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, is minimised and managed;
- (b) certain conduct or behaviour within a public place in order to prevent nuisance; and
- (c) penalties for breach of its provisions.

**CHAPTER 3
APPLICATION**

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

**CHAPTER 4
PROHIBITED CONDUCT**

General prohibition and nuisance behaviour

5.(1) No person may in a public place–

- (a) act in a manner which is dangerous to life or which may damage property;
- (b) unlawfully enter a public place to which access has been restricted in terms of this By-law or any other law; (c) cause a nuisance; or
- (d) behave in an indecent, offensive or objectionable manner.

(2) No person may in a public place –

- (a) use abusive, threatening or foul language;
- (b) fight or act in a riotous or physically threatening manner; (c) urinate or defecate, except in a toilet;
- (d) bath or wash himself or herself, except–
 - (i) in a bath or shower; or
 - (ii) as part of a religious or cultural ceremony in an area where such ceremony is lawfully taking place.
Provided no nuisance is caused thereby;
- (e) spit;
- (f) perform any sexual act;
- (g) appear in the nude or expose his or her genitalia; (h) consume any liquor or be in a state of intoxication (i) use any drugs or be under the influence of drugs;

- (j) solicit or importune any person for the purpose of prostitution, human trafficking or other illegal business;
- (k) engage in gambling;
- (l) start or keep a fire unless for the purposes of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law;
- (m) other than a peace officer or other official or person acting in terms of the law, deposit, pack, unpack or leave any goods or articles in a public place, or cause any goods or articles to be deposited, packed, unpacked or left in a public place, other than for a reasonable period during the course of the loading, off-loading or removal of such goods or articles;
- (n) carry or convey through a public road any object, item, material or substance which, owing to its smell, noise, vibration, size or anything to do with its nature character or owing to the manner of its conveyance, is such that it causes or is likely to cause a nuisance, which includes but not limited to a carcass of an animal, any garbage, night-soil, refuse, litter, rubbish or manure, unless carried or conveyed in a manner allowed by law and which does not cause a greater level of discomfort, inconvenience or annoyance than that allowed by any such law;
- (o) discharge fireworks except in accordance with the By-law of the Municipality dealing with fire and other applicable law;
- (p) smoke in areas not designated for smoking; or
- (p) in any way cause a nuisance in a public place.

(3) The Municipality may erect signage indicating prohibited or permissible conduct in a public place for the purposes of section 5.

Vegetation

6.(1) No person may allow any tree or other growth on any premises under his or her control to—

- (a) interfere with—
 - (i) any public service infrastructure; or
 - (ii) communal services infrastructure such as, but not limited to, overhead wires, stormwater drainage or sewage system; or
- (b) become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.

(2) The Municipality may by written notice direct the owner, occupier or person in control of premises contemplated in subsection (1) to prune or remove such tree or growth to the extent and within the period specified in such notice.

(3) If the person contemplated in subsection (2) fails to take measures contemplated in the notice issued in terms of that subsection, the Municipality may act and recover costs from that person.

(4) No person other than a duly authorised official of the Municipality may—

- (a) plant a tree or plant in a public place, or in any way cut down a tree or shrub in a public place or remove it therefrom, except with the written permission of the Municipality;
- (b) climb, break or damage a tree growing in a public place; or
- (c) in any way mark or paint any tree growing in a public place or attach any advertisement or notice thereto.

Hanging of items on fences, walls, balconies or verandas

7. No person may dry, spread or hang washing, bedding, carpet, rags, or any other item –

- (a) in a public place;
- (b) over a fence or wall which borders the verge of a public road;
- (c) on premises in such a manner that it is visible from a public road; or
- (d) on a balcony or veranda in such a manner that it is visible from a public road.

Noise

8.(1) No person may in a public place cause or permit to be caused any disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, except where such noise or sound is emanating from –

- (a) an authorised public meeting, gathering, congregation or event; or
- (b) an emergency or rescue announcement,

which noise or sound is normally associated with such meeting, gathering, congregation, event or situation and in accordance with the conditions of authorisation of any such meeting, gathering, congregation, event or situation.

(2) No person may permit noise or sound from a private residence or business premises in his or her control to be audible to users, except for authorised commercial entertainment establishments on suitably zoned premises where noise or sound is normally associated with the normal use of such place and in accordance with the conditions of authorisation of that business.

(3) No person may place or position any loudspeaker or any sound equipment at, near or outside the entrance or door of any premises for the purposes of using that loudspeaker or sound equipment to –

- (a) make any public announcements;
- (b) invite or lure customers or any persons into that premises or other premises; or
- (c) entertain any person who is in a public place.

(4) No driver or person in control of a motor-vehicle may permit any amplified sound or noise to emanate from the motor-vehicle such that it is audible at a distance of more than 50 meters.

(5) No person may blow, or cause to be blown, a hooter of a motor-vehicle in a public place in such a manner or frequency that it creates a nuisance, unless the blowing of a hooter is necessary to alert any pedestrian or any user of another motor-vehicle of any danger or to alert any user of a motor-vehicle to any act or to desist from an act which is connected with the flow of traffic or parking of motor-vehicles.

(6) No person may rev the engine of a stationary motor-vehicle in such a way that it causes nuisance in a public place, provided that a person may rev an engine for the purposes of repairing such motor-vehicle which has broken down in or near a public place.

Litter

9.(1) No person may within a public place, deposit, dump or discard any waste –

- (a) in a manner that detracts from the cleanliness of such public place or which causes a nuisance; and
- (b) anywhere other than in a receptacle provided by the Municipality for that purpose.

(2) No person may permit waste or litter from a private residence or business premises to be discarded, dumped, stored, kept or disposed of in such a manner that such waste or litter causes a nuisance.

Conduct regarding motor-vehicles

10.(1) No person may in a public place –

- (a) wash or clean any motor-vehicle, except in an area designated by the Municipality for that purpose; or
- (b) effect any repairs to a motor-vehicle or boat, except where repairs are necessary for the purpose of removing such motor-vehicle from the place where it was involved in an accident or had a breakdown.

(2) No person may in a public place –

- (a) sleep in a stationary motor-vehicle except in an emergency, or where such person is the driver of a public transportation motor-vehicle, is guarding a motor-vehicle, or is in a designated rest area; or
- (b) reside in a motor-vehicle for longer than 24 hours,

unless that person sleeps for the purposes of resting after a long journey using that vehicle, provided that an authorised official may at any time direct that person to move the vehicle away from such place or to desist from sleeping or residing on the vehicle..

Skating, rollerskating and other dangerous acts

11.(1) No person may on a public place skate on roller-skates or a skate-board or similar device except where permitted by the Municipality;

(2) No person may in a public place do anything which may endanger the life or safety of any person or animal, including but not limited to shooting with a bow and arrow or catapult, or throwing a stone, stick or other projectile in, onto or across a public place: Provided that shooting with a pellet gun or similar object which is intended solely for recreational purposes is not prohibited if it is discharged safely.

Obstructing, blocking or disturbing of traffic and pedestrians

12.(1) No person may–

(a) in a public place, intentionally block or interfere with the safe or free passage of a pedestrian or motor-vehicle, unless to the extent authorised by law; or

(b) approach any pedestrian or a person inside a motor-vehicle on any public road or public road intersection or any other public place for the purposes of begging from such pedestrian or person in a motor-vehicle.

(2) Any person, who unlawfully blocks, occupies or reserves a public parking space, or begs, stands, sits, lies in a public place, or does anything which hinders or disturbs the flow of pedestrian or road traffic must immediately cease to do so when directed by an authorised official.

Excavation in public places

13.(1) No person may make or cause to be made an excavation, a pit, trench or hole in a public place –

(a) except with the written permission of the Municipality; and

(b) otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-law of the Municipality or any other law.

(2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: Provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

Weed-killers, herbicides, pesticides and other poisons

14. No person other than an authorised official or an authorised person who administers legally approved weed-killers, herbicides, poisons or pesticides may set or cast poison in any public place.

Municipal property

15.(1) No person, unless authorised by the Municipality or in terms of any other law, may within a public place–

(a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;

- (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
- (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
- (d) affix or place on any municipal property, or distribute, any printed matter; or
- (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.

(2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairs, demolishing, renovations or any such service for or on behalf of the Municipality.

Nuisance arising from the use of a premises

16. No occupier or owner of a premises may use or allow such premises to be used in a manner which creates or is likely to create a nuisance.

CHAPTER 5

GENERAL POWERS OF THE MUNICIPALITY

Goods and services offered for sale

17.(1) The Municipality may, in terms of the By-law of the Municipality dealing specifically with informal trade, designate areas within public places, where marketing, display or offering for sale of any goods or services is prohibited or controlled in order to, amongst other reasons as contemplated in such By-law, constrain nuisances.

(2) Subsection (1) does not apply to the selling of newspapers at intersections or to the sale of goods by non-governmental organisations or developmental organisations who may apply for exemption for all their traders.

(3) Notwithstanding subsection (1), the Municipality may, in terms of the By-laws contemplated in subsection (1), issue permits for the sale of goods or services, and in so

doing, the Municipality may limit the number of permits for an area and stipulate such conditions as it may from time to time prescribe.

Designated areas

18. The Municipality may in relation to any public place, to the extent empowered by law—

- (a) designate a public place or part thereof for a specific function or use at designated times or at all times, and prohibit certain activities or conduct in respect of any such public place;
- (b) develop any public place in the interest of the public;
- (c) erect, construct, establish or demolish municipal property; and
- (d) exercise any other power reasonably necessary for the discharge of its obligations in terms of this By-law relating to the management of public places or otherwise in terms of any other law.

Restricted access

19.(1) The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to—

- (a) protect any aspect of the environment within a public place; (b) reduce vandalism and the destruction of property;
- (c) improve the administration of a public place; (d) develop a public place;
- (e) enable a special event which has been permitted in terms of this By-law or any other law to proceed; or
- (f) undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law.

CHAPTER 6 ENFORCEMENT

Powers of authorised officials

20.(1) The authorised official may, in respect of premises, at all reasonable times enter any premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and–

- (a) inspect or monitor the premises;
- (b) question the person in control of premises;
- (c) serve any compliance notice to the person in control;
- (d) take photos of any items used in the premises to cause a nuisance; and
- (e) take samples or other evidence in respect of any nuisance caused.

(2) A duly authorised official may, in respect of a nuisance caused or alleged to be caused in a public place, instructs a person to cease an act or conduct which causes such nuisance, with immediate effect.

(3) If it appears to the authorised official that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

(4) When issuing a warning notice the authorised official must procure the signature of the offending person confirming receipt of a warning notice.

(5) The authorised official must inform the offending person that–

- (a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
- (b) it is an offence in terms of this By-law to refuse to sign a warning issued by an authorised official.

CHAPTER 7 OFFENCES AND PENALTIES

Offences

21.(1) A person commits an offence if he or she–

- (a) contravenes any provision of this By-law;

- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
- (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
- (d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
- (e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence.

Penalties

22.(1) Any person who is convicted of an offence under this By-law is liable to a fine of an amount not exceeding R10 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R100 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

CHAPTER 8 GENERAL PROVISIONS

Appeals

23.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 (twenty one) days of the date of the notification of the decision.

- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.
- (3) The appeal authority must commence with an appeal within 6 (six) weeks and decide the appeal within a reasonable period.
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
- (5) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.
- (7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeals

24. The By-laws and Notices listed in the Schedule to this By-law are hereby repealed to the extent mentioned in the third column of the said Schedule.

Delegations

25.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Short title and commencement

26.(1) This By-Law is called the Nuisances and Behaviour in Public Places By-law, 20__ and takes effect on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE LAWS REPEALED

(in terms of Section 23 of this By-law)

PART A: BY-LAWS

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

PUBLIC TRANSPORT BY-LAW, 20__

To provide for the establishment and operation of municipal mini-bus taxi, midi bus taxi and bus ranks, stops and holding areas on municipal property; to provide for the issuing of permits to use public transport facilities;

to regulate the operation of public transport facilities; to regulate metered taxis; to regulate the behaviour of drivers, conductors and passengers at public transport facilities; to prohibit certain conduct; to create offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of section 24(a) of the Constitution;

WHEREAS there is a need to regulate public transport within the area of the _____ Municipality in order to ensure the well-being and safety of passengers and the efficient and effective operation of the public transport industry;

WHEREAS the Municipality has competence in terms of Part B of Schedule 4 of the Constitution relating to such matters as municipal public transport and in terms of Part B of Schedule 5 to such matters as municipal roads, and traffic and parking;

AND WHEREAS the _____ municipality has competence, in terms of the section 156 (2) of the Constitution of the Republic of South Africa, to make and administer By-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the _____ municipal council, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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SCHEDULE: REPEALED BY-LAWS

CHAPTER 1 INTERPRETATION

Definitions

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

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to:-

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"bib" means a garment which fits around the chest of a person, has a recognisable insignia identifying the person as a conductor and which is approved by the Head of Department;

"bus" means a public motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996) to carry more than 35 seated passengers excluding the driver;

“**bus association**” means an association of bus owners which has been recognised by the provincial regulatory entity or other relevant authority;

“**bus rank**” means a facility set aside by the Municipality in terms of this By-law for the exclusive use of buses, at which buses may pick up passengers and drop off passengers;

“**bus holding area**” means a place, other than a rank, where a bus remains until space for it is available at a rank or stopping place;

“**bus stop**” means a place designated by the Municipality, other than a bus rank, where a bus may stop to pick up or drop off passengers or lay-by;

“**conductor**” means a person who renders a conductor service to public transport drivers and passengers, including:

- (a) soliciting and touting for business;
- (b) controlling and managing access to vehicles; and
- (c) collecting fares, except where a smart card or other non-cash based payment mechanism has been implemented;

“**disc**” means a disc or other means of identification issued by the Municipality to the holder of a public transport facility permit;

“**driver**” means a driver as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“**Head of Department**” means the person—

- (a) authorised to act in that capacity; or
- (b) any other officer of the Municipality nominated by it to discharge all or part of the functions of the Head of Department under this By-law to the extent of such nomination;

“**kerb line**” means the boundary between the shoulder and the verge or in the absence of a shoulder, the part between the edge of the roadway and the verge;

“**marshal**” means a person appointed by a metered taxi association, mini-bus taxi association or a bus association to manage and co-ordinate the flow of vehicles and passengers in a public transport facility;

“**metered taxi**” means a motor vehicle designed for conveying passengers and which is fitted with a taxi meter which records distance travelled or time taken in undertaking a journey;

“metered taxi association” means an association of metered taxi owners which has been recognised by the provincial regulatory entity or other relevant authority;

“**midi-bus**” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996) to carry from 19 to 35 seated passengers, excluding the driver;

“**mini-bus**” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996) to carry from 9 to 18 seated passengers, excluding the driver;

“**mini-bus taxi**” means either a mini-bus or midi-bus used to carry passengers;

“**mini-bus taxi association**” means an association of mini-bus taxi owners which has been recognised by the provincial regulatory entity or other relevant authority;

“**mini-bus taxi holding area**” means a place, other than a rank, where a mini-bus taxi remains until space for it is available at a rank or stopping place;

“**mini-bus taxi rank**” means a facility set aside by the Municipality in terms of this By- law for the exclusive use of mini-bus taxis at which mini-bus taxis may pick up passengers and drop off passengers;

“**mini-bus taxi stop**” means a place designated by the Municipality, other than a mini- bus taxi rank, where a mini-bus taxi may stop to pick up or drop off passengers;

“**municipal council**” or “**council**” means the _____municipal council, a municipal council referred to in section 157(1) of the Constitution;

“**Municipality**” means the _____Municipality, a category _____municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of Provincial Notice No. 43 of 2000 (KZN);

“**municipal manager**” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“**municipal property**” means property owned by, leased by or under the control of the Municipality;

“**novelty vehicle**” means any pedal powered or motor powered vehicle operating on a public road and excludes a conventional or ordinary motor vehicle;

“**operate**” means, in relation to a motor vehicle, to use or drive a vehicle, or to permit a vehicle to be used or driven;

“**operator**” means a public transport operator, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), being a person carrying on the business of a public passenger road transport service;

“**operating licence**” means an operating licence as defined in section 1 of the National Land Transport Act, 2009 (Act No. 5 of 2009);

“**owner**” in relation to a vehicle, means—

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale,

and who is registered as such in accordance with the regulations under section 4 of the National Road Transportation Act, 1996 (Act No. 93 of 1996), and "owned" or any like word has a corresponding meaning;

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"passenger" means any person in or on a public transport vehicle who pays for the service of being carried from one place to another, as well as any person in or on public transport who is exempt from payment because of his or her office, but does not include the driver or the conductor;

"permit" means a permit as defined in section 1 of the National Land Transportation Act, 2009 (Act No. 5 of 2009);

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

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

"public transport facility" means a bus rank, bus holding area, bus stop, mini-bus taxi rank, mini-bus taxi holding area and mini-bus taxi stop;

"public transport facility permit" means –

- (a) in relation to metered taxis, a permit issued in terms of this By-law enabling the permit holder to drive a metered taxi into a public transport facility;
- (b) in relation to buses, a permit issued in terms of this By-law enabling the permit holder to drive a bus into a bus rank, bus holding area and bus stop; and

(c) in relation to mini-bus taxis, a permit issued in terms of this By-law enabling the permit holder to drive a mini-bus into a mini-bus taxi rank, mini-bus taxi holding area and mini-bus taxi stop;

"public transport facility permit holder" means a person to whom a public transport facility permit has been issued in terms of this By-law;

"public transport vehicle" means a mini-bus taxi, a midi-bus taxi, a metered taxi or a bus;

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

"route" means the roads that are traversed by a vehicle from point of origin to point of final destination or, in the case of road-based transport, where no roads are clearly demarcated, the route followed by the particular vehicle as described with reference to landmarks or beacons;

"shoulder" means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

"special event" means an event as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010), namely sporting, entertainment, recreational, religious, cultural, exhibitional, organisational or similar activities hosted at a stadium, venue or along a route or within their respective precincts;

"tuk-tuk" means a three-wheeled motor vehicle designed or modified solely or principally for conveying not more than three seated persons, including the driver; and

"vehicle" means any self-propelled vehicle and includes—

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include—

- (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
- (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted for the use of any person suffering from some physical defect or disability and used solely by such person.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to regulate the operation of—

- (a) mini-bus taxi ranks, metered taxi ranks and bus ranks to ensure the efficient and effective operation of public transport;
- (b) mini-bus taxis, buses and metered taxis from public transport facilities in a way that ensures the health, safety and well-being of passengers; and
- (c) mini-bus taxis, buses and metered taxis to ensure the efficient, effective and fair operation of these public transport vehicles.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 2

PUBLIC TRANSPORT FACILITIES

Establishment of public transport facilities

5.(1) The Head of Department may—

- (a) set apart and establish public transport facilities on municipal property as identified in the Integrated Development Plan; and
- (b) extend, reduce or disestablish any public transport facility.

(2) The Head of Department may, in emergencies or in order to cater for special events, set aside and establish temporary public transport facilities on municipal property.

Public transport facility rules

6. The Municipality may-

- (a) when establishing a public transport facility, make rules regarding the operation of that facility; and
- (b) at any time thereafter amend or replace those rules.

Queuing at public transport facilities

7.(1) No owner or driver of a public transport vehicle shall allow that vehicle to stand or stop in-

- (a) any part of a public transport facility other than an area demarcated by road traffic markings or signs as a loading bay; or
- (b) a loading bay demarcated as a loading bay for a particular route if that vehicle is not authorised to travel that route.

(2) Every driver of a public transport vehicle shall obey any road traffic markings or signs regarding queuing in the facility, as well as any lawful instructions issued by a marshal in this regard.

Vehicles to be in good working order

8. No person may stop a vehicle in a public transport facility or cause or permit the vehicle to remain in a public transport facility, where the vehicle is not being used to convey passengers due to its unroadworthy condition.

Washing and servicing vehicles at public transport facilities

9. No person may –

- (a) undertake any repair or maintenance on a motor vehicle at a public transport facility; or
- (b) wash any motor vehicle at a public transport facility, except at a wash bay at the facility that has been designated for this purpose.

Abandonment of vehicles

10. No driver of a public transport vehicle may: (a) abandon his or her vehicle; or
- (b) allow any unauthorised person to drive the vehicle.

Marshals

11.(1) Subject to sub-sections (2) and (3), a metered taxi association, mini-bus taxi association or bus association may appoint one or more marshals at a public transport facility to undertake the following duties:

- (a) in respect of passengers:
 - (i) to regulate queuing according to the appropriate priority and route destination systems;
 - (ii) to ensure the orderly loading of passengers;
 - (iii) to control the number of passengers per vehicle to prevent overloading and to ensure equal opportunities for drivers;
 - (iv) to direct passengers and to provide information about the activities of the public transport vehicles operating at that facility or other facilities; and
 - (v) to inform drivers about expected passenger demand and any other related matters; and
- (b) in respect of public transport vehicles:
 - (i) to control the arrival of vehicles at public transport facilities;
 - (ii) to allow only public transport facility permit holders to enter the facilities;
 - (iii) to coordinate the movement of public transport vehicles between loading and holding areas;
 - (iv) to control public transport vehicle departures according to loading patterns;
 - and
 - (v) to direct public transport vehicles to holding areas and to redirect them to ranks.

(2) If a public transport facility or a portion of it has been allocated exclusively to a particular mini-bus taxi association or bus association, only that association may appoint marshals in respect of that particular facility or portion of it.

(3) In the case of a dispute about which association is entitled to appoint a marshal or marshals at a particular public transport facility, the metered taxi forum, mini-bus taxi forum or bus forum, as the case may be, must decide on the issue.

(4) The Municipality may lay down a code of conduct for marshals at public transport facilities and amend the code from time to time.

(5) No person may act as a marshal at a public transport facility unless the metered taxi association, mini-bus taxi association or bus association concerned has appointed him or her in writing. Any person acting as marshal or purporting to act as marshal must, on the instruction of an authorised official, produce the document in terms of which he or she was appointed as marshal.

(6) The document referred to in subsection (5) must bear the—

- (a) name of the marshal;
- (b) name of the association that appointed the marshal; and
- (c) signature and designation of the authorising officer of the association concerned.

(6) No owner or driver of a public transport vehicle, metered taxi association, mini-bus taxi association or bus association, may appoint any armed security guard to provide services in respect of any public transport facility.

Stops and holding areas

12. A driver of a public transport vehicle may—

- (a) park a metered taxi, mini-bus taxi or a bus only at a special parking place or holding area designated for that type of vehicle; and
- (b) pick up or drop off passengers only at a rank, special parking place or a stop designated for that type of vehicle.

Re-direction to holding areas

13. If a marshal indicates that no space is available at a mini-bus taxi rank, mini-bus taxi stop, bus rank or bus stop at any particular time, metered taxis, mini-bus taxis or buses, as the case may be, must be parked at a holding area specified by the marshal or any authorised official.

Mini-bus taxi forums, metered taxi forums and bus forums

14.(1) The Municipality may establish a mini-bus taxi forum, metered taxi forum and a bus forum to make recommendations to it on matters relevant to the mini-bus taxi, metered taxi and bus industries in general.

(2) Any mini-bus taxi association, metered taxi association or bus association may become a member of the relevant mini-bus taxi forum, metered taxi forum or bus forum.

Duty of bus driver to stop

15.(1) If a bus operating on a bus route is carrying less than the maximum number of passengers that the bus is lawfully entitled to carry, and the driver of the bus sees a person waiting at a bus stop, apparently intending to get on the bus, the driver must, subject to subsection (2), stop the bus at the bus stop, as close as possible to the kerb or edge of the public road, in order to enable the person to get on.

(2) The driver of a bus that has a notice that it is an "express", "limited stop" or "special vehicle" is not required to stop until reaching the destination specified by the notice.

(3) No driver of a bus may stop the bus to pick up a passenger at a place that is not a demarcated bus stop.

(4) A conductor (if there is one) of a bus may not allow a person to get on a bus, and no person may get on a bus, at any place that is not a demarcated stopping place or stand.

Fares

16. All public transport vehicles entering a public transport facility must display a suitable sign on the left hand door or left hand side of the vehicle showing in legible characters:

- (a) the tariff of fares;
- (b) the number of passengers the vehicle is permitted to carry; and
- (c) the registration number of the vehicle.

**CHAPTER 3
PERMITS****Prohibition on entering a public transport facility without a permit**

17.(1) No person may enter or park at a public transport facility without—

- (a) a valid public transport facility permit in respect of the vehicle which is entering the facility; and
- (b) a valid disc, displayed on the vehicle concerned in terms of this By-law.

(2) No person operating a public transport vehicle from outside the jurisdiction of the Municipality may enter a public transport facility without obtaining a valid public transport facility permit and disc.

(3) The Municipality—

- (a) must issue rank permits in line with the Integrated Public Transport Plan and the related Operating Licence Strategy; and
- (b) may issue distinct rank permits and discs in respect of public transport vehicles which operate from outside its jurisdiction.

Application for public transport facility permit

18.(1) A person may apply for a public transport facility permit if—

- (a) he or she owns a metered taxi, mini-bus taxi, metered taxi or a bus, as the case may be;
- (b) he or she has been issued an operating license in respect of routes serviced by the public transport facility concerned;

- (c) the metered taxi, mini-bus taxi or bus in respect of which the application is submitted has a valid certificate of roadworthiness;
- (d) the proposed driver has a valid driving licence;
- (e) he or she does not have any outstanding warrants for the non-payment of traffic fines;
- (f) he or she does not owe any other monies to the Municipality; and
- (g) he or she has a valid professional drivers permit.

(2) An application for a public transport facility permit must be on the form prescribed by the Head of Department.

- (3) No person may be issued with a public transport facility permit, unless he or she provides—
- (a) a certified copy of a valid public transport operating licence issued by the relevant regulatory entity;
 - (b) a certified copy of a valid certificate of road worthiness in respect of the mini-bus taxi concerned, as required in terms of regulation 138 of the regulations made in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
 - (c) a certified copy of a valid identification document or a temporary identity document issued by the Department of Home Affairs for the owner or the operator (if a temporary identification document is used, it must be accompanied with a passport photo of the owner or the operator thereof);
 - (d) proof of registration and licensing of the motor vehicle concerned in terms of Section 14 of the National Road Traffic 93 of 1996; and
 - (e) an original letter of support from the relevant metered taxi association, mini-bus taxi association or bus association.

(4) A public transport facility permit not collected within 6 months lapses, unless a written extension of time has been requested and granted by the Municipality.

(5) If a public transport facility permit is issued contrary to the provisions of this By-law, the permit-holder must, on demand by the Municipality, immediately deliver the public transport facility permit and disc to the Municipality.

(6) The Head of Department must consider any application for a public transport facility permit and may -

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame; or
- (c) reject the application and provide reasons for the rejection.

(7) The Head of Department may take into account the following factors when considering an application for a public transport facility permit:

- (a) the need to give preference to—
 - (i) applicants who are black persons; (ii) unemployed applicants;
 - (iii) new entrants; and
 - (iv) applicants who do not share a household with an existing permit-holder, unless the applicant is not a dependant of or financially reliant upon that permit- holder; and
- (b) whether the applicant has been convicted of an offence relating to a contravention of this By-law.

(8) The Head of Department may refuse a public transport facility permit, subject to section 84(6) of the National Road Traffic Act, 1996 (Act No. 93 of 1996) and the provisions of this By-law, on the grounds that there is insufficient ranking space in the mini-bus taxi rank concerned.

(9) A person who knowingly supplies incorrect information when applying for a public transport facility permit commits an offence.

(10) The Head of Department may, when issuing a public transport facility permit, impose any reasonable conditions regarding the use of the mini-bus taxi rank concerned.

(11) A public transport facility permit is valid for a period of 12 months from the date it was issued and must specify the following:

- (a) the rank or ranks to which the public transport facility permit applies; (b) the make and registration number of the public transport vehicle;
- (c) the relevant operating licence number; and
- (d) the routes on which the public transport vehicle is permitted to operate.

(12) The Head of Department must issue separate public transport facility permits for each public transport vehicle.

Discs

19.(1) A disc containing the particulars of the public transport facility permit must be—

- (a) issued with every public transport facility permit; and
- (b) immediately attached to the public transport vehicle concerned as contemplated in subsection (2).

(2) Discs must be attached as follows:

- (a) if the public transport vehicle is fitted with a clear windscreen, the disc must be attached on the left-hand front inside of the windscreen—
 - (i) in a conspicuous place; (ii) in an upright position;
 - (iii) with the printed side facing to the front in such a way that the particulars on the disc are clearly legible to any person standing on the left front side of the public transport vehicle; and
- (b) if the public transport vehicle is fitted with a tinted or smoked glass windscreen, the disc must be attached on the left-hand front outside of the windscreen—
 - (i) in a watertight holder;
 - (ii) in a conspicuous place;
 - (iii) in an upright position; and
 - (iv) with the printed side facing to the front in such a way that the particulars on the disc are clearly legible to any person standing on the left front side of the mini-bus taxi.

(3) The public transport facility permit holder must ensure that discs are at all times displayed in accordance with this By-law.

Duplicate public transport facility permits and discs

20.(1) If a public transport facility permit holder—

(a) satisfies the Municipality, by affidavit, that a public transport facility permit or a disc has been lost or destroyed; or

(b) produces a public transport facility permit or disc that has been damaged to the extent that the letters and figures on it are no longer clearly legible,

the Municipality must, after the public transport facility permit holder has applied for a duplicate permit or disc on the prescribed form and has paid the prescribed fee, issue him or her with a duplicate permit or disc that is clearly endorsed with the word "duplicate".

(2) The public transport facility permit holder must immediately attach the duplicate disc to the vehicle concerned in accordance with section 19.

(3) If a mini-bus taxi is being operated without a disc, it is presumed that the owner or operator does not have a valid public transport facility permit until he or she proves to an authorised official that he or she does have such a public transport facility permit or has applied for a duplicate disc.

(4) A person commits an offence if he or she—

(a) unlawfully produces or duplicates a public transport facility permit or disc; (b) attaches an unauthorised disc onto a public transport vehicle; or

(c) operates a public transport vehicle on which a disc is in any way concealed, obscured, or has become illegible, unless such concealment, obscurity or illegibility is temporary owing to a cause beyond the control of the person who operates the vehicle.

(5) No person may forge, imitate, deface, mutilate, alter or make a mark upon, a public transport facility permit.

Rights of public transport facility permit holders

21.(1) A public transport facility permit entitles an owner or operator to enter a public transport facility in the public transport vehicle referred to in the public transport facility permit and on the accompanying disc.

(2) A public transport vehicle owner or operator may not enter or park at a public transport facility in any motor vehicle other than the vehicle referred to in his or her public transport facility permit and disc.

Public transport facility fees

22.(1) The Municipality is entitled to charge any—

(a) public transport facility permit-holder, an annual public transport facility permit fee;
and

(b) person who applies for a duplicate public transport facility permit or disc, a duplicate fee.

(2) The Municipality is entitled, from time to time, to fix the amount of the application fee, the annual public transport facility permit fee and the duplicate fee.

(3) If a public transport facility permit is issued part way through a year then the annual public transport facility permit fee must be reduced proportionately.

Change of address or status

23.(1) Subject to section 77 of the National Land Transport Act, 2009 (Act No. 5 of 2009), a public transport facility permit holder must give written notice to the Municipality—

(a) of any change in his or her address;

(b) if he or she sells or otherwise disposes of the public transport vehicle in respect of which the public transport facility permit was issued and, if the vehicle has been sold or disposed of, the –

(i) name and address of the person to whom it was disposed of; and

(ii) reason for selling or disposing of the vehicle, within 10 days of

happening of the event.

(2) The permit holder must, at the same time as giving notice in terms of subsection (1), submit his or her public transport facility permit and disc to the Municipality for amendment.

(3) If a public transport facility permit is damaged in a manner that the particulars thereon cannot reasonably be ascertained, the holder of a damaged public transport facility permit

must submit it to the Municipality and the authorised official may replace such damaged public transport facility permit at the cost of the holder of the rank disc.

Amendment of particulars

24.(1) If the Municipality believes that the information contained in a public transport facility permit or disc is incorrect, the Municipality may, notwithstanding anything to the contrary in this By-law–

(a) notify the public transport facility permit holder concerned; (b) require him or her to give a satisfactory explanation; and

(c) require him or her to return the public transport facility permit or disc for amendment, not later than 10 days after the date of notification.

(2) When a public transport facility permit or disc is surrendered for it to be amended in terms of this section, the Municipality must provide the public transport facility permit holder with a temporary public transport facility permit or disc, which is valid until the amended public transport facility permit or disc is returned to the public transport facility permit holder.

Temporary substitution of a public transport vehicle

25.(1) A public transport facility permit-holder may, subject to the prior written approval of the Municipality, temporarily substitute another vehicle for the public transport vehicle in respect of which the public transport facility permit was issued if that vehicle has become defective or has been damaged in an accident.

(2) The temporary substitution of another vehicle as contemplated in subsection (1) is subject to–

(a) a maximum period of 180 days; and

(b) the public transport facility permit, disc and the Municipality's written approval of the substitution being kept at all times with the substitute vehicle for the period of the substitution.

Transfer of public transport facility permits

26.(1) A permit is not freely transferable, but may be transferred with the Municipality's written consent in the event of the—

- (a) retirement, permanent incapacity or death of the public transport facility permit holder;
- (b) sale of the public transport facility permit holder's business; (c) sale of the vehicle to which the permit relates;
- (d) provisional or final sequestration of the public transport facility permit holder's estate; or
- (e) liquidation of the public transport facility permit holder, if the permit holder is a company or a close corporation.

(2) The successor in title, executor, trustee, liquidator or curator of the public transport facility permit holder, as the case may be, may, in the circumstances mentioned in subsection (1), apply to the Municipality for transfer of the relevant public transport facility permit, for the unexpired period of the public transport facility permit.

(3) The Head of Department is entitled to demand satisfactory proof from the permit-holder that the requirements of subsection (1) have been met.

(4) If the Head of Department consents to the transfer of a public transport facility permit, the Head of Department may impose such requirements as he or she deems fit.

Suspension and withdrawal of a public transport facility permit

27. (1) A public transport facility permit lapses with effect from the date on which the relevant operating licence, certificate of road worthiness, public road carrier permit lapses or is cancelled.

(2) The Municipality may suspend the public transport facility permit for a public transport vehicle for a specific period or withdraw the public transport facility permit if—

- (a) the owner of the public transport vehicle does not—
 - (i) comply with a lawful instruction issued in terms of this By-law;
 - (ii) maintain the vehicle at all times in sound running condition and repair; (iii) timeously pay all fines;
- (b) an authorised official inspects the vehicle and finds that the vehicle—

- (i) is constructed in such a way, or is in such a condition, that the vehicle is not safe for the number of passengers that it is authorised to carry; or
- (ii) does not comply with the requirements of this By-law; (c) the owner of the vehicle breaches—
 - (i) any conditions of his or her public transport facility permit; (ii) a public transport facility rule;
 - (iii) any other provision of this By-law or of any other law; or
- (d) the owner is found to have wilfully supplied incorrect information to the Municipality when required to provide that information.

(3) If the Head of Department believes that there are grounds for believing that a public transport facility permit should be suspended or withdrawn, the following procedure must be followed:

- (a) the Municipality must give the public transport facility permit holder and any mini- bus taxi association, metered taxi association or bus association of which the public transport facility permit holder is a member, at least 21 days written notice by hand delivery or by registered mail of the Municipality's intention to suspend or withdraw the public transport facility permit;
- (b) the notice referred to in subsection (a) must include—
 - (i) a statement setting out the nature of the proposed action; (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter; (iv) an address at which representations may be submitted; and
 - (v) the date, time and place of a hearing (which may not be less than 15 days from the date of the notice) to consider the suspension or withdrawal, and an indication that the public transport facility permit holder may submit representations and appear at the hearing;
- (c) the public transport facility permit holder must be given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations before the Head of Department;
- (d) if a public transport facility permit holder wishes to appear at a hearing and to oppose the proposed action, he or she must, within 7 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and

(e) after the hearing, the Head of Department must give a ruling on whether or not to suspend or withdraw the public transport facility permit and must give the public transport facility permit holder its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

(3) No person may drive a public transport vehicle into a public transport facility, or park at a public transport facility, or allow this to be done, if the vehicle's public transport facility permit has been suspended or withdrawn.

Public transport facility permit to be produced on demand

28.(1) The holder of a public transport facility permit in terms of this By-law must maintain the public transport facility permit in a good and legible condition.

(2) Any authorised official may call upon the driver of any public transport vehicle to stop and may demand from him or her to—

- (a) produce his or her public transport facility permit to the Municipality within 5 days of having been ordered to do so by an authorised official; and
- (b) supply his full name and address and also the name and address of the owner or operator of such vehicle.

(3) No driver referred to in subsection (2) may, when called upon to do so by any authorised official—

- (a) refuse to stop;
- (b) refuse or fail to supply his or her full name and address;
- (c) refuse or fail to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
- (d) refuse or fail to produce a public transport facility permit within the time period referred to in subsection (2); or
- (e) give a false name or address.

Offences relating to discs

29. No person shall –

- (a) attach a disc to any vehicle other than the vehicle in respect of which the permit was issued; or
- (b) enter a public transport facility without a valid disc or without a disc properly displayed in terms of this By-law.

Prohibition on forging permits or discs

30.(1) No person may forge, imitate, deface, mutilate, alter or make a mark upon, a public transport facility permit or disc.

(2) No person may use or allow a vehicle to be used as a public transport vehicle at a public transport facility if the public transport facility permit of such public transport vehicle has been suspended or withdrawn, or has expired.

(3) If an operating card has been suspended, cancelled or withdrawn by the relevant licensing authority, the public transport facility permit issued by the Municipality is automatically suspended, cancelled or withdrawn, as the case may be.

Return of public transport facility permits and discs

31. A public transport facility permit-holder must immediately return his or her permit to the Municipality when the permit expires or if the –

- (a) Municipality suspends or withdraws the permit;
- (b) permit-holder is refused permission to transfer the permit;
- (c) permit-holder ceases trading for a period of 25 or more days; or
- (d) permit-holder no longer wishes to operate a public transport vehicle from the relevant public transport facility.

CHAPTER 4
METERED TAXIS

Taxi meters and display of identification

32. No person may operate a metered taxi, or allow one to be operated, unless it is fitted with a taxi meter which—
- (a) is in working order;
 - (b) complies with this By-law; and
 - (c) has been tested and sealed by the Metropolitan Police Service.

Position of meter

33. The taxi meter must be—
- (a) fitted on the inside of the taxi in such a position that the recorded fare is plainly visible at all times by a passenger occupying the rear seat; and
 - (b) illuminated after dark.

Operation of meter

- 34.(1) The taxi meter must be operated electronically or mechanically either solely from the gearbox or left front wheel of the metered taxi or from another portion of the mechanism of the taxi that the Head of Department may approve.
- (2) The driver of a metered taxi must ensure that the taxi meter correctly indicates to the passenger the fare that may be charged by the driver in accordance with the tariff displayed on the taxi as contemplated in section 16.

Starting of meter

35. The driver of a metered taxi must—
- (a) on arrival at the passenger's departure point, and not sooner, start the taxi meter in the "hired" position;
 - (b) on arrival at the passenger's destination, and not later, immediately stop the taxi meter from recording; and
 - (c) stop the taxi meter from recording for the duration of a stoppage if the stoppage is not caused by traffic congestion, or by the action of the passenger, or at the request of the passenger.

Meter seals to be kept intact

36.(1) The owner of a metered taxi must, at all times, ensure that the meter seal is kept intact and undamaged.

(2) If the seal or seals of a taxi meter are accidentally broken or damaged, the driver of the taxi must immediately, before the taxi is again used as a passenger-carrying vehicle, apply to the Metropolitan Police Service to replace or renew the seal or seals.

Meter tolerances

37. The tolerance allowed on a taxi meter when tested is as follows:

(a) road test: no tolerance in deficiency or over-registration is allowed, but if the vehicle's tyres are obviously worn, a tolerance in deficiency of 10 meters per kilometre and a tolerance in excess of 50 meters per kilometre are allowed; and

(b) time test: a tolerance in deficiency of one second per minute and tolerance in excess of two seconds per minute are allowed.

Interference with meter prohibited

38.(1) No person may—

(a) register anything other than the fare that is in accordance with the displayed tariff; (b) destroy, break or tamper with the seal attached to a taxi meter; or

(c) adjust, interfere or tamper with a taxi meter or a connection of a taxi meter, any tyre or fitting of a taxi.

(2) No driver or owner of a metered taxi may allow the taxi to be used as a passenger-carrying vehicle if the—

(a) taxi meter attached to it does not register the true fare; or

(b) tyres fitted to the metered taxi are not the same size as those which were on the vehicle when the taxi meter was tested and sealed.

(3) The driver or owner of a metered taxi must—

(a) ensure that the taxi is fitted with a speedometer and an odometer, both of which are in good and proper working order, and that the odometer, reflects the true distance travelled; and

(b) not operate or allow the metered taxi to be operated unless the odometer and speedometer fitted to it works properly.

Testing of taxi meters

39. An authorised official may by written notice instruct the owner or driver of a metered taxi to present the taxi concerned to the Metropolitan Police Service for the examination and testing of the taxi meter at a time and place specified in the notice.

Charge for testing meters

40. The prescribed fees must be paid to the Municipality for every taxi meter tested by the Municipal Police Service.

Meters may be condemned

41.(1) If a taxi meter attached to a metered taxi is found not to be in order and not working satisfactorily, the Municipality may condemn the taxi meter and remove the seal.

(2) No person may use a condemned taxi meter in a metered taxi until the taxi meter has been retested, approved and sealed by an examiner of vehicles.

Taxi signs for metered taxis

42.(1) A metered taxi that is operated within the area of jurisdiction of the Municipality must be fitted with a suitable illuminated roof sign in accordance with the Municipality's requirements.

(2) The illuminated roof sign must be properly maintained at all times.

CHAPTER 5
BEHAVIOUR OF DRIVERS, CONDUCTORS AND PASSENGERS

Preventing engagement of a public transport vehicle

43. No person at a public transport facility may, by using force, intimidation, threat or by any other means, prevent or try to prevent—

- (a) any person from using a public transport vehicle of his or her choice; or
- (b) the driver of a public transport vehicle from taking on passengers.

Conveying dangerous or offensive articles in public transport vehicles

44.(1) A driver of a public transport vehicle may not carry on his or her person or in the vehicle any dangerous or offensive articles.

(2) A person who is in charge of a public transport vehicle may not knowingly convey a person or thing, or allow that person or thing to be conveyed, if that person or thing is not permitted to be conveyed in terms of an existing law.

Boarding and disembarking of public transport vehicles

45. No person may, at a public transport facility—

- (a) board a public transport vehicle until all persons desiring to disembark from such vehicle have done so;
- (b) insist on boarding a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry; or (c) get off or get on to, or attempt to get off or get on, a public transport vehicle whilst the vehicle is moving.

Queues by passengers at public transport facilities

46.(1) The Municipality may, at a public transport facility, erect –

- (a) queue signs or notice boards indicating the location and the manner in which persons waiting to enter a public transport vehicle must stop and form a queue; and
- (b) rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.

(2) All passengers intending to enter any public transport vehicle at a public transport facility must queue from the point at which it is indicated that such public transport vehicle will leave.

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle at a public transport facility must form themselves into a single file queue when required to so by a marshal, a conductor or an authorised official of the Municipality.

(4) A passenger may only enter a public transport vehicle at a public transport facility when he or she gets to the front of the queue.

Identification of conductors

47. Every conductor must, while on duty – (a) wear a reflective bib or jacket; and (b) display an identification card.

Payment of fares

48. A passenger boarding a public transport vehicle at a public transport facility must pay the determined fare for the journey on request.

Break downs

49.(1) If a public transport vehicle at a public transport facility becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must, at the request of the driver, disembark from the defective vehicle.

(2) If the passengers have already paid their fares, they are entitled at their option to - (a) a refund in the amount of their fares; or
(b) be allowed to travel with the next available public transport vehicle for the remainder of the distance, at the cost of the owner of the defective public transport vehicle.

Animals

50. No passenger may enter a public transport vehicle at a public transport facility with any animal other than a guide dog assisting a blind person.

Actions prohibited on a public transport vehicle

51.(1) The following actions are prohibited on a public transport vehicle: (a) smoking;

(b) playing offensive or excessively loud music; (c) using obscene or offensive language;

(d) committing an offensive act;

(e) interfering with the comfort of any passenger;

(f) damaging anything and interfering with the equipment of the public transport vehicle in any way;

(g) forcibly causing the driver to deviate from his route; (h) endangering the life of another person; and

(i) interfering with the actions of the driver.

(2) A person who causes a disturbance or behaves in a riotous or indecent manner at a public transport facility commits an offence in terms of this By-law and may be removed from a queue or the vicinity of a public transport facility by any authorised official of the Municipality.

Property left in public transport vehicles

52. The driver of a passenger-carrying vehicle must examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle at a public transport facility, the driver must—

(a) deliver that property to the person who left it behind; or

(b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the rank office, the ticket office or the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

CHAPTER 6
TUK-TUKS AND OTHER NOVELTY VEHICLES

Licensing and operating of tuk-tuks and other novelty vehicles within the Municipality

53.(1) For the purposes of this chapter, an “**operating license**” means an operating license issued the Provincial Regulatory Entity.

(2). A person may not operate a tuk-tuk or other novelty vehicle unless permission has been granted by the Municipality and a license has been issued by the Provincial Regulatory Entity.

(3). An operating license issued by Provincial Regulatory Entity must stipulate—

- (a) the area
- (b) route; or
- (c) road network,

in which the tuk-tuk or novelty vehicle may operate.

(4). The granting of an operating license may be subject to terms and conditions imposed by the Municipality.

CHAPTER 7

ENFORCEMENT

Enforcement of right of entry

54.(1) An authorised official may, in enforcing the provisions of this Chapter, at any reasonable time and without prior notice—

- (a) enter a public transport facility to inspect the facility; and
- (b) make enquiries from a person connected with the facility.

(2) A person who interferes with an officer in the exercise of his or her power as contemplated in subsection (1) commits an offence.

Lawful instructions

55. Failure to comply with a lawful request of an authorised official will be regarded as a contravention of this By-law.

Vicarious liability

56.(1) When an employee or agent of a permit holder contravenes a provision of this By-law or the provisions of any public transport facility permit, the employer shall be deemed to have personally committed such contravention unless the employer satisfies the court that he or she took reasonable steps to prevent such contravention.

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

Offences

57. Any person who –

- (a) contravenes any provision of this By-law;
- (b) contravenes any condition on which a permit has been issued to him or her; (d) fails to comply with any lawful instruction given in terms of this By-law;
- (e) threatens, resists, interferes with or obstructs any officer or any employee of the Municipality in the performance of official duties or functions in terms of or under this By-law; or
- (f) deliberately furnishes false or misleading information to an officer or an employee of the Municipality,

is guilty of an offence.

Penalties

58. (1) Any person who is convicted of an offence under this By-law shall be liable to a fine of an amount not exceeding R5 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R500 or imprisonment for a period not exceeding 10 days, or both such fine and imprisonment, for each day on which such offence continues, will be imposed.

Exemption

59. The Municipality may, from time to time, on such conditions as it may determine, grant exemptions from the provisions of this By-law.

CHAPTER 8 MISCELLANEOUS PROVISIONS

Delegations

60.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty,

conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the

(a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and

(c) conditions attached to the delegation or sub-delegation.

Appeals

61. (1) A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

Repeal of laws and savings

62. (1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection 1, remain in force, as if those By-laws have not been repealed.

Short title and commencement

63. This By-law is called the Public Transport By-law, 20__ and takes effect on the date on which it is published in the *Provincial Gazette* or as otherwise indicated in the notice thereof.

SCHEDULE REPEALED BY-LAWS

(Section 61)

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

MUNICIPAL PARKS AND RECREATIONAL GROUNDS BY-LAW, 20__

To provide for the control, preservation and maintenance of the municipal parks and recreational grounds as well as the use and enjoyment thereof by members of the public; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the _____ Municipality has legislative and executive competence relating to local amenities and municipal parks and recreation within its area of jurisdiction;

WHEREAS the municipal parks and recreational grounds are available for use and enjoyment by members of the public;

AND WHEREAS the Municipality wishes to adopt such measures as may be necessary to protect and preserve the natural vegetation and equipment on the municipal parks and recreational grounds and to control the use and enjoyment thereof by members of the public;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law.

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SCHEDULE: LAWS REPEALED

CHAPTER 1 INTERPRETATION

Definitions

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

“**animal**” means any mammal, fish, bird, reptile, insect, amphibian or invertebrate;

“**authorised official**” means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” or **“Municipal Council”** means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

“Municipality” means the _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

“Municipal Manager” means the official of the Municipality appointed as contemplated in section 54A of the Systems Act;

“notice” means a written notification issued or pictogram displayed in terms of this By-law which is prominently and legibly displayed in any part of a park;

“park” means any park, recreational ground, open space, square, reserve, bird sanctuary, botanic or other garden which is under the control or ownership of the Municipality, and includes all buildings, facilities, equipment, trees and natural vegetation within such park;

“person” means a natural or juristic person;

“Policy” means the tariff policy adopted by the Council in term of section 74 of the Systems Act;

“prescribed fee” means a fee determined by the Council by resolution in accordance with the Policy;

“**reservation**” means a written application to the Municipality for the use of a park or any part thereof for the purpose of a private event or function, and “**reserve**” has a corresponding meaning;

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

“**tree preservation order**” means an order issued by the Municipality for the protection of specific trees or a group of trees from deliberate damage or destruction; and

“**vehicle**” means any self-propelled vehicle and includes—

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor.

Interpretation of By-law

2. In the event that there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to –

- (a) protect and preserve parks for the benefit of the public;
- (b) regulate proper use and enjoyment of parks by members of the public;
- (c) standardise the fees prescribed for the reservation of parks for private events and functions; and
- (d) provide for matters incidental thereto.

Application of By-law

4. This By-law applies to –

- (a) all parks under the ownership or control of the Municipality; and
- (b) any park which is lawfully controlled and managed by a person other than the Municipality in terms of an agreement concluded between such person and the Municipality.

CHAPTER 2 PUBLIC ACCESS

Terms and conditions

5.(1) The Municipality reserves the right to determine the terms and conditions for access into a park.

(2) A person who is allowed access into a park must –

- (a) observe and comply with all the notices displayed at any area of the park, including the entrance thereto; and
- (b) obey any lawful instruction given to him or her by an authorised official.

Entrance into a park

6. A person may only enter a park through the gates provided for that purpose as indicated on a notice displayed at or near the entrance to the park.

Maximum number of persons

7. The Municipality reserves the right to determine the maximum number of persons who may be present in a park at any one time: Provided that an authorised official may vary the maximum number of persons allowed in a park where permission is granted for a park to be used for either a different purpose or a private event or function as contemplated in section 11.

Entrance fees

8.(1) The Municipality may prescribe an entrance fee which is payable upon entry into the park.

(2) Any person in a park who is required to pay an entrance fee must, upon request by an authorised official, produce proof of payment of such fee.

(3) The Municipality may, subject to subsection (1), suspend the payment of an entrance fee in respect of any park on any specific day or days and for such period as it may deem appropriate.

Closure or restriction of access

9.(1) The Municipality may close or restrict public access to any park or part thereof for any purpose not inconsistent with the provisions of this By-law, including maintenance, safety and restoration or protection of trees and natural vegetation.

(2) In the event of closure of or restriction of access to a park in accordance with subsection (1), a notice must be posted at or near the entrance to the park concerned indicating the actual period of such closure or restriction of access.

Exclusion or removal from a park

10.(1) An authorised official may exclude or remove from a park any person who –

- (a) is in a state of intoxication or under the influence of narcotics;
- (b) behaves in a manner which is disorderly, unseemly or disruptive to other persons visiting the park; or
- (c) commits, or is reasonably suspected by an authorised official to have committed, an offence or any other act which is in contravention of any provision of this By-law.

(2) Failure or refusal by a person referred to in subsection (1) to leave a park upon being ordered by the authorised official to do so is an offence in terms of this By-law.

CHAPTER 3
PRIVATE EVENTS AND FUNCTIONS

Reservation of park for private event or function

11. Any person who wishes to apply for the reservation of a park or part thereof for a private event or function must –
- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose; and
 - (b) make payment to the Municipality or its authorised agent of a prescribed fee for the private use of the park before the date applied for, unless payment of the prescribed fee is exempted by the Municipality in writing.

Municipality's right of refusal or cancellation

12.(1) The Municipality may –

- (a) refuse to grant an application for the private event or function; or
- (b) cancel any approval if such application is already approved,

if an authorised official suspects on reasonable grounds that the event or function applied for is either unlawful or is likely to result in public disturbance.

(2) In the event of the approved private use of a park being cancelled by the Municipality in accordance with subsection (1) or for any other reason not attributable to the applicant, the applicant concerned is entitled to a refund of the prescribed fee paid to the Municipality in accordance with section 11(b).

Terms and conditions of private use of park

13.(1) Where an application for the private use of a park or part thereof is granted by the Municipality in terms of section 11, such park or part thereof may only be used –

- (a) for the purpose indicated on the application form; and
- (b) subject to the terms and conditions stipulated by the Municipality in an agreement designed for that purpose,

unless prior approval of the authorised official is obtained in writing authorising it to be used for a different purpose.

(2) A person who applies for the private use of a park must, subsequent to the approval of such application by the Municipality, sign an agreement obtainable from the municipal department responsible for the park in question setting out the terms and conditions of the private use thereof.

Public announcement and advertising

14.(1) A person who has applied for the use of a park for a private event or function may not publicly announce or advertise the use of such park for the event or function concerned before the Municipality has notified that person in writing that the application has been approved.

(2) An approval of an application for the use of a park for a private event or function does not absolve the applicant from due compliance with the Municipality's Advertising and Signs By-law in respect of the private event or function concerned.

(3) An applicant referred to in subsection (1) must, before vacating the park at the end of the private event or function concerned, remove every poster, notice, decoration, flag, emblem, sign and other form of advertisement or direction erected or affixed by or at the instance of such person and make good any damage caused by such removal.

CHAPTER 4 GENERAL PROVISIONS

Food and alcoholic beverages

15.(1) Subject to the provisions of subsection (2), the preparation and cooking of food in a park is restricted to the place or places set aside by notice for such purpose and must be done under clean and hygienic conditions.

(2) The slaughtering or skinning of an animal for any purpose whatsoever is not allowed in a park.

(3) Unless authorised by the Municipality in writing to do so, a person may not –

- (a) sell or display for sale any items, goods or services; or
- (b) bring into, consume or sell any alcoholic beverage or other intoxicating substance, in a park.

Starting of a fire

16.(1) A person may only start a fire in a park in a place as may be designated by the Municipality for that purpose.

(2) Where a person has started a fire in a place designated for that purpose as contemplated in subsection (1), such person may not leave the fire unattended or depart from the place where the fire is burning or smouldering without first ensuring that such fire is completely extinguished.

Vehicles

17.(1) Unless specifically authorised by the Municipality through the use of relevant signage displayed at the entrance to a park, access of vehicles of any kind is prohibited in a park.

(2) Where vehicular access is allowed in a park, an authorised official is empowered to control and regulate the use thereof within the park concerned, including the –

- (a) adoption of traffic signage and rules;
- (b) demarcation of parking bays and the levying of tariffs for the use thereof, if any; and
- (c) charging of fines for non-compliance with the traffic signage and rules within the park, as well as the recovery thereof.

Facilities reserved for children

18.(1) Where a facility or equipment in a park is reserved for children, the use of such facility or equipment must be restricted to persons not older than 12 years of age.

(2) An authorised official may require any person to produce documentary proof of age of any person intending to use a facility or equipment referred to in subsection (1), failing which such person may be refused access to the facility or equipment concerned.

Animals

19.(1) Except for a guide dog which is being used by a blind person, the Municipality reserves the right to prohibit or restrict the access of any animal into a park through a notice to that effect displayed at or near the entrance to such park.

(2) Where animal access into a park is not prohibited in terms of subsection (1), any person who brings an animal into a park must keep it under proper control and ensure that any excrement by such animal is immediately removed and disposed of in a waste bin or other receptacle provided by the Municipality for that purpose.

Tree preservation orders

20.(1) If, in the opinion of the Municipality, any tree or group of trees in a park requires legal protection, the Municipality may issue a tree preservation order in respect of the tree or group of trees concerned.

(2) A copy of the tree preservation order must be displayed prominently within three metres of the tree or group of trees to which the order relates.

(3) Any person who cuts, uproots or causes any damage whatsoever to a tree or group of trees to which a tree preservation order relates, commits an offence.

Prohibited conduct

21.(1) A person entering or visiting a park must at all times act in strict compliance with the provisions of this By-law, as well as such lawful instructions and orders as may be issued or given by an authorised official.

(2) Subject to the provisions of subsection (1), a person entering or visiting a park may not –

- (a) conduct himself or herself in a manner which is inappropriate, improper or indecent; (b) cause a nuisance, annoyance or disturbance to any other person visiting the park; (c) destroy or remove any tree, flower or plant growing in any part of the park;
- (d) deposit or throw any rubbish, paper or other waste matter or thing anywhere other than in a receptacle provided by the Municipality for such purpose;
- (e) shoot or injure any bird or animal or throw a stick, stone or other object with the intent to injure any bird or animal or interfere with any fish in a fountain;
- (f) bathe or wash any dog or other animal in any pond or fountain;
- (g) drive, ride or park any vehicle or cause or permit any vehicle to be within the area of any park, except insofar as is permitted by a notice displayed in the park;
- (h) damage, tamper with or destroy any equipment, amenity or structure;
- (i) lie on a bench or seating place or use it in such a manner that it prevents others from using it;
- (j) use any park facility or water resources, including a fish pond, fountain, stream, dam or pond to swim, bathe, walk, or place or wash clothes or other things;
- (k) skate on roller skates or on a skateboard or similar device except where permitted by a notice displayed in the park;
- (l) build, erect, place, create, remove or modify any structure, amenity, pathway, trail, jump or ramp;
- (m) play or conduct any game of any nature that will cause –
 - (i) disturbance or potentially disturb; or
 - (ii) injury to,other park users, except at places set aside for such purpose by a notice displayed in the park and in accordance with the direction of an authorised official, if any;
- (n) sell, offer or display for sale or hire any commodity or article or distribute any pamphlet, book, handbill, or other printed or written matter without prior written consent of the Municipality;
- (o) carry, possess or discharge within a park a –
 - (i) firearm or airgun unless it is in accordance with any applicable law; or
 - (ii) slingshot, bow and arrow, dart device, or other device designed for high-speed missile projection,except where permitted by the Municipality to do so;

- (p) engage in any other conduct in contravention of this By-law, the Municipality's Nuisance and Health By-laws or any other applicable law; and
- (q) sleep over or camp in the park.

CHAPTER 5 ENFORCEMENT

Offences and penalties

22.(1) A person who –

- (a) contravenes, refuses or fails to comply with any provision of this By-law; (b) refuses or fails to comply with any –
 - (i) notice issued; or
 - (ii) lawful instruction given, in accordance with this By-law; or
- (c) obstructs or hinders any authorised official of the Municipality in the execution of his or her duties under this By-law,

is guilty of an offence.

(2) A person who is convicted of an offence under this section may be sentenced to a minimum fine of R500 or to imprisonment for a period not exceeding six months or to both a fine and a period of imprisonment.

CHAPTER 6 MISCELLANEOUS

Delegations

23.(1) Subject to the Constitution and applicable national and provincial laws, any –

- (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or
- (c) duty,

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) A delegation in accordance with subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Systems Act, subject to the criteria set out in section 50(2) of the said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the-

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

24.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against the decision in terms of the Appeals provision contained the Systems Act by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Systems Act and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

25.(1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any rights accrued or obligations incurred under any By-law repealed in terms of subsection (1) remain in force as if that By-law has not been repealed.

Short title and commencement

26. This By-law is called the Parks and Recreational Grounds By-law, 20___, and takes effect on the date of the publication thereof in the *Provincial Gazette*.

SCHEDULE LAWS REPEALED

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

MUNICIPAL PREMISES AND FACILITIES BY-LAW, 20__

To provide for the use and control of municipal premises and facilities; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the Municipality to regulate the use of municipal premises and facilities;

AND WHEREAS it is necessary for the Municipality to control access to municipal premises and facilities and set out the requirements for the hire and use thereof;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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**SCHEDULE LAWS
REPEALED**

**CHAPTER 1
INTERPRETATION**

Definitions

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

"art" means any creative act or object of human skill, craft or design in respect of which a municipal premises or facility may be made available for hire and use;

"artist" means any person who is involved in the performance or creation of an art, and **"artistic"** has a corresponding meaning;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"camping officer" means a person who is designated by the Municipality to be in charge of a camping ground;

"camping park" or **"caravan park"** means any area of land which has been set aside by the Municipality for use as a camping park or caravan park, or as both;

"camping site" means a site set aside and designated by a camping officer on a camping ground for camping purposes;

"caravan" means a vehicle or similar movable or towable structure on wheels which is designed to permit human occupation for dwelling or sleeping purposes, and includes a mobile home, trailer or camper van;

"caravan site" means a site set aside and designated by a camping officer on a camping ground for the parking of a caravan, with or without a side tent;

"centre" means any community premises owned or operated by the Municipality which is used or is capable of being used by members of the community for activities of an indoor sporting, cultural or recreational nature;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"facility" means any facility or structure owned by the Municipality which is or may be available for hire and use by members of the community in terms of this By-law, excluding a shopping centre;

"hire" means entering into a contract with the Municipality upon payment of a prescribed fee for the use of a municipal premises or facility, and **"hirer"** has a corresponding meaning;

"Municipal Council" or **"Council"** means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"Municipality" means the _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of PN343 of 2000 (KZN);

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“municipal premises” means any community premises owned, vested or controlled by the Municipality which is or may be available for hire and use by members of the community or freely accessible in terms of this By-law for the purpose of conducting artistic, cultural, political, recreational or religious events and excludes shopping complexes;

“Policy” means the tariff policy adopted by the Council in term of section 74 of the Systems Act;

“pool” means a municipal owned or controlled swimming pool or paddling pool provided by the Municipality for the use and enjoyment of the public and includes the premises, buildings and structures on which the pool is situated in;

“prescribed fee” means a fee determined by the Council by resolution in accordance with the tariff policy adopted by the Council in terms of section 74 of the Systems Act; and

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

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to—

- (a) regulate and control the hiring and use of municipal premises and facilities;

- (b) standardise the fees prescribed for the hiring of municipal premises and facilities;
- and
- (c) provide for matters incidental thereto.

Application of By-law

4. This By-law applies to all premises under the ownership and control of the Municipality, irrespective of the area in which they are situated, excluding –
- ; and
 - (d) any shopping complex which, although owned by the Municipality, is subject to private control and management.

CHAPTER 2**HIRE AND USE OF PREMISES AND FACILITIES*****Part 1 : Arts and culture and community centre facilities*****Application for hiring of premises**

5. Any person wishing to apply for the hiring of municipal premises must–
- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose; and
 - (b) make payment to the Municipality or its authorised agent of a prescribed fee for the hiring of the premises concerned before the date on which such premises are required for use by the applicant, unless otherwise permitted by the Municipality.

Municipality's right of refusal or cancellation

- 6.(1) Notwithstanding the provisions of section 5, the Municipality may refuse to hire out any

premises or, if the hiring is already approved, cancel any such approval if—

- (a) the authorised official suspects on reasonable grounds that the premises applied for are to be used for an unlawful purpose or any purpose not suitable for the premises applied for; or
- (b) the premises applied for are required by the Municipality for its own use during the same time.

(2) In the event of the approved hiring being cancelled by the Municipality in terms of subsection (1)(b) or for any other reason not attributable to the hirer, the hirer concerned is entitled to a refund of the prescribed fee already paid to the Municipality in respect of the premises applied for: Provided that in any other case the refund of the prescribed fee to a hirer is at the sole discretion of the Municipality.

Use of premises

7.(1) The hirer must use the hired premises only for the purpose indicated on the application form and subject to the terms and conditions stipulated by the Municipality, unless prior approval of the authorised official is obtained in writing authorising the use of the hired premises for any other purpose.

(2) If the hirer wishes to use the premises for the purpose of any gathering, the Municipality may refuse to grant its approval thereof unless it is satisfied that such use will not, by reason of any noise or conduct of the attendees, constitute an undue interference with the amenities of the area within which such premises are situated.

(3) Notwithstanding anything to the contrary contained in this By-law, the Municipality may refuse to grant its approval of an application to hire municipal premises if the authorised official believes on reasonable grounds that the use thereof may result in the contravention of the Municipality's Nuisance By-law, Health By-law or any other relevant legislation.

Payment of the prescribed fee

8. A person who has hired premises is not entitled to the use of such premises, or to gain access thereto for preparation purposes, unless and until the prescribed fee for the hire thereof has been paid in full: Provided that the Municipality may exempt any person or organisation, on good cause shown, from payment of the whole or a portion of the prescribed fee.

Period of hire

9. Notwithstanding any determination made by the Municipality regarding the dates and period for which the premises may be hired, the Municipality may allow the hirer reasonable access to the premises concerned prior to the commencement date of the period of hire in order to enable the hirer to make the necessary preparations and arrangements for the use thereof: Provided that the prescribed fee for the hire of the premises concerned must be paid in full before the hirer thereof may be allowed reasonable access thereto in terms of this section.

Terms and conditions of hire

10. A person who makes an application for the hire of premises in terms of section 5 must, subsequent to the approval of such application by the Municipality, sign a hire agreement obtainable from the municipal department responsible for the premises in question setting out the terms and conditions of such hire.

Public display of terms and conditions of hire

11.(1) The Municipality may display or cause to be displayed conspicuously at or near the entrance to every municipal premises the terms and conditions of hire thereof, which are incorporated by reference as part of this By-law and are deemed to be accepted by every hirer as binding irrespective of the hirer's failure or omission to sign a hire agreement referred to in section 10.

(2) Every hirer of any municipal premises shall be deemed to have acquainted himself or herself fully with and accepted the terms and conditions of hire which are conspicuously displayed on the hired premises in terms of subsection (1).

Sub-letting

12. A hirer must not sub-let the hired premises or any part thereof to any other person, nor may the hirer cede, pledge or renounce in favour of another person any of his or her rights or obligations under this By-law, nor allow any other person to occupy the premises without the prior written approval of the Municipality.

Condition of premises

13.(1) The hirer must inspect the hired premises, including any installation, appliance, fitting, accessory or furniture thereon, before commencing the use thereof.

(2) If the hirer finds that any installation, appliance, fitting, accessory or furniture on the hired premises is damaged, the hirer must record such damage on an inventory list obtainable from the Municipality in respect of the premises concerned and submit such list to the authorised official at least twenty-four hours before commencing the use of the hired premises.

(3) If the hirer fails either to inspect the premises or to report any damage or defects found in terms of subsection (1), it is deemed that upon commencement of occupation by the hirer everything on the premises was fully operational and in a proper state of repair, and the hirer will be held liable to the Municipality for any damage or defect found on the leased premises upon termination of the hire period.

Public announcement and advertising

14.(1) A person who has applied for the hire of premises must not publicly announce or advertise any function or event in respect of which an application for the hire of such

premises in terms of section 5 has been made before the Municipality has notified that person in writing that the application has been approved.

(2) An approval of the hirer's application in terms of subsection (1) does not absolve the hirer concerned from due compliance with the Municipality's Advertising and Signs By-law as may be applicable to any public announcement or advertisement of the event or function concerned.

(3) Every hirer must, before vacating the hired premises, remove every poster, notice, decoration, flag, emblem, sign and other form of advertisement or direction erected or affixed by or at the instance of such hirer and make good any damage caused by such removal.

Overcrowding

15.(1) The hirer must comply with the Municipality's requirements prescribing the maximum number of persons allowed on the premises during the hirer's use thereof so as to ensure that no overcrowding of the premises occurs at any time during the hirer's function or event.

(2) Without detracting from the generality of the requirements referred to in subsection (1), the hirer may not allow more persons admission to the premises than the number of seats available or, if seating is not provided, the maximum number of persons prescribed by notice on the premises or as stipulated in the hire agreement or in any other applicable law.

(3) The Municipality has the sole discretion to determine the maximum number of persons allowed on any hired municipal premises at any given time, taking into account the Municipality's requirements as set out in the relevant policy documents adopted by the Municipality from time to time, including but not limited to the Events Policy and Waste Management Plan, as well as any other applicable law.

Sale of refreshments

16.(1) Neither the hirer nor any other person is entitled to sell any refreshments or food stuffs on or in the hired premises during any function or event for which the premises have been hired without the prior written approval of the Municipality.

(2) Any person wishing to sell refreshments or foodstuffs in the hired premises during the function or event for which the premises have been hired must apply in writing to the Municipality for a permit authorising such person to do so, and on such terms and conditions as may be determined by the Municipality for that purpose.

(3) If an application for the issuing of a permit in terms of subsection (2) is issued by the Municipality, the Municipality may allocate sufficient accommodation to the approved applicant wherein the goods which are necessarily required by such applicant for trading may be stored.

(4) An application in terms of subsection (2) is not necessary if the supply and sale of refreshments or foodstuffs is an integral part of the function or event or part of the fundraising activities for which the premises are hired.

Municipal services

17.(1) The hirer is liable for any municipal services used or consumed during the function or event for which such hirer has hired the premises.

(2) The cost of the municipal services referred to in subsection (1) may be recovered by the Municipality from the hirer through the use of any one or more of the following methods: (a) by including an estimated amount for services as part of the hire fee;

(b) by taking a reading of the meter for the service concerned on the hired premises immediately before and immediately after the hire period; or

(c) by requiring the hirer to install its own meter at its own cost to measure the supply of the municipal service concerned to the hired premises prior to the commencement of the event or function in question.

Operation and maintenance

18.(1) The Municipality may require the hirer to take such steps as the Municipality may deem necessary for the proper maintenance and operation of the hired premises for the duration of the period of hire.

(2) The authorised official is entitled to attend the hirer's function or event for the purpose of ensuring that the Municipality's requirements for the proper maintenance and operation of the hired premises are duly complied with.

(3) A hirer is not entitled to the official services of the authorised official who attends the hirer's function or event in terms of subsection (2).

(4) A hirer is not entitled to receive gratuitous cleaning or other service from the Municipality in connection with the hirer's activities during the preparation for or the duration of the function or event for which the premises are hired.

Cancellation due to damage or destruction of premises

19.(1) The Municipality may, at any stage, cancel the hire of any premises if—

- (a) the premises concerned are destroyed or damaged to such an extent that they are substantially unusable;
- (b) the supply of any necessary municipal service to the hired premises is disturbed or terminated due to the damage in infrastructure to such an extent that, in the opinion of the Municipality, the health or safety of the occupants thereof is likely to be adversely affected; or
- (c) subject to section 6(2), the Municipality, in its discretion, decides not to proceed with the hire of the premises in order to carry out or cause to be carried out the necessary repairs thereto.

(2) A decision taken by the Municipality in terms of subsection (1) must be communicated to the hirer in writing within a reasonable period after the occurrence of any one or more of the events referred to in subsection (1) giving rise to the cancellation.

Cancellation due to breach

20.(1) The Municipality may at any time cancel the hire of premises if—

- (a) the hirer contravenes or fails to comply with any provision of this By-law; or
- (b) the hirer breaches any one or more of the terms and conditions which are stipulated by the Municipality for the hiring of the relevant premises and fails to remedy such breach within the period stipulated in a written notice delivered by the Municipality to the hirer to do so.

(2) A cancellation in terms of subsection (1) is without prejudice to any right or claim which the Municipality may have against the hirer under any provision of this By-law or any other applicable law.

Responsibility of the hirer upon termination of the hire period

21.(1) The hirer is directly responsible to the Municipality for the proper use and maintenance of the hired premises and, upon termination of the hire period for any reason, must—

- (a) return the premises to the Municipality in good order and condition, reasonable wear and tear accepted;
- (b) make good and repair or replace, at his or her own cost, any damage or breakage or missing article or, if required to do so by the Municipality, reimburse the Municipality for the reasonable cost of repairing, making good or replacing any broken, damaged or missing article;
- (c) vacate the hired premises within the period specified in the application form, the hire agreement or the notice of termination; and
- (d) comply with any reasonable and lawful instruction of the Municipality or the authorised official in respect of the cleaning of the premises.

(2) A hirer who fails to comply with the provisions of subsection (1) shall be liable to pay a further prescribed fee for the additional period during which he or she remains in occupation of the premises after the termination of the period of hire: Provided that the provisions of this paragraph must not be interpreted to prevent the Municipality from taking lawful steps to procure the eviction of any such hirer from the premises.

(3) If a hirer vacates the hired premises without cleaning them, either at all or to the satisfaction of the authorised official, the authorised official may undertake, or cause to be undertaken, the cleaning of the premises at the cost of the hirer.

Inspection of premises upon termination of the hire period

22.(1) Upon termination of the hire period for any reason, an authorised official and the hirer or their respective nominees must inspect the premises for the purpose of assessing any damage thereto or loss of equipment thereon.

(2) Any damage or loss discovered during an inspection referred to in subsection (1) must be recorded in an inventory list referred to in section 13(2), a final copy of which must be kept by either party.

(3) The hirer is liable for any damage or loss discovered during an inspection of the leased premises referred to in subsection (1), the reasonable cost of which must be paid to the Municipality upon demand, failing which the Municipality may proceed to institute civil proceedings for the recovery thereof.

Insurance

23.(1) A hirer must not at any time bring or allow to be brought or kept on the premises, nor do or undertake nor permit to be done or undertaken in or on the premises, anything which may render void or voidable any insurance policy taken by the Municipality in respect of the premises, or which may result in the increase of premiums payable for any such insurance.

(2) If the premiums for insurance contemplated in subsection (1) are increased as a result of any act or omission contemplated in that subsection, the Municipality may, in its discretion, allow the activity concerned to continue and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Municipality or the insurance company to the effect that such additional premiums have been charged.

(3) The Municipality may at any time in its discretion require the hirer to take up insurance of the premises hired with an insurance company approved by the Municipality against loss or damage by fire or any other cause during or as a result of any function or event for which the premises are hired.

Municipality's right of access

24.(1) Subject to the Constitution and any other applicable law, an authorised official or any other person authorised by the Municipality in writing to do so may enter the hired premises at any reasonable time for the purpose of—

- (a) carrying out any repairs, alternations, additions, modifications or improvements thereon;
- (b) ensuring that the conditions of hire of the premises as set out in the hire agreement and this By-law are being complied with; or
- (c) ensuring that the health and safety regulations or any other applicable laws are duly complied with.

(2) A hirer must comply with any lawful instruction issued by the authorised official or other person referred to in subsection (1) to ensure due compliance with the conditions of hire of the hired premises.

Fire and security regulations

25. A hirer must acquaint himself or herself with the Municipality's fire By-laws and any other applicable legislation which are from time to time in force in respect of the premises concerned, and must act in strict compliance therewith for the duration of the hire period.

Community centres and group activity rooms

26.(1) The hirer of a community centre for a group activity is responsible for the conduct of all members of the relevant group for every time such members and their invitees are in occupation of the hired premises.

(2) Unless permission to do otherwise has been granted by the authorised official in charge of the centre, a group activity may only take place under the supervision of the authorised official.

(3) A group activity may only take place at times allocated for such activity by an authorised official in charge of the centre.

(4) The Municipality reserves the right to stipulate the use to which a centre or any part of the premises thereof may be put, including the times when and the conditions under which any portion of a centre may be set aside for exclusive use by members of any particular group.

Prohibitions

27.(1) A person attending any function or event in or on the hired premises must not—

- (a) conduct himself or herself in an unseemly or obnoxious manner;
- (b) cause a nuisance or annoyance to any other person in or on the hired premises or the neighbouring properties;
- (c) interfere with the amenities of the area within which the hired premises are situated;
- (d) dress inappropriately or indecently taking into account the type of function or event for which the premises have been hired; or
- (e) engage in any other conduct in contravention of this By-law, the Municipality's Nuisance and Health By-laws or any other applicable law.

(2) An authorised official may, during any function or event of a hirer, instruct the hirer to remove from the premise any person who is in a state of intoxication or who is acting in contravention of subsection (1).

(3) An authorised official may, during any function or event for which the premises have been hired, direct the hirer to prevent the entry on or into the hired premises by any person who is in a state of intoxication or who is acting in contravention of subsection (1).

Part 2 : Camping and caravan parks**Terms and conditions**

28.(1) The use and enjoyment of camping and caravan parks by any person are subject to due compliance with the applicable provisions of this By-law, as well as such terms and conditions as may be stipulated by the Municipality for the issuing of a camping or caravan permit in terms of section 29.

(2) The provisions of Part 1 are *mutatis mutandis* applicable to this Part insofar as they are relevant to the use of camping and caravan parks.

Application for a camping or caravan permit

29.(1) Any person who wishes to make use of a camping site or caravan site must apply in writing to the camping officer for the issuing of a permit authorising such person to do so.

(2) A camping or caravan permit issued by the camping officer in terms of subsection (1) is valid for the period specified therein.

(3) A permit holder or any person accompanying such permit holder must at all times comply with the conditions specified in the relevant permit.

Allocation and use of sites

30.(1) A camping or caravan site is allocated at the sole discretion of the camping officer in charge, and may only be used for the purpose specified in the permit issued in respect thereof.

(2) A camping or caravan site may not be used for the construction of any building or any other structure of a permanent nature other than a tent for the *bona fide* use of the permit holder and his or her party.

(3) A caravan parked on a caravan site may only be used to house the permit holder and his or her party.

Extension of permits

31. The period of validity of a permit may be extended at the discretion of a camping officer if the site concerned has not already been allocated to another person for the period in respect of which the extension is required.

Proper use of roads and pathways

32. A permit holder and any member of his or her party must travel to and from a camping site using the established roads and pathways within the camping or caravan park.

Reservation of sites

33.(1) A camping or caravan site may be reserved in advance, and the person making such reservation must make payment of the prescribed fee to the camping officer in charge on or before the first day of the period of reservation, failing which the reservation made by such person may lapse.

(2) A person who fails to take occupation of a reserved camping or caravan site is not entitled to a refund of the prescribed fee paid in advance in respect thereof, irrespective of the reason given by such person for failing to take occupation thereof.

Right of refusal to renew permits

34. A camping officer may refuse to issue or renew a permit to any person whom the camping officer reasonably suspects of having contravened any provision of this By-law.

Cancellation of permits

35. Subject to due process in terms of the Constitution and any other applicable law, the camping officer may cancel the permit of a permit holder if such permit holder or any member of his or her party commits a breach of any provision of this By-law.

Prohibitions

36. A person may not—

- (a) camp or light a fire for the purpose of camping upon any open space or ground owned by or under the control of the Municipality except on a camping site allocated by the camping officer in terms of this By-law;
- (b) occupy a camping site for a period longer than 30 days in any consecutive period of 12 months, unless prior approval of the camping master is obtained in writing for a further period not exceeding 10 days;
- (c) enter or loiter in or about any camping or caravan park unless such person is a permit holder or a member of a permit holder's party or a *bona fide* guest of a permit holder;
- (d) carry on any trade or business within the precinct of a camping or caravan park without the prior written approval of the Municipality;
- (e) wilfully or negligently damage any vegetation, item, equipment or property belonging to the Municipality on a camping or caravan park;
- (f) bring any firearm within the camping or caravan park, except for a licensed firearm brought for the personal protection of a permit holder and his or her party, and which must be declared and registered with the camping officer immediately upon arrival at the camping or caravan park; or
- (g) shoot, trap or in any way injure or interfere with any animal, bird or fish in the camping or caravan park, except for fishing in a river or dam where a notice permitting fishing is displayed, and only if the person concerned holds a valid fishing licence issued in terms of any applicable law.

Site to be left in a clean and tidy condition

37. A permit holder vacating a camping or caravan site must—

CONTINUES ON PAGE 130 - PART 2



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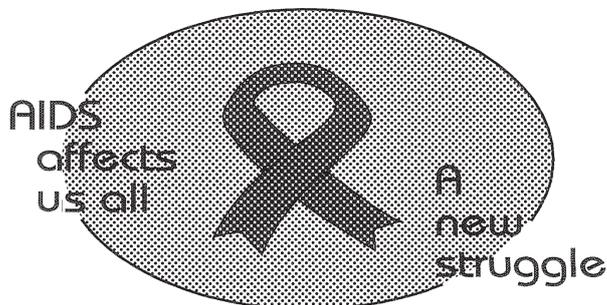
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- (a) leave the site in a clean and tidy condition and ensure that all rubbish remaining thereon is deposited in a rubbish bin provided for that purpose; and
- (b) fill in any hole made in the ground by him or her or by any member of his or her party.

Part 3: Sport facilities and swimming pools

Terms and conditions

38.(1) The use and enjoyment of the local sport facilities by members of the local community or any other person are subject to due compliance with the applicable provisions of this By- law, the terms and conditions contained in the hire agreement, if any, as well as such terms and conditions as may be determined by the Municipality in respect thereof.

(2) The provisions of Part 1 are *mutatis mutandis* applicable to this Part insofar as they are relevant to the hiring and use of sport facilities by members of the local community or any other person.

Reservation of sport facilities

39.(1) Due to a limited number of sport facilities in any community, the hiring of a local sport facility must be arranged by prior reservation with an authorised official on a first-come-first- served basis and must be recorded in a register kept by the authorised official for that purpose.

(2) Notwithstanding the provisions of subsection (1), the Municipality may reserve for any period any local sport facility for the holding of any specific sporting event or competition and may during any such period reserve to itself the right of admission to such facility and determine a fee for admission thereto.

Animals

40. No person may bring any animal other than a guide dog into a local sport facility without the prior written approval of the authorised official, unless—

- (a) the bringing of an animal is authorised by a notice displayed in a conspicuous place at the entrance to a local sport facility; or
- (b) the sport facility is designed or has been hired out for an activity that necessarily involves the presence of animals.

Firearms and traditional weapons

41. Firearms or traditional weapons may not be brought into a local sport facility unless, subject to the availability of safes or other appropriate storage facilities at the entrance to the facility, they are surrendered to the authorised official for safe keeping and must be collected from that official upon departure from the sport facility.

Swimming pools operating times

42. (1) The days and times during which a pool will be open to the public must be displayed with the appropriate signage visible to all patrons.

(2) The Municipality reserves the right to alter the operating times of the pool.

(3) Swimming must cease 30 minutes before the closing time and all members of the public must vacate the premises on or before the closing time.

(4) Any member of the public –

- (a) found to be swimming outside the operating times without the consent of the authorised official; or
- (b) who refuses to vacate the pool premises at closing time, will be guilty of an offence.

Admission into the swimming pool premises

43.(1) No person is permitted to enter the pool premises without paying the prescribed fee.

(2) Any person entering the pool premises must provide proof of payment to the authorised official before entering such premises.

(3) The Municipality may refuse entry into the pool premises—

- (a) where it is in the interest of public health and safety;
- (b) where necessary or routine maintenance is being effected; or
- (c) for any other reason the Municipality sees fit to do so.

(4) All children under the age of 14 must be accompanied by an adult.

Exclusive use

44.(1) Upon application and the payment of a prescribed fee an authorised official may grant the exclusive use of the whole or part of the swimming pool to a swimming club, person or body during determined periods: Provided that such use is for the purpose of organised swimming or aquatic sports.

(2) Where an application has been granted in terms of subsection (1), part of the pool or the entire pool may be closed to the public for the duration of such use.

Change room facility

45.(1) A separate change room for each sex must be provided.

(2) A male child over the age of seven is not permitted to enter into the female change room and a female child over the age of seven may not enter into a male change room.

(3) No person may loiter in a change room or use it for any other purpose other than for which it was designed.

Coaching and instruction

46.(1) No person may coach or instruct individuals within the pool area, unless prior written permission has been obtained from an authorised official, which permission may be subject to terms and conditions imposed by the authorised official.

(2) No instructor may instruct more than 5 pupils at a time.

(3) The authorised official may give a coach or instructor 30 days notice of his intention to withdraw the permission given in terms of subsection (1).

(4) In addition to the conditions imposed in terms of subsection (1) coaches and instructors are obliged to adhere to any other additional rules or requirements imposed by the Municipality.

(5) All instructors and coaches who are required to pay a fee must pay such fee one month in advance and, where such fee has been paid, the parents and students belonging to the particular swimming club will be exempt from paying the regular entry fee on days where they are attending lessons.

(6) In addition to the terms and conditions imposed in subsections (1), (4) and (5), the following terms and conditions will also apply:

- (a) a maximum of 3 lanes may be set aside for each coach for the duration of the lesson;
- (b) coaching will be restricted to the hours of 6am – 9am Monday to Saturday and 5pm - 8pm Monday to Friday;
- (c) permission to use lanes will be granted to not more than 2 coaches in respect of each pool unless permission is granted in terms of section 44;
- (d) where exclusive use has been granted in respect of a pool, no coaching or instructing shall take place and any fee paid in respect of such coaching or instructing will not be refunded;
- (e) if a coach or instructor has not utilised the times booked, no refund will be granted in respect of such time;

Prohibitions relating to swimming pools**47(1)** No person may—

- (a) bring or cause to be brought into the swimming pool premises any—
 - (i) ball;
 - (ii) surf board;
 - (iii) water toy or the like; (iv) alcohol;
 - (v) weapons; (vi) glass; or
 - (vii) item that will be offered for sale;
- (b) dive into the pool unless it is off a diving board; (c) swim in the nude;
- (d) enter into the change room of the opposite sex, subject to section 45; (e) urinate or defecate in the swimming pool;
- (f) eat in the swimming pool;
- (g) engage in any dangerous game or activity; (h) behave in a raucous manner;
- (i) remove, damage or deface any property;
- (j) deposit or discharge anything that may cause a nuisance or pose a danger to others;
- (k) make or light a fire for any purpose;
- (l) fight, argue or use indecent language; (m) smoke;
- (n) engage in any game or activity that may cause a nuisance to other patrons; (o) throw any object or projectile into the pool;
- (p) push or throw another individual into the water;
- (q) use a diving board whilst another person is still on it; (r) wash any article of clothing in the pool; and
- (s) act contrary to any sign erected on the pool premises.

CHAPTER 3
MISCELLANEOUS

Offences and penalties

48.(1) A person is guilty of an offence if that person—

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

(2) A person who is convicted of an offence under this section may be sentenced to a minimum fine of R300.00 or to imprisonment for a period not exceeding 6 months or to both a fine and a period of imprisonment.

Delegations

49.(1) Subject to the Constitution and applicable national and provincial laws, any- (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty,

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Systems Act, subject to the criteria set out in section 50(2) of the said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—

- (a) entity or person issuing the delegation or sub-delegation;

- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

50.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against the decision in terms of the Appeals provision contained the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

51.(1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection (1) remain in force as if those By-laws have not been repealed.

Short title and commencement

52. This By-law is called the Municipal Premises and Facilities By-law, 20___, and takes effect on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE LAWS
REPEALED (Section 51)

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

BEACHES BY-LAW, 20__

To provide for measures to manage, control and regulate public access and behaviour at beaches and beach areas; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution relating to beaches and amusement facilities, billboards and the display of advertisements in public places, local amenities, and traffic and parking;

AND WHEREAS there is a need to develop legislation to govern the access to and use of beaches and coastal areas within the jurisdiction of the Municipality;

NOW THEREFORE The Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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SCHEDULE 1: LAWS REPEALED

CHAPTER 1 INTERPRETATIONS

Definitions

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

"admiralty reserve" means any strip of land adjoining the inland side of the high-water mark which, when the Act took effect, was state land reserved or designated on an official plan, deed or other document evidencing title or

land-use rights as "admiralty reserve", "government reserve", "beach reserve", "coastal reserve" or other similar reserve;

"authorised official" means a person authorised to implement the provisions of this By- law, including but not limited to –

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"bathing" means swimming or entering the beach bathing area or any swimming pool provided by the Municipality on the beach area for public use, but excludes surf-riding or surfing and paddling;

"beach area" means the beach, the beach bathing area and any part of the coastal area and its immediate surroundings, including any open space, park, road, lane, parking space, pathway, or any municipal property or public amenity located in such area;

"beach bathing area" means any portion of the seashore which is demarcated as a bathing area and which may be protected from sharks by whatsoever means and under supervision of lifeguards, and includes the sea for a distance of two hundred metres seaward;

"coastal area" means the sea-shore and the sea for a distance of 200 metres seaward and 100 metres inland, but excluding any privately owned land and including all Admiralty Reserve and Public Roads as defined in the Road Traffic Act, 1996 (Act 93 of 1996);

"coastal zone" means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area, as contemplated by the Act;

"craft" means any boat, jet-ski, ski-boat or motorised vessel, and includes a surf-craft or windsurfer;

"fish" means the marine living resources of the sea and the seashore, including any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and marine mammal, and includes their eggs and larvae at all juvenile stages, but does not include sea birds and seals;

"fishing" means—

- (a) searching for, catching, taking or harvesting fish or an attempt to engage in any such activity;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; placing, searching for or recovering any fish aggregating device or associated gear, including radio beacons;
- (c) any operation in support of or in preparation for any activity described in this definition; or
- (d) the use of a vessel or aircraft in relation to any activity described in this definition;

"groyne" means a protective structure of stone or concrete or similar material that extends from shore into the water which is meant for coastal stability purposes and to prevent a beach from washing away;

"motor-vehicle" means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on the road or on water of one or more persons or any material, item, substance or object, and includes a trailer, motor-bike, quad-bike, personal watercraft or earth-moving or earth-working vehicle, but excludes any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms which is specially designed and constructed solely for mobility of any person suffering from some physical defect or disability or a vessel;

"municipal council" or "council" means the eThekweni municipal council, a municipal council referred to in section 157(1) of the Constitution;

"Municipality" means the eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa and established in terms of PN343 of 2000 (KZN);

"municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

"nuisance" means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

"official lifeguard" or "lifeguard" includes any professional lifeguard or member of a voluntary lifesaving association or club or a member of the Surf Lifesaving Association of South Africa, employed as a lifeguard on the Municipality's beaches;

"pier" means any constructed pier situated at any of the beaches in the area of jurisdiction of the eThekweni Municipality;

"sea-shore" or **"beach"** means the area between the low-water mark and the high-water mark, or as may be determined or adjusted from time to time in respect of the coastal zone boundaries by a competent national or provincial authority in terms of the Act;

"seine netting" means any means of catching or entrapping fish at sea using a net or similar material or equipment;

"surf-craft" includes a surf board, wave-ski, jet-ski, water-ski, paddle-ski, aquaplane or other similar device or apparatus and any paddles or oars used with it, except if such is of an inflatable character or wholly constructed of a soft pliable material;

"surf riding" or **"surfing"** means any activity on or in the water with or on a surf-craft or personal watercraft which includes but not limited to the pastimes known as surfing, surf riding or surf-skiing, wind-surfing, para surfing, kite-surfing, boarding, in-board rescue boarding or rubber-ducking or any other pastime, sport or activity or calling involving the riding of the sea waves by a person with any apparatus designed specifically for that purpose, and **"surf"** bears an equivalent meaning;

"the Act" means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

"vessel" means a waterborne craft of any kind, whether self-propelled or not, but does not include a personal watercraft or any moored floating structure that is not used as a means of transport by water; and

"waste" means any substance, whether or not that substance can be reduced, re-used, recycled and recovered –
(a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of; (b) which the generator has no further use of for the purposes of production; (c) that must be treated or disposed of; or
(d) that is identified as a waste by the Minister of Environmental Affairs by notice in the *Gazette*,
and includes waste generated by the mining, medical or other sector. Provided that, a by-product is not considered waste and any portion of waste, once re-used, recycled and recovered, ceases to be waste.

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 OBJECTS OF BY-LAW

Objects of By-law

3. The objects of this By-law are to –

- (a) create an effective system for the managing and controlling of public access to beaches and beach areas;
- (b) provide measures to regulate conduct on beaches and beach areas and to prohibit certain activities or conduct on beaches and beach areas;
- (c) provide measures to control and regulate access to and the use of public amenities on the beach and beach areas;
- (d) provide penalties for the breach of its provisions; and
- (e) provide for related matters.

CHAPTER 3 APPLICATION

Application of By-law

4.(1) This By-law applies to all beaches located or situated on the coastal area which falls under the jurisdiction of the eThekweni Municipality and is binding on all persons to the extent applicable.

CHAPTER 4 USE OF BEACHES BY PUBLIC

Areas reserved for specific recreational activities

5.(1) The Municipality may, in the beach area, indicate by means of suitable notices or signage erected at designated access points or other suitable sites, where specific activities may be allowed, limited, controlled or prohibited.

- (2) The Municipality may reserve any part of the beach area exclusively for a particular recreational activity.
- (3) No person may engage or partake in any recreational activity on any part of the beach area other than that for which that part of the beach has been exclusively reserved by a notice or signage or by any other manner.
- (4) No person may engage in any recreational activity in any part of the beach area in contravention of any–
- (a) provision of this By-law or any legislation;
 - (b) direction or prohibition conveyed by any notice or signage displayed on any part of the beach area; or
 - (c) instruction, direction or warning given by an authorised official in respect of any part of the beach area.

Prohibition of bathing within certain areas

6.(1) The Municipality may by a displayed notice or signage or in any other manner, permanently or temporarily prohibit bathing in any part of the beach.

(2) An authorised official may prohibit bathing in any part of the beach at any time for as long as the conditions of the sea appear in his or her discretion to be unsafe.

(3) Any permanent or temporary prohibition under this section must be indicated by means of a notice or signage erected and displayed at both ends of the prohibited area.

(4) No person may bathe in any part of the beach where bathing is prohibited in terms of this section.

(5) No person may, while such a life-saving appliance or device is in use, perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation.

Motor-vehicles

7.(1) No person may enter onto the beach using a motor-vehicle or bring or drive a motor-vehicle on any part thereof in contravention of any legislation or Regulations made in terms of any applicable legislation .

(2) The provisions of subsection (1) do not apply to any—

- (a) motor-vehicle used by an authorised official in the course of his or her duties; (b) authorised emergency or rescue motor-vehicle;
- (c) motor-vehicle driven by a person authorised to implement the provisions of any legislation;
- (d) ordinary motor-vehicle involved in a *bona fide* emergency situation; (e) off-road vehicles used in terms of relevant legislation; or
- (f) motor-vehicle authorised by the Municipality or any other sphere of government in terms of any law.

(3) No person may in any part of the beach area—

- (a) drive a motor-vehicle recklessly or dangerously or in such a manner as to endanger the safety of any person;
- (b) race a motor-vehicle, or drive a motor-vehicle at a speed in excess of the limit imposed by the Municipality in any part of the beach except during a *bona fide* emergency situation or if authorised to do so in terms of any law;
- (c) drive a motor-vehicle whilst under the influence of alcohol, drugs or any dependence producing substance;
- (d) drive a motor-vehicle without a valid driver's licence; (e) drive or park a motor-vehicle in a prohibited area;
- (f) drive a motor-vehicle in contravention of a notice or signage erected on the beach or any instruction or direction given by an authorised official;
- (g) tow objects or persons behind a motor-vehicle; or
- (h) repair or wash a motor-vehicle.

Boats

8.(1) No person may, at or on the beach—

- (a) launch, land, keep, use, let or hire a boat, surf-ski or craft of whatever kind, except at places set aside for that purpose by the Municipality, unless authorised or required to do so at any other place in terms of any law;
- (b) use or operate a boat, surf-ski or craft of whatever kind in such a manner as to cause danger or annoyance to any person;
- (c) use or operate a boat, surf-ski or craft at a speed in excess of the limit imposed by the Municipality in any part of the beach, except when a vessel is used in an emergency or for life-saving operations; or
- (d) repair any boat, or watercraft.

Surf-riding or surfing

9.(1) No person may without the authorisation of the Municipality engage in surf-riding or surfing within any part of the beach which is designated as a swimming area, unless it is an inboard rescue boat.

(2) An authorised official may permanently or temporarily prohibit surf-riding or surfing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the beach.

Nuisances and prohibited, indecent or offensive behaviour

10.(1) No person may while on the beach area –

- (a) remain, bathe or sun-bathe in any part of the beach if in the nude or while clad indecently or improperly;
- (b) hang onto, sit upon or cause to sink safety ropes provided for the protection of bathers or in any way tamper or interfere with those safety ropes or other appliances provided for the assistance of bathers;
- (c) enter or remain in any part of the beach contrary to a prohibition by an authorised official, or any notice or signage to that effect or otherwise fail to observe the terms of notices or signage displayed by the Municipality on any part of the beach;
- (d) swim in any part of the beach where no official lifeguards are present or contrary to the times designated for swimming or remaining in any part of the beach, or bathe at night;
- (e) throw, deposit, dump, leave or discharge any litter or waste or any material of any kind whatsoever, other than in receptacles provided for that purpose by the Municipality, or do

so in any manner that causes a nuisance or detracts from the cleanliness or attractiveness of the beach;

(f) leave charcoal, ashes, firewood, bones, pieces of meat, or other foodstuff on the beach other than in receptacles provided by the Municipality for waste and litter;

(g) leave or dump any unused or excess fishing equipment or other items such as but not limited to bait, fish hooks and fishing nets, other than in receptacles provided by the Municipality for waste and litter.

(h) use obscene, offensive, indecent or foul language or otherwise behave in an offensive, improper or disorderly manner;

(i) wilfully or negligently do anything which may cause danger, discomfort or inconvenience to any person or in any way cause a nuisance in any part of the beach;

(j) obstruct or interfere with any authorised official in the execution of his or her duties;

(k) interfere with, misuse or damage any building, structure, item, facility or any amenity provided for use by the public, or any property of the Municipality, or otherwise disregard or contravene directions as to the use to which any public amenity may be put;

(l) other than any authorised official, except in an emergency, handle, touch or in any way make use of, or tamper or fiddle with, a lifeline, a lifebuoy, torpedo buoy or any other life- saving appliance or device installed or placed in any part of the beach or beach area , or perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation;

(m) move, deface or otherwise interfere with any notice board, notice, signage or marker erected, posted or placed on the beach;

(n) jump or leap from any pier, groyne or structure erected for the protection of the beach or attempt to enter upon a pier or groyne from the water;

(o) play any game or indulge in any pastime which is likely to cause nuisance, annoyance, injury or discomfort to any person in any part of the beach;

(p) offer for sale, market or hawk any illegal goods or services in contravention of the Municipality's By-laws dealing with informal trading or any other applicable legislation;

(q) display any advertisement or notice without the written permission of the Municipality; (r) enter or be in or on the beach and coastal area for the purpose of sleeping or so sleep therein;

(s) beg or introduce others to beg for money or goods on his or her behalf;

- (t) hold, convene or organise any entertainment, display, performance, procession, public meeting, recreation, or event on the beach without the permission of the Municipality or do so in contravention of any condition attached to any such authorisation;
- (u) address any gathering of persons or seek by any means and for any purpose to attract or convene a gathering of persons on the beach without the permission of the Municipality;
- (v) consume any alcohol except on licenced premises or where temporary authorisation has been granted by the Municipality;
- (w) use or consume any dependence producing drug or substance or smoke or inhale any substance using a hubbly bubbly or tobacco water pipe or similar apparatus;
- (x) swim or enter the bathing area or any part of the beach while under the influence of alcohol, drugs or any other dependence producing substance;
- (y) use roller skates or a board or any similar device to which rollers or wheels are attached, except where permitted by a notice displayed by the Municipality;
- (z) discharge fireworks or flares, or start or keep any fire unless for the purposes of making a braai in an area where such activity is permitted, unless that person is authorised to discharge such fireworks or flares or to make and keep such fire by the Municipality or in terms of any law; or
- (aa) urinate or defecate anywhere other than in a toilet provided by the Municipality for public use.

(2) No person may bathe in any part of the beach area whilst suffering from any cutaneous condition which is infectious or contagious.

Animals

11.(1) No person may bring any animal onto any part of the beach area except—

- (a) with the written permission of the Municipality;
- (b) where a notice is displayed allowing such animal to be on such part of the beach area; (c) where a person is authorised by the Municipality to bring such animal for the purposes of ritual slaughter; or
- (d) any person who suffers from a visual impairment and requires the assistance of a guide dog.

(2) The following persons are exempted from the application of subsection (1): Provided that they are acting within the course and scope of their employment–

- (a) an authorised member of the South African Police Service; (b) an authorised member of the Metropolitan Police Office;
- (c) an authorised member of the South African National Defence Force; (d) authorised and registered security officer; or
- (e) any other person permitted by the Municipality or in terms of any law.

(3) The provisions of subsection (1) do not apply to any animal that is kept inside a motor-vehicle or other suitable enclosure, and is not released therefrom.

(4) Any animal that is permitted to be brought in or on the beach area must be brought, handled or controlled in such a manner as not to cause a nuisance, discomfort or danger to any person in accordance with the Animals By-law of the Municipality.

(5) Any animal, which is not under the control or apparently not under the control of any person may, if found on any part of the beach area, be impounded by an authorised official and thereafter be dealt with in accordance with the Animals By-law of the Municipality.

(6) The person in control of a dog must pick up all excrement of such dog made on the beach area as contemplated in the Animals By-law of the Municipality.

Firearms

12.(1) No person may possess or discharge a firearm in any part of the beach area in contravention of any applicable law.

(2) Subsection (1) does not apply in the case of the firing of blank cartridges during competitions organised by lifeguards or other authorised persons during approved sports meetings or events taking place in any part of the beach area.

Camping

13. No person may stay, sleep or camp overnight in any part of the beach area or erect a tent or structure for the purpose of staying overnight other than in a designated area.

**CHAPTER 5
NATURAL ENVIRONMENT****Protection of the natural environment**

14.(1) The Municipality may take all reasonable measures within its powers, and to the extent allowed by law, to protect the natural environment of the coastal area within its jurisdiction.

(2) No person may—

- (a) wilfully or negligently pollute the sea, coastal area, or surrounding terrain with fuels, oils, offal, bilge water, sewage, waste, wastewater, refuse, rubble or any objectionable or unlawful discharge of any substance whatsoever;
- (b) pick, uproot, fell or damage or attempt to pick, uproot, fell or damage a plant growing in the coastal area;
- (c) break, damage, destroy or remove an egg from a nest; or disturb or attempt to disturb a bird or the nesting site of a bird, or disturb, harvest, remove or in any way interfere with the fauna and flora in the coastal area;
- (d) injure, disturb or kill or attempt to injure, disturb or kill a wild animal unless that action is authorised by means of a permit, or unless the health and welfare of the public is endangered by that animal;
- (e) collect, harvest or take any fish species, mussels, or any other species whatsoever from the sea or any part of the beach without being authorised to do so;
- (f) without the prior written authorisation of the Municipality, remove any material or thing which is the property of or under the control of the Municipality, or excavate, or tunnel in the sand or cause any substantial movement of sand;: Provided that the reasonable digging of holes by children or beachgoers in the use and enjoyment of the beach is not prohibited;

- (g) except in places and where amenities are provided by the Municipality for such purpose, start a fire in the coastal area without the prior written permission of the Municipality, which permission may be subject to the conditions which the Municipality may deem fit to impose;
- (h) bring or erect any structure or thing other than that which is of a portable and temporary nature and which is ancillary to the use and enjoyment of the beach and coastal area, and which does not interfere with the use and enjoyment of the beach and coastal area by other persons; or
- (i) otherwise do anything which detrimentally affects the natural environment of the coastal area.

Fishing

15.(1) No person may—

- (a) engage in fishing at the beach from any pier, groyne or storm water outfall; or
- (b) have in his or her possession or control on any pier, groyne or outfall any fishing tackle or equipment or any other thing designed or intended for use for the purpose of fishing, including bait,

unless fishing from such pier, groyne or outfall or portion thereof is permitted as indicated by a notice or signage erected by the Municipality or in terms of any other law.

(2) Any fishing which is permitted as contemplated in subsection (1) may only take place between such hours as may be specified in a notice or signage erected by the Municipality or other authorisation to that effect, and in accordance with such conditions as may be conveyed thereby.

(3) No person may, while fishing, or while on the beach use or permit the use of fishing equipment, including any rod, net, trap or other device in such manner as to cause danger or annoyance to any other person or in such a way as to cause an obstruction to or to interfere with the comfort or personal privacy of any other person.

(4) No person may place fishing bait, fish or fishing equipment or tackle on or immediately adjacent to any seat provided for the use of the public.

(5) Every person must clear away all bait, refuse and any fishing equipment, other equipment and items before leaving the place where that person had been for the purpose of fishing and take any such bait, refuse, and any fishing equipment and other items with him or her, or place these in a refuse receptacle provided by the Municipality.

(6) No person may do seine netting or fish for commercial purposes in any beach without a written permission issued by the relevant department of government dealing with fisheries or any other empowered statutory entity.

(7) No motor-vehicles may enter any part of beach for the purposes of seine netting or commercial fishing without written permission in terms of, and in compliance with, the Regulations pertaining to Vehicles in the Coastal Zone issued in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) or any other applicable legislation, which written permission must be produced to any authorised official on demand.

CHAPTER 6 OFFENCES AND PENALTIES

Offences

16. (1) A person commits an offence if he or she—

- (a) contravenes any provision of this By-law;
- (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law; (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
- (d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
- (e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

Penalties

17.(1) Any person who is convicted of an offence under this By-law is liable to a fine or imprisonment as determined in Councils' adopted Schedule of Fines.

CHAPTER 7 MISCELLANEOUS PROVISIONS

Appeals

18.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within 6 weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Delegations

19.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or

(c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Repeal of laws

20. The By-laws and Notices listed in the Schedule to this By-law are hereby repealed to the extent mentioned in the third column of the Schedule.

Short title and commencement

21.(1) This By-law is called the Beaches By-law, 20__, and takes effect on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE 1

LAWS REPEALED

(in terms of Section 20 of this By-law)

PART A: BY-LAWS

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

UNIFORM STANDING PROCEDURE IN TERMS OF ITEM 4(3) OF THE CODE OF CONDUCT FOR COUNCILLORS AS CONTAINED IN SCHEDULE 1 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (as amended)

Adopted by the Council of _____ on _____ 201_

To provide for the imposition of fines, reprimands, warnings, suspensions and the removal of councillors who are in breach of the Code.

PREAMBLE

WHEREAS:

- A.** Item 4(3) of the Code provides that proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item;
- B.** The uniform standing procedure must comply with the rules of natural justice; and
- C.** There is also a need to provide guidance on the correct procedure to be followed before any disciplinary measures are instituted in terms of the Code in order to ensure adherence to principles of fairness and natural justice.

NOW THEREFORE, the following procedure must be applied in dealing with breaches of the Code:-

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CHAPTER 1: INTERPRETATION

Definitions

- 1. In this Uniform Standing Procedure, unless the context indicates otherwise—

“Code” means the Code of Conduct for Councillors as contained in Schedule 1 of the Act;

“MEC” means the KwaZulu-Natal Member of the Executive Council responsible for local government, and any successor-in-title to the position; and

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

CHAPTER 2: LEGISLATIVE PROVISIONS

2. Item 3 of the Code provides as follows:

Attendance at meetings

3. A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when-

- (1) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council;
- or
- (2) that councillor is required in terms of this Code to withdraw from the meeting.

3. Item 4 of the Code provides as follows:

Sanctions for non-attendance of meetings

4. (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:

- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
- (b) failing to remain in attendance at such a meeting.

(2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.

(3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

4. Item 13 of the Code provides as follows:

Duty of chairpersons of municipal councils

(1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must—

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

(2) A report in terms of subitem (1) (c) is open to the public.

(3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.

(4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets."

5. Item 14 of the Code provides as follows:

"Breaches of Code;

(1) A municipal council may—

(a) investigate and make a finding on any alleged breach of a provision of this Code; or

(b) establish a special committee—

(i) to investigate and make a finding on any alleged breach of this Code; and

(ii) to make appropriate recommendations to the council.

(2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may—

(a) issue a formal warning to the councillor;

(b) reprimand the councillor;

(c) request the MEC for local government in the province to suspend the councillor for a period;

(d) fine the councillor; and

(e) request the MEC to remove the councillor from office.

(3) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a),

(b) or (d) of subitem (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the council.

(c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.

(d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the councillor should be suspended or removed from office.

(5) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of subitem (4).

(6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may—

(a) suspend the councillor for a period and on conditions determined by the MEC; or

(b) remove the councillor from office.

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice."

CHAPTER 3: PROCEDURAL ISSUES**6. Non-attendance of meetings****(1) Fines for non-attendance of council or committee meetings**

(a) A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of R 500.00 (Five Hundred Rands) per meeting, which must be deducted from that councillor's allowance. This must also apply where leave of absence is declined and the councillor nonetheless remains absent at such a meeting.

(b) A councillor who fails to remain in attendance at a Council or committee meeting for a period exceeding an hour without having obtained the consent of the Speaker of Council or Chairperson of the committee is liable for a fine of R300-00 (Three Hundred Rands) per meeting, which must be deducted from that councillor's allowance.

(2) Absence from three consecutive meetings

(a) Upon becoming aware that a councillor has been absent from three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that councillor is required to attend, the Municipal Manager must inform the Speaker of Council in order to commence proceedings as obligated in terms of Item 13(1)(a) of the Code.

(b) The Speaker of Council must authorise an investigation of the facts and circumstances of the alleged breach. This does not preclude the Speaker of Council from conducting the investigation personally.

(c) When an investigation of an alleged breach has been completed, the Speaker of Council must notify the councillor in writing of the allegations against him or her and give the councillor an opportunity to respond to the said allegations in writing.

(d) The written notification must at least contain the following:

(aa) the specific item or items alleged to have been breached;

(bb) the time period for a written response; and

(cc) the right to request any relevant documentation or information.

(e) A period of at least fourteen days must be deemed reasonable to allow for a response from the councillor concerned.

(f) The Speaker of Council must report the matter to the following meeting of the Council and include the response of the councillor in order for council to resolve on the matter.

(g) If, based on the evidence and the representation of the councillor, it is clear that the Code has been breached, the outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.

(h) The councillor must be notified in writing within seven days of receipt of the council's decision, and the said notice must at least contain the following information-

(aa) whether or not the councillor has been found guilty of the alleged breach;

(bb) the grounds on which such a finding was made;

(cc) the sanction to be imposed; and

(dd) the councillor's right to appeal to the MEC.

(i) If the councillor did not make representations on the allegations or where Council does not support the findings of the investigation of the Chairperson of Council, Council may decide to establish a special or ad-hoc committee to investigate the matter and to make recommendations to the Council, the following must be taken into account when the special committee is constituted:

- (aa) the committee must comprise, as far as possible, of fellow councillors;
- (bb) the committee may be called a 'Rules Committee';
- (cc) the committee must not be one of the Council's standing committees;
- (dd) any person involved in the preliminary investigation must not be a member of the committee;
- (ee) the council must strive to have equitable political representation on the committee in keeping with section 160(8) of the Constitution of the Republic of South Africa, 1996; and
- (ff) the council must elect a chairperson.

(j) Prior to a hearing taking place, the councillor must be notified in writing of the intention to conduct a hearing.

(k) The councillor must be given at least fourteen days' written notice of the hearing.

(l) The notification to attend the hearing must contain, at least, the following:

- (aa) the alleged breach;
- (bb) the time, date and venue of the hearing;
- (cc) the councillors rights; and
- (dd) the implications of a failure to attend the hearing.

(m) The hearing must be conducted by the committee as elected by the Council.

(n) Both parties must be given the opportunity to present their case.

(o) The hearing must be open to the public.

(p) At the hearing-

- (aa) the Chairperson must produce the necessary evidence to establish that the councillor
 - (i) has been absent from three (3) or more consecutive meetings of the Council; or
 - (ii) has been absent for three (3) or more consecutive meetings of a committee which that councillor is required to attend.
- (bb) the councillor must have the right to put questions to the witnesses called by the Chairperson;
- (cc) the committee must have the right to put questions to the witnesses called by the Chairperson for the purposes of clarifying any issues;
- (dd) the councillors must have the right to call other witnesses in support of the councillor's case; and
- (ee) the Chairperson and the councillor concerned may address the committee after all the evidence has been heard and before the committee makes a decision.

(q) The Municipal Manager must provide facilities including personnel to assist the Committee including the recording of the hearing(s) which record must contain all particulars related to the hearing including-

- (aa) the names of the parties and their representatives;
- (bb) the names of the witnesses;
- (cc) the plea;

- (dd) the evidence led;
- (ee) the finding; and
- (ff) any recommended sanction.

(r) In the event that the Chairperson becomes aware that councillor will not be able to attend the hearing after delivery of the notice, the Chairperson must attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings.

(s) If the Chairperson is unable to establish reasons why the councillor has failed to attend the hearing, the committee must commence the proceedings in the absence of the councillor.

(t) At the end of the hearing, the special committee must consider all the evidence. If a majority of the members of the committee find that, on a balance of probabilities-

- (aa) the councillor has been absent from three (3) or more consecutive meetings of the Council; or
- (bb) the councillor has been absent from three (3) or more consecutive meetings of a committee which that councillor is required to attend, the committee must make an appropriate finding and recommendation(s) to the municipal council.

(u) The council must consider the finding and recommendation of the special committee and make an appropriate decision.

(v) The outcome of the said investigation and the Council's decision on the matter must be reported to the MEC, which report, together with the Council's resolution on the matter, must be forwarded to the MEC within fourteen days of the Council's decision.

(w) The councillor must be notified in writing within seven days of receipt of the council's decision, and the said notice must at least contain the following information-

- (aa) whether or not the councillor has been found guilty of the alleged breach;
- (bb) the grounds on which such a finding was made;
- (cc) the sanction to be imposed; and
- (dd) the councillor's right to appeal to the MEC.

(7) Other breaches of the Code

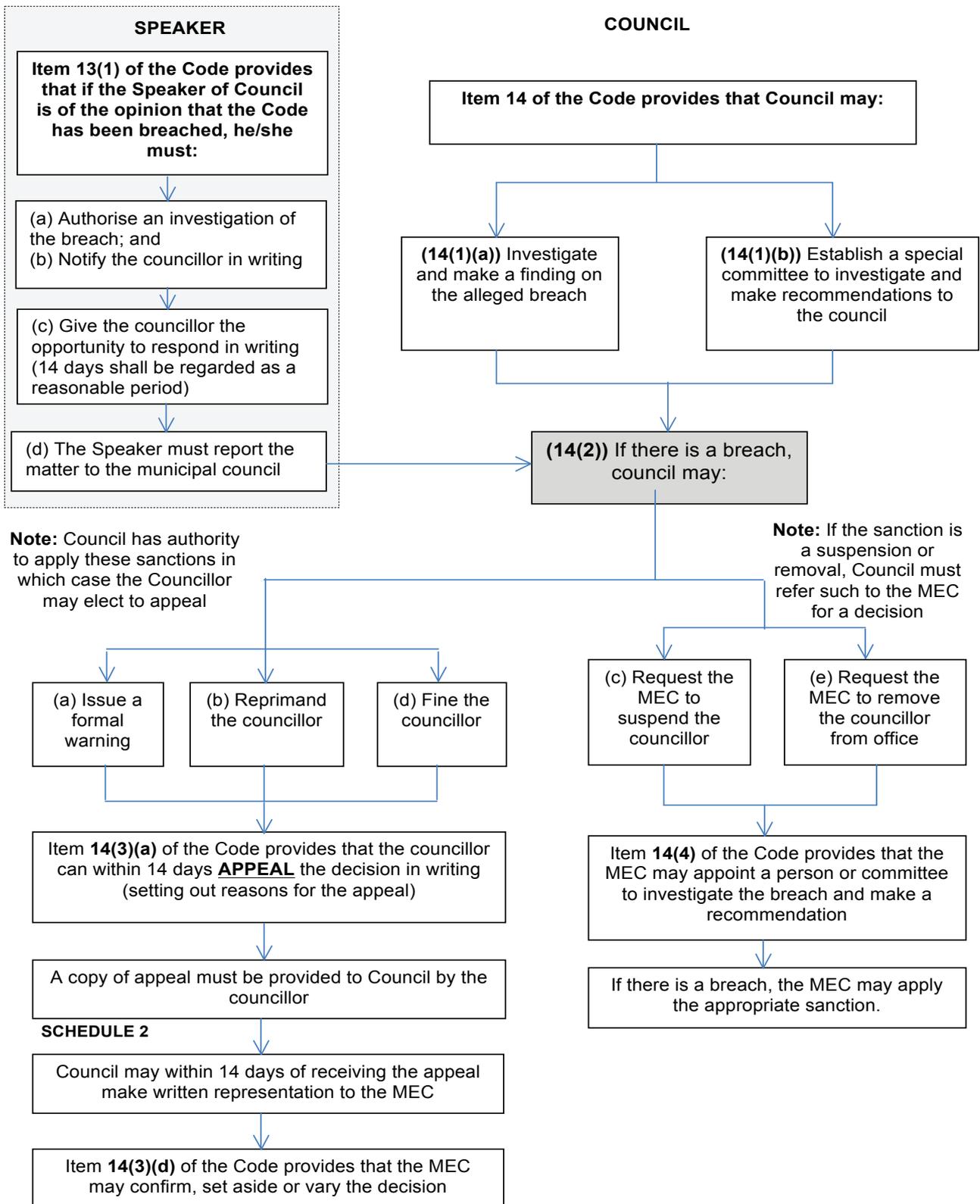
(1) Sub-paragraphs 6(2)(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u), (v) and (w) must be applicable in dealing with other breaches in terms of the Code.

(2) In dealing with other breaches of the Code, the council must consider any mitigating and extenuating circumstances prior to the imposition or recommendation on a sanction.

(3) The council should be consistent with regard to the sanction imposed for similar breaches and the council should endeavor to ensure that the sanction is proportionate to the breach.

(4) Schedule 6 contains a schedule of fines for breaches of the Code. The Schedule is a guideline to ensure uniformity. Each case must be considered by Council in its merits with consideration of mitigating and extenuating circumstances.

CHAPTER 4: SCHEDULES
SCHEDULE 1
FLOWCHART



SAMPLE NOTICE OF A PRELIMINARY INVESTIGATION

_____ **MUNICIPALITY**

Per Hand:
Date:
Councillor:

This serves to notify you that an investigation into the following allegation(s) against you has been commissioned:

- 1. You may request further particulars pertaining to the allegations.**
- 2. You must respond to the abovementioned allegations within _____ days of receiving this notice.**

Yours faithfully,

Chairperson:
Date:

I, the undersigned, confirm that I have received the above notification.

Councillor:
Date:

SCHEDULE 3

SAMPLE NOTICE TO ATTEND A HEARING

_____ **MUNICIPALITY**

Per Hand:
Date:

Dear Councillor:

This serves to notify you that you are required to attend a hearing to consider the following allegation(s) against you:

Details regarding the hearing are as follows:

Time: _____

Date: _____

Place: _____

You have the following rights, to -

- 1. be represented at the hearing;**
- 2. present evidence at the hearing;**
- 3. call witnesses;**
- 4. question any of council's witnesses;**
- 5. an interpreter; and**
- 6. be present at the hearing. If you fail to attend without good cause, the hearing may be conducted in your absence.**

You are requested to notify the committee prior to the hearing if an interpreter is required in order to allow for the necessary arrangements to be made.

Yours faithfully,

For Municipality:

Date:

I, the undersigned, confirm that I have received the above notification.

Councillor:

Date:

SCHEDULE 4**SAMPLE RECORD OF HEARING****Details of the hearing and representation****Date and time of hearing:****Name of councillor:****Name of councillor representative:****PRESENT:****Chairperson:****Members of Special Committee:****Interpreter:****Councillor's witnesses:****Council's witnesses:****Preliminary steps:****2. The Chairperson:**

- (1) introduces all present;
- (2) explain the proceedings that are to be followed and the method of recording the proceedings.
- (3) confirm the language preference of the councillor and ensure interpreter is present (if applicable);
- (4) confirm if the councillor has representations;
- (5) establish the presence of witnesses; and
- (6) read out the councillor's rights.

The charge**3. The councillor is charged with the following offence(s):****Plea**

- 4.(1) Record a guilty or not guilty plea:
- (2) If a plea of guilty is recorded, skip item 5 to 6 below.

Council's case**5.(1) Council presents its case:**

(2) Cross-examination by councilor or representative:

Councillor's case**6.(1) Councillor presents his or her case:**

(2) Cross-examination by committee:

Finding

7. After having considered the evidence, the committee makes a finding on the alleged breach.

(1) The reasons for the finding:

(2) The recommendations are:

(3) If a finding of not guilty is made, close the hearing.

Sanction

8.(1) Consider mitigating or extenuating circumstances, prior to the imposition of a sanction:

(2) The council considers the committee's recommendation and councillor's representation's and imposes the following sanction:

Notification of outcome of hearing

9. The councillor is notified in writing of the outcome of the disciplinary hearing and of any sanction imposed.

Right of appeal

10. The councillor is advised of his or her right of appeal against the sanction in terms of Item 14(3)(a) of the Code.

SCHEDULE 5

SAMPLE OUTCOME OF HEARING

_____ MUNICIPALITY

Date:

To: (councillor's name and address)

OUTCOME OF HEARING

With reference to the hearing held on in which a breach was investigated against you, the findings are as follows:

1. you have been found to have breached / not breached Item _____ of the Code of Conduct;

2. the reasons for the finding are as follows:

3. The council considered the findings and imposed the following sanction:

Please take note that you have the right to appeal against the sanctions of the hearing. If you decide to appeal, your grounds for appeal must be lodged within fourteen working days of having been notified of the decision of the council. Please lodge your appeal with the MEC for local government in terms of Item 14(3)(a) and 14(3)(b) of the code.

.....
Council **Date**

SCHEDULE 6

SCHEDULE OF FINES

This Schedule shall serve as a guideline to Council on the determination of sanctions in terms of the Code. The sanctions included in this Schedule shall be read in conjunction with relevant by-laws and adopted policies.

OBLIGATION	ITEM OF THE CODE	PENALTY
<p>A councillor must-</p> <p>a) perform the functions of office in good faith, honestly and a transparent manner; and</p> <p>c) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.</p>	<p>Item 2 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 1 month salary, which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council which conflicts with any legislation applicable to local government.</p>	<p>Item 2A of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 month salary, which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Where the consequences of the unlawful votes have detrimental financial implications, Council or other authorities may also institute civil recovery proceedings.</p>
<p>A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or that councillors is required in terms of the Code to withdraw from the meeting.</p>	<p>Item 3 of the Code</p>	<p>A councillor who is absent at a meeting of the council or committee of council without obtaining leave of absence is liable for a fine of 2 weeks salary per meeting, which must be deducted from that councillor's allowance. This must also apply where leave of absence is declined and the councillor nonetheless remains absent at such a meeting.</p> <p>A councillor who fails to remain in attendance at a Council or committee meeting for a period exceeding an hour without having obtained the consent of the Council or the committee is liable for a fine of 2 weeks salary per meeting, which must be deducted from that councillor's allowance</p> <p>A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor. The Process outlined in Chapter 3 must be followed when removing a councillor in terms of this Item.</p>
<p>A councillor must-</p> <p>a) disclose to the municipal council, or to any committee of which that councillor is a member,</p>	<p>Item 5 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p>

<p>any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and</p> <p>b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.</p> <p>A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.</p>		<p>The Council may-</p> <p>(a) fine the councillor 1 month's salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.</p> <p>Except with the prior consent of the municipal council, a councillor may not-</p> <p>a) be a party to or beneficiary under a contract for the provision of goods or services to the municipality; or</p> <p>i) the performance of any work otherwise than as a councillor for the municipality;</p> <p>ii) obtain a financial interest in any business of the municipality; or</p> <p>b) for a fee or other consideration appear on behalf of any other person before the council or a committee.</p> <p>c)</p>	<p>Item 6 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may</p> <p>(a) fine the councillor 1 month salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
<p>When elected or appointed, a councillor must within 10 days declare in writing to the municipal manager the following financial interests held by that councillor;</p> <p>a) shares and securities in any company;</p> <p>b) membership of any close corporation;</p> <p>c) interest in any trust;</p> <p>d) directorships;</p> <p>e) partnerships;</p> <p>other financial interests in any business undertaking;</p> <p>f) employment and remuneration;</p> <p>g) interest in property;</p> <p>h) pension; and</p> <p>i) subsidies, grants and sponsorships by any organisation.</p> <p>j)</p> <p>Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.</p> <p>Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).</p>	<p>Item 7 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor 3 weeks salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
<p>A councillor who is a full-time councillor may not undertake any other paid work, except with the consent of municipal council which consent must not unreasonably be withheld.</p>	<p>Item 8 of the Code</p>	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p>

		<p>(a) fine the councillor a minimum of 2 weeks salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not request, solicit or accept any reward, gift or favour for-</p> <p>a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;</p> <p>b) persuading the council or any committee in regard to the exercise of any power, function or duty;</p> <p>c) making a representation to the council or any committee of the council; or</p> <p>d) disclosing privileged or confidential information.</p>	Item 9 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not without the permission of the municipal council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.</p>	Item 10 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not, except as provided by law-</p> <p>a) interfere in the management or administration of any department of the municipal council unless mandated by council;</p> <p>b) give or purport to give any instruction to any employee of the council except when authorised to do so;</p> <p>c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or</p> <p>d) encourage or participate in any conduct which would cause or contribute to mal-administration in the council.</p>	Item 11 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 3 months' salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; or</p> <p>(e) request the MEC to remove the councillor from office.</p>
<p>A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.</p>	Item 12 of the Code	<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary which must be deducted from that councillor's allowance;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p>

		<p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Assaulting any person on municipal premises or on municipal business.		<p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Stealing any property from municipal premises.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Malicious injury to municipal property.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 4 months' salary;</p> <p>(b) request the MEC to suspend the councillor for a certain period; and</p> <p>(c) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Being under the influence of alcohol or intoxicating drugs or partaking of alcohol or intoxicating drugs in any meeting of the Council or Committee of the Council.		<p>The Council may-</p> <p>(a) fine the councillor a minimum of 1 months' salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p> <p>Council or other authorities may also consider instituting criminal proceedings.</p>
Failing to fall silent when the Presiding Officer speaks or rises during a meeting.		<p>This shall depend on the severity of the action/s of the councillor.</p> <p>The Council may-</p> <p>(a) fine the councillor a minimum of 2 weeks' salary;</p> <p>(b) issue a formal warning;</p> <p>(c) reprimand the councillor;</p> <p>(d) request the MEC to suspend the councillor for a certain period; and</p> <p>(e) request the MEC to remove the councillor from office.</p>

Failing to obey any ruling, order or directive of the Presiding Officer at any meeting of the Council or any Committee		This shall depend on the severity of the action/s of the councillor. The Council may- (a) fine the councillor a minimum of 2 weeks' salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; and (e) request the MEC to remove the councillor from office.
Failing to leave the Chamber or Committee Room when ordered to do so by the Presiding Officer.		The Council may- (a) fine the councillor a minimum of 2 weeks' salary; (b) issue a formal warning; (c) reprimand the councillor; (d) request the MEC to suspend the councillor for a certain period; and (e) request the MEC to remove the councillor from office.

WATER SUPPLY BY-LAW, 20__

To provide for the supply of water by the Municipality; to establish levels of supply; to provide for measures to protect water installations and for the approval of work on water installations; to provide for water supply matters relating to the development of property; to set requirements for the establishment, testing, disinfection and use of water installations; to provide measures to prevent the undue consumption and the pollution of water; to provide special measures for fire installations; to provide for payment for water supplied; to create offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the _____ Municipal Council recognises that water is needed by people, plants and animals to survive, and that water is necessary for social and economic development, to create jobs, for recreation and for health, religious and spiritual purposes;

WHEREAS the _____ Municipal Council recognises that, as a water services authority, it has a duty to all customers or potential customers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to clean water services;

WHEREAS the _____ Municipal Council recognises –

- (a) the need to regulate access to water services in an equitable way, taking into account financial, technological, socio-economic and conservation factors;
- (b) the duty of customers to pay reasonable charges;
- (c) the right of the water services authority to limit or discontinue the provision of water services if there is a failure to comply with reasonable conditions set for the provision of such services;
- (d) the need to manage the conflict between different uses and users in different catchments;
- (e) the need to provide a means of providing access to water services to those who are still without such access;
- (f) the need to maintain and improve services already supplied in a sustainable manner;
- (g) the need to provide various measures to assist those who are economically unable to meet normal service charges; and
- (h) the need to provide water services in support of all forms of economic development and to carry out the above in a manner which supports the preservation of impacted ecosystems;

WHEREAS the Water Services Act establishes the Municipality as a water services authority and the Municipality's Water and Sanitation Unit as a water services provider for the Municipality's area of jurisdiction;

WHEREAS the eThekweni Municipal Council has competence in terms of Part B of Schedule 4 of the Constitution of the Republic of South Africa, 1996 relating to such matters as the control of the provision of water services;

WHEREAS the eThekweni Municipal Council has competence, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 to make and administer By-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS the eThekweni Municipality has a duty to make By-laws for the provision of water services in terms of section 21 of the Water Services Act;

NOW THEREFORE the eThekweni Municipal Council, acting in terms of section 156 read with Part B of Schedule 4 of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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INTERPRETATION****Definitions**

1. In this By-law, unless the context indicates otherwise – **“approved”**
means approved by the Municipality;

“authorised official” means a person authorised to implement the provisions of this
By-law, including but not limited to –

(a) peace officers as contemplated in section 334 of the Criminal Procedure
Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African
Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the
Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes
of search and seizure, where such person is not a peace officer, such person must be accompanied by a
peace officer;

“backflow” means the flow of water in any pipe in a direction opposite to the normal direction of flow;

“back siphonage” means the backflow of water resulting from negative pressures in a water installation or in
the water supply system;

“borehole” means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean
water;

“capacity” in relation to a storage tank means the volume of the tank between the operating water level of
the tank and the invert of the outlet from the tank;

“chase” means a space or groove in a masonry wall or through a floor for pipes or ducts;

“combined installation” means a water installation used for fire fighting and domestic, commercial or industrial
purposes;

"**commercial purposes**" means for the purpose of carrying on a business or trade;

"**communication pipe**" means a pipe which is vested in the Municipality and installed by it for the purpose of carrying water from a main to a water installation;

"**compliance certificate**" means a certificate issued on the prescribed form by a registered contractor or a registered responsible plumber certifying that the work complies with this By-law and other required standards;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Council**" means the _____Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"**credit authority**" means any arrangement made by written agreement for the payment of any arrears in instalments, concluded between a customer and the Municipality;

"**customer**" means any person with whom the Municipality or its authorised agent has entered into an agreement for the provision of a municipal water service to the premises of which such person is an owner, including any person who is authorised by the owner to enter into such an agreement with the Municipality in respect of the owner's premises;;

"**domestic purposes**" means the supply of water to dwelling units for purposes including drinking, ablution and preparation of food;

"**dwelling unit**" means accommodation intended for human habitation which has –

- (a) its own metered electricity supply; (b) its own exclusive entrance; and
- (c) a kitchen for the sole use of its residents;

"**finished ground level**" means the level of the earth or any other surface on the ground;

“fire installation” means a water installation which conveys water solely for the purpose of fire fighting;

“flow limiter” means an electronic device which allows for a normal flow rate but restricts the daily volume to a pre-set amount of 300 litres per day;

“flow restrictor” means a washer which is installed in the water connection which allows a daily consumption of approximately 360 litres in a six hour period but at a low flow rate;

“general installation” means a water installation which conveys water for domestic, commercial or industrial purposes;

“Head of Department” means the person appointed by the Municipality as the head of the municipal department responsible for the supply of water;

“illegal connection” means any connection to the water supply system which has not been authorised or approved by the Municipality;

“industrial purposes” in relation to the supply of water, means water supplied to premises which are used for the manufacturing, production, extraction, adaptation, alteration, renovation, repair, processing or servicing of any article or material and includes the use thereof –

(a) as a factory;

(b) by a building contractor for the storage of builder’s material;

(c) for the stacking, storing or preparation for resale of scrap material; (d) as a storage warehouse;

(e) as an office, caretaker’s flat if it is 100m² or less, or for any other purpose

which is incidental to or reasonably necessary in connection with the use thereof as a factory, builder’s yard or scrap yard,

but does not include the use of any land or building as a fuelling or service station;

“installation work” means construction or any other work carried out on a water installation;

"ISO 6509 of 1981" means the International Standards Organisation's requirements relating to the determination of dezincification of brass;

"leak period" means either the metering period –

- (a) immediately before the date on which a leak is repaired; or
- (b) during which a leak is repaired:

Provided that the leak period does not exceed 65 days;

"main" means a pipe, other than a communication pipe, which vests in the Municipality and is used by it for the purpose of carrying water to customers;

"member" means a constituent part of a structural whole;

"metering period" means the time interval between two successive billed meter readings but excludes any leak periods;

"Municipality" means the _____ Municipality, a category _____ Municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of Provincial Notice No. _____;

"Municipal Manager" means the official of the Municipality appointed as contemplated in section 54A of the Systems Act;

"occupier" includes –

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and
- (b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

"operating water level" means the level of water reached in a storage tank when the valve controlling the inlet of water to the tank closes under normal operating conditions;

"owner" means –

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;

- (b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;
- (d) where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or
- (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) as common property, 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;

“**pollution**” means the introduction into the water supply system, or a water installation, of any substance which could make the water harmful to health or impair its quality;

“**premises**” means any piece of land whose external surface boundaries are delineated on a –

- (a) general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927) or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (b) sectional plan registered in terms of the Sectional Titles Act;

“**prescribed**” means as determined by resolution of the Council;

“**prescribed charge**” means a charge prescribed by resolution of the Council;

“**Provincial Gazette**” means the official Gazette of the province concerned;

“**registered contractor**” means a person who is registered with the Municipality as an approved contractor in accordance with Chapter 7 of this By-law;

"**responsible plumber**" means a person who is registered with the Municipality as an approved plumber in accordance with of Chapter 7 of this By-law;

"**SABS**" means that South African Bureau of Standards established in terms of the Standards Act, 1945 (Act 24 of 1945);

"**SABS specification 241-1971**" means the Water for Domestic Supplies specifications published in the *Government Gazette* under General Notice 463 dated 9 July 1982;

"**Sectional Titles Act**" means the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"**schedule of accepted pipes and water fittings**" means the list of approved pipes and water fittings for use in water installations as prescribed by the Municipality, together with any conditions relating to the use of such pipes or fittings;

"**service pipe**" means a pipe which is part of a water installation and which connects with the communication pipe;

"**storage tank**" means a tank forming part of a water installation and used for the storage of water, but excludes a –

- (a) cistern serving a water-closet pan or a urinal; and
- (b) tank used for the storage of hot water;

"**terminal water fitting**" means a water fitting at the outlet of a water installation which controls the discharge of water from the water installation;

"**urine diversion toilet**" means a toilet which separates urine and faecal matter and which consists of –

- (a) two pits, used alternatively and with provision made for the manual emptying of each pit by the occupier once the material has dried and is safe to remove;
- (b) a cover slab;
- (c) a superstructure;
- (d) a vent pipe to each pit; and
- (e) a special pedestal and separate urinal to divert urine to soak away such that only faecal matter collects in the pit;

“**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 –

(a) which are situated on any premises;

(b) vested in the owner of the premises; and

(c) used or intended to be used in connection with the use of water on the premises,

and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the communication pipe relating to such premises or is otherwise laid with the permission of the Municipality;

“**water services**” means the supply of potable water and sundry services;

“**Water Services Act**” means the Water Services Act, 1997 (Act 108 of 1997);

“**water supply system**” means the structures, aqueduct, pipes, valves, pumps, meters or other appurtenances 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; and

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

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Object of By-law

3. The object of this By-law is to regulate water supply in a manner which –

- (a) ensures the efficient, affordable, economical and sustainable provision of water services taking into account financial, technological, socio-economic and conservation factors;
- (b) provides for the duty of –
 - (i) customers to pay reasonable charges; and
 - (ii) the Municipality to provide certain assistance to customers who are unable to meet normal services charges;
- (c) allows for the right of the Municipality to limit or discontinue the provision of water services in appropriate circumstances;
- (d) ensures the environment is protected for the benefit of present and future generations; and
- (e) complies with the Water Services Act.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 2

LEVELS OF SUPPLY: HOUSEHOLDS AND INFORMAL SETTLEMENTS

Supply of potable water to households

5. Potable water may be supplied for domestic purpose only via one of the following water supply systems:
- (a) a manually-operated water dispenser or standpipe;
 - (b) an individual household yard supply which supplies 300 litres per day either via –
 - (i) a ground tank, where the flow is regulated through an electronic bailiff unit or metered flow limiting device; or
 - (ii) a yard tap, where the flow is regulated through a metered flow limited device;
 - (c) a semi-pressure supply provided through a roof tank;
 - (d) a full pressure supply;
 - (e) a full pressure supply with a restrictor, such as a flow limiter;
 - (f) internal metering to individual units installed on private property and supplied through a bulk meter installed outside the boundary; or

(g) internal metering to all multi-occupancy buildings installed after 2005.

Temporary supply of water to informal settlements

6.(1) The minimum level of supply of potable water to an informal settlement must be a water dispenser or standpipe within 200 metres of every household.

(2) The water dispenser or standpipe contemplated in subsection (1) must either be located on the boundary of the settlement or, where it exists along an established road.

CHAPTER 3

APPLICATION FOR SUPPLY OF WATER

Application for supply of water

7.(1) No person may take, or be supplied with, water from the water supply system unless he or she has applied to the Municipality on the prescribed form for the supply of water and the application has been granted.

(2) An application for water supply must be on the form prescribed by the Municipality and must be accompanied by such information and supporting documents as the Municipality may require.

(3) When the Municipality grants an application for water supply, this constitutes a binding contract between the Municipality and the customer, which takes effect on the date –

(a) referred to or stipulated in the application form; or

(b) of the Municipality's approval.

(4) A customer is liable for the prescribed charges for the supply of water granted to him or her until the agreement referred to in subsection (3) has been terminated in accordance with section 10.

Special agreements

8.(1) The Municipality may enter into a special agreement for the supply of water –

- (a) if the supply of water to an applicant inside its area of jurisdiction necessitates the imposition of conditions not contained in the prescribed form; and
- (b) with an applicant outside its area of jurisdiction.

(2) If the Municipality, in terms of a special agreement, provides a supply of water to an applicant outside its area of jurisdiction it may permit him to sell water to other persons outside its area of jurisdiction, subject to any conditions that may be imposed by the Municipality .

Purpose of supply

9. Water supplied by the Municipality must be used solely for the purpose specified in the agreement for a supply of water.

Termination of agreement for supply of water

10.(1) A customer may terminate a water supply agreement by giving not less than five working days' written notice to the Municipality.

(2) The Municipality may, on not less than five working days' written notice, terminate an agreement to supply water to a customer if –

- (a) the customer has not consumed any water during the preceding six months and has not made arrangements satisfactory to the Municipality for the continuation of the agreement;
- (b) the customer has committed a breach of this By-law or any other law and has failed to rectify that breach when given notice to do so;
- (c) the Municipality cannot continue to supply him or her with water; or
- (d) in terms of an agreement with another municipality, that municipality is to supply water to the customer.

(3) The Municipality may without notice terminate an agreement for supply of water if a customer has vacated the premises to which the agreement relates.

Provision of security

11.(1) Subject to the Credit Control and Debt Collection By-law, the Municipality may, as security for payment, require an applicant to deposit with it, at the same time as submitting

his or her application, a sum of money representing the cost of the quantity of water which in the Municipality's opinion would be supplied to the customer during a period prescribed by the Municipality.

(2) A deposit paid in terms of subsection (1) may not be regarded as being in payment of a current account due for the supply of water.

(3) Subject to the Credit Control and Debt Collection By-law the Municipality may, by notice in writing, require the customer to increase the deposit, as the case may be, by an amount specified in the notice.

(4) If a customer fails to comply with a notice referred to in subsection (3) within 30 days of the date of issue, the Municipality may reduce or discontinue his or her supply, until such time as an additional deposit is provided.

(5) Subject to the Credit Control and Debt Collection By-law the Municipality may, of its own accord or at the request of a customer, reduce the amount of a deposit if it is satisfied that –

(a) the reduction is justified in the light of the present supply of water to the customer;

or

(b) there was a change in the circumstances pertaining to the assessment of the original amount of the deposit.

CHAPTER 4

PROVISIONS REGULATING SUPPLY OF WATER BY THE MUNICIPALITY

Unauthorised use of water

12. A person may not take water from the water supply system except through a communication pipe or from a hydrant.

Communication pipes

13.(1) If an application for a supply of water in respect of premises has been granted and no communication pipe exists in respect of the premises, the owner must apply on the prescribed form, and pay the prescribed charge, for the installation of such a pipe.

(2) If an application is made for a supply of water to premises which is so situated that it is necessary to extend the water supply system in order to supply water to the premises, the Municipality may agree to the extension subject to any conditions it may impose.

(3) A communication pipe provided and installed by the Municipality must –

- (a) be located in a position determined by the Municipality; and
- (b) terminate at a point between 140) and 160 millimetres inside the boundary of land owned by or vested in the Municipality or over which it has a servitude or other right.

(4) The Municipality may provide and install a communication pipe of the size requested by the applicant, if any.

(5) The owner of the premises must, at his or her own cost, effect the connection between his or her water installation and the communication pipe serving his or her premises, unless the Municipality directs otherwise.

(6) The Municipality may specify –

- (a) the type of joint which must be used to connect to the connection pipe; and
- (b) regarding the portion of the service pipe between the communication pipe and the owner's isolating valve, the –
 - (i) material of which this portion of service pipe is made; and
 - (ii) method of installation of this portion of service pipe.

(7) The owner must secure the portion of the communication pipe and the owner's isolating valve against movement.

(8) The Municipality may determine the number of communication pipes which may serve a water installation.

(9) A water installation may be connected only to the communication pipe or pipes provided for it by the Municipality: Provided that if two or more parts of a water installation are served by separate communication pipes, the parts may not be interconnected without the prior written permission of the Municipality and are subject to such conditions as it may impose.

(10) No water installation may be supplied with water through a communication pipe which was installed to provide water for building construction purposes until a compliance certificate has been received by the Municipality.

(11) If the Municipality considers that the size of an existing communication pipe is unsuitable by reason of the quantity of water supplied to a customer, it may by written notice require the owner to pay the prescribed charges for the removal of the existing communication pipe and the installation of a communication pipe of a size acceptable to the Municipality.

(12) The Municipality may, in the case of premises which are divided into separately occupied portions, by written notice require the owner at his or her own cost and within the period specified in the notice to—

- (a) alter the water installation serving any one portion so that it is separate from, and independent of, the water installation serving any other portion;
- (b) make application for a communication pipe to serve each portion; and
- (c) connect the water installation referred to in paragraph (a) to the communication pipe referred to in paragraph (b).

(13) The Municipality may give the occupier of a portion referred to in subsection

(12)(a) notice in writing that he or she is required to make application for a supply of water.

(14) If the Municipality intends to replace a communication pipe, it must give the owner of the premises concerned not less than 10 working days' written notice of the date after which the owner must effect a connection between his or her water installation and the replacement communication pipe.

Interconnection between premises

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

Conditions of supply

15.(1) The granting of a supply of water by the Municipality does not constitute an undertaking by it to maintain at any time or at any point in its water supply system –

- (a) an uninterrupted supply;
- (b) a specific pressure or rate of flow in such supply; or
- (c) a specific standard of quality of such water.

(2) If an owner requires the maintenance of any of the conditions referred to in subsection (1) on his or her premises, he or she must make provision in his or her installation for such requirement.

(3) The Municipality may interrupt the supply of water to any premises without prior notice.

(4) If, in the opinion of the Municipality the consumption of water by a customer adversely affects the supply of water to another customer, the Municipality may apply such restrictions as it deems fit to the supply of water to the first-mentioned customer in order to ensure a reasonable supply of water to the other customer.

(5) The Municipality may specify the maximum height to which water may be supplied from the water supply system.

Cutting-off and restricting

16.(1) Without prejudice to any other right the Municipality may have, the Municipality may, if a customer has –

- (a) failed to pay a sum due to the Municipality in terms of this By-law or any other applicable By-law; or
- (b) committed a breach of this By-law and has failed to rectify such breach within the period specified in a written notice served on him or her requiring him or her to do so,

by written notice inform him or her of its intention to cut off or restrict his or her supply of water on a specified date and it may on or after that date so cut off or restrict such supply.

(2) If in the opinion of the Municipality it is necessary to cut off the supply of water as a matter of urgency to prevent waste of water, damage to property, danger to life or pollution of water, the Municipality may –

- (a) without prior notice, cut off the supply of water to any premises and enter any premises to do emergency work at the owner's expense, as he or she deems necessary; and

(b) by written notice require the owner to do any further work, at his or her cost and within a specified period, as the Municipality may deem necessary.

(3) The customer must pay the following charges before the restoration of water supply:

- (a) the prescribed charge for the cutting-off or restricting of his or her supply in terms of subsection (1) or (2); and
- (b) the prescribed charge for restoration of the water supply.

Interruption of supply at customer's request

17.(1) The Municipality may, at the written request of a customer –

- (a) turn off the supply of water to his or her premises; and
- (b) reinstate the supply,

on the dates requested by him or her.

(2) The customer must prior to the reinstatement of his or her water supply as contemplated in subsection (1)(b) pay the prescribed charge for the turning-off of his or her supply of water, and for its reinstatement.

Disconnection of water supply

18.(1) The Municipality may disconnect a water installation from the communication pipe and remove the communication pipe if the –

- (a) agreement for supply has been terminated in terms of section 17 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) building on the premises concerned has been demolished.

Metering of supplies

19.(1) All water supplied to a customer by the Municipality must pass through a meter for the purpose of measuring the quantity of the water: Provided that the Municipality may dispense with the use of a meter in the case of –

- (a) an automatic sprinkler installation if supplied directly through the communication pipe. This is not applicable to an automatic sprinkler that is supplied through a storage tank and pumped into the system which would be through the metered connection;

- (b) a fire installation in respect of which steps have been taken to detect unauthorised draw-off of water for purposes other than fire fighting; and
- (c) special circumstances at the Municipality's discretion.

(2) A meter referred to in subsection (1), and its associated apparatus –

- (a) must be provided and installed by the Municipality; (b) remains the Municipality's property; and
- (c) may be changed by the Municipality whenever it deems necessary.

(3) The Municipality may install the meter, and its associated apparatus, serving a water installation at any point in the installation.

(4) If the Municipality installs a meter in a water installation in terms of subsection (3), it may install a section of pipe and associated fittings between the end of its communication pipe and the meter, and such section must be deemed to form part of the water installation.

(5) If the Municipality installs a meter, together with its associated apparatus, in a water installation in terms of subsections (3) and (4), the owner must –

- (a) provide a place satisfactory to the Municipality in which to install the meter; (b) ensure that unrestricted access is available to the meter at all times;
- (c) be responsible for the meter's protection and be liable for the costs arising from loss or damage of the meter or its associated apparatus;
- (d) ensure that no connection is made to the pipe in which the meter is installed, between the meter and the communication pipe serving the installation; and
- (e) make provision for the drainage of water which may be discharged from the pipe in which the meter is installed, in the course of work done by the Municipality on the meter.

(6) No person may, other than an authorised official, –

- (a) disconnect a meter and its associated apparatus from the pipe in which they are installed;
- (b) break a seal which the Municipality has placed on a meter; and
- (c) in any other way interfere with a meter and its associated apparatus.

(7) If the Municipality considers that the size of a meter is unsuitable by reason of the quantity of water supplied to the premises, the Municipality may install a meter of such size

as it deems necessary, and may recover the prescribed charge for the installation of the meter from the owner of the premises concerned.

(8) The Municipality may require the installation, at the owner's expense, of a meter to each unit on the premises which is separately occupied for the purpose of determining the quantity of water supplied to each such unit.

Quantity of water supplied to a customer

20.(1) For the purpose of assessing the quantity of water supplied through a meter to a customer over a specified period, it must be deemed, unless the contrary can be proved, that

–

- (a) such quantity is represented by the difference between readings of the meter taken at the beginning and end of the period;
- (b) the meter was registered correctly during the period; and
- (c) the entries in the records of the Municipality were correctly made.

(2) The estimate by the Municipality as to the quantity of water supplied or taken, and the amount owing by the customer concerned to it, must be deemed to be correct if –

- (a) water is supplied to, or taken by, a customer without its passing through a meter;
- and
- (b) a contravention of the provisions of section 19(6) occurs.

Water restrictions

21.(1) The Municipality may, by notice –

(a) prohibit or restrict the consumption or use of water –

- (i) for specified purposes or otherwise than for specified purposes;
- (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
- (iii) in a specified manner or otherwise than in a specified manner; (b) determine and

impose –

- (i) limits on the quantity of water which may be consumed over a specified period; (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (i); 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 nature 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 in subsection (1) to specified areas and classes of customers, premises and activities, and provide for and permit deviations and exemptions from, and relaxation of, any of the provisions on such grounds as it deems fit.

(3) The Municipality may –

(a) take, or by written notice require a customer at his or her own cost to take such measures as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1) including, but not limited to, the installation of measurement devices and devices for restricting the flow of water; and

(b) disconnect, or for such period as it deems fit, restrict the supply of water to a premises in the event of a contravention of, or failure to comply with, the terms of a notice published in terms of subsection (1), and where the supply has been cut off it may only be reinstated when the prescribed charge for disconnecting and reconnecting the supply has been paid.

(4) In addition to the person who contravened, or failed to comply with, a notice published in terms of subsection (1), the customer to whom the water is supplied is presumed also to have committed the contravention or to have failed to comply, unless it is proved that he or she took all reasonable steps to prevent the contravention or failure to comply by any other person: Provided that the fact that the customer issued instructions to another person may not of itself be accepted as sufficient proof that he or she took all such reasonable steps.

(5) The provisions of this section also apply to water supplied directly by the Municipality to customers outside its area of jurisdiction, despite anything to the contrary in the conditions governing that supply, unless otherwise specified in the notice published in terms of subsection (1).

Special metering

22.(1) If the Municipality wants to determine the quantity of water being used in a part of the water installation for purposes other than charging for water consumed, the Municipality may,

after written notice to the owner concerned, install a meter at a specified point in his or her water installation.

(2) The installation of a meter referred to in subsection (1), its removal, and the reinstatement of the water installation after such removal must be carried out at the cost of the Municipality.

(3) The provisions of sections 19(5) and (6) apply, with any changes required by the context, to a meter installed in terms of subsection (1).

CHAPTER 5

WATER SUPPLY TO HOUSING DEVELOPMENTS

Public participation

23.(1) The Municipality must, determine the levels of water supply, and any applicable conditions relating to water supply –

- (a) to municipal housing projects; (b) to sectional title developments;
- (c) to mini-sub residential developments;
- (d) to development approvals for the establishment of private townships under the KwaZulu Natal Planning and Development Act, 2008 (Act No. 6 of 2008); and
- (e) to sub-divisions.

(2) Before making a determination contemplated in subsection (1), the Municipality must publish a notice –

- (a) informing the public that a draft document setting out levels of water supply and applicable conditions is available for inspection at a specified location and between specified hours;
- (b) inviting interested and affected persons to attend a public meeting; and
- (c) inviting comments and objections from the public, to be received by the Municipality by a specified date not less than 30 days after the publication of the notice.

(3) The notice referred to in subsection (2) must –

- (a) contain a summary of the key aspects of the levels of water supply and applicable conditions; and
- (b) be published in two local daily newspapers that circulate in the area: Provided that if a community newspaper which is free to the public is circulated in the area, then the

notice may be published in the community newspaper and one local daily newspaper that is circulated in the area.

(4) The public meeting referred to in subsection (2) must be held not less than seven days or more than 60 days after the date of the publication of the notice referred to in subsection (2).

(5) At the public meeting, the Municipality must –

- (a) present and explain the levels of water supply and applicable conditions;
- (b) reasonably respond to any queries related to levels of water supply and applicable conditions;
- (c) give interested and affected parties an opportunity to make comments and to lodge objections; and
- (d) keep minutes of the meeting.

(6) The Municipality must consider all objections or comments received from the public regarding levels of water supply and applicable conditions.

(7) After having considered the comments and objections, the Council may, within a reasonable period from the commencement of the public participation process –

- (a) adopt the levels of water supply and applicable conditions;
- (b) amend and adopt the levels of water supply and applicable conditions; or
- (c) reject the levels of water supply and applicable conditions.

(8) Notwithstanding the provisions of section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Council may not delegate the decision-making powers referred to in subsection (7).

(9) If the Council adopts levels of water supply and applicable conditions, a notice must be published in the manner contemplated in subsection (3), as well as in the *Provincial Gazette*

–

- (a) confirming that the levels of water supply and applicable conditions have been adopted;
- (b) giving notice of the commencement date of the levels of water supply and applicable conditions;
- (c) summarising the key aspects of the levels of water supply and applicable conditions; and

(d) confirming that levels of water supply and applicable conditions are available for inspection at a specified location and between specified hours.

Amendment, revocation and review of water supply levels

24. The Council –

(a) may amend or revoke an adopted levels of water supply and applicable conditions subject to the provisions of the Promotion of Administrative Justice Act ,2000 (Act No. 3 of 2000) after following the public participation process set out in section 23; and

(b) must review adopted levels of water supply and applicable conditions as the Municipality deems fit.

Servitudes

25.(1) In the event that water services are required to transverse property which is not registered in the name of, or vested in the Municipality, those services must be laid within servitudes registered in favour of the Municipality.

(2) Where the services are laid in a private road, the servitude must be registered over the full width of the road to cover both water and sewerage reticulation networks and individual freehold site connections.

(3) The servitude agreement for each property must contain a clause –

(a) indemnifying the Municipality against all claims arising from any failure of either the water mains or sewage reticulation owned by the Municipality but situated on private property; and

(b) permitting the Municipality staff or designated contractors free and unimpeded access to attend to any matters or work at any time on the property.

CHAPTER 6
APPROVAL OF INSTALLATION WORK

Approval to be obtained for installation work to be done

26.(1) If an owner wishes to have installation work done, he or she must first obtain the Municipality's written approval: Provided that approval is not required for the repair 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) must be made on the prescribed form, and must be accompanied by the prescribed –

(a) charge; and

(b) number of copies of the drawings referred to in section 28 of the proposed work.

(3) The provisions of subsections (1) and (2) do not apply to a registered contractor who replaces a fixed water heater or its associated protective devices: Provided that he or she notifies the Municipality on the prescribed form not more than five working days after completing this work.

(4) Approval given in terms of subsection (1) must, subject to section 27, lapse after the expiry of a period of twenty four months after the month following the month in which the authority is given.

Extension of period of approval

27. The Municipality may, on written application by the owner prior to the expiry of the original period concerned and subject to payment of the prescribed charge, from time to time extend the period of validity of approval given in terms of section 26 –

(a) for a period not exceeding twelve months at a time; and

(b) subject to such conditions as it deems fit.

Drawings

28.(1) Drawings submitted in terms of section 26 must, unless otherwise permitted by the Municipality –

(a) indicate the nature and extent of the installation work to be done; (b) be on sheets not smaller than A4 size; and

(c) contain the –

- (i) title deed description of the premises;
- (ii) name of every street on which the premises abuts; and
- (iii) scales of the drawings and the north point.

(2) The drawings referred to in subsection (1) must indicate –

(a) the position and size of the existing and proposed communication pipe serving or to serve the premises;

(b) the location of every pipe, its size and the material of which it is manufactured; (c) the location of every water fitting and its description;

(d) the location of every storage tank and its capacity; (e) the location of every pump;

(f) details of the proposed accommodation for the Municipality's meter if it is to be installed within the premises;

(g) the pressure for which the installation has been designed; (h) the position of all overflows;

(i) equipment or plant which uses water as a heat exchange medium for cooling or heating purposes which is or may be connected to a water installation; and

(j) any other information that the Municipality may require.

(3) If the details of the water installation on more than one floor of a building are identical, these details may be drawn for one floor only.

(4) If more than one water installation is to be installed in a building, such installations may be shown on the same drawing: Provided they are clearly differentiated from each other.

(5) A schedule must be provided with each drawing or set of drawings, indicating the number of each type of terminal water fitting and its nominal size.

Copies of drawings to be kept on site

29. A complete set of approved drawings of installation work must be available at the site of the work at all times until receipt by the Municipality of the compliance certificate submitted in terms of section 38(1)(d).

Unauthorised work

30. If installation work has been done in contravention of this By-law, the Municipality may by written notice require the owner of the premises concerned, at his or her cost, if the work –

- (a) is complete, to take steps to ensure that the work complies with the provisions of this By-law; or
- (b) is in progress, to cease the work and remove all the work to the extent that it does not comply with the provisions of this By-law.

CHAPTER 7**CONTROL OF INSTALLATION AND OTHER WORK****Persons permitted to do installation and other work**

31.(1) A person who is not a contractor registered with the Municipality in terms of section 32 may not –

- (a) do installation work for which approval is required in terms of Chapter 6; (b) replace a fixed water heater or its associated protective devices;
- (c) inspect, disinfect and test a water installation, fire installation or a storage tank; (d) service, repair or replace a backflow preventer; or
- (e) install, maintain or replace a meter provided by an owner in a water installation.

(2) A person may not require or engage a person who is not a registered contractor to do the work referred to in subsection (1).

(3) The provisions of subsection (1) do not apply to a person acting in the scope of his employment with a registered contractor.

(4) Notwithstanding the provisions of subsection (1), a person who, in terms of any law in force immediately prior to the commencement of this By-law was entitled to do the work described in subsection (1) may continue to do such work for a period not exceeding twelve months after the commencement of this By-law.

- (5) The Municipality may permit a person who is not a registered contractor to do installation work on his or her own behalf on premises owned and occupied solely by him or herself and his or her immediate household: Provided that –
- (a) such person must make application in the prescribed form for permission and pay the prescribed fee; and
 - (b) the work must, on completion, be inspected and tested by an authorised official or a registered contractor, and may not be put into use until it has passed the test and the completion certificate referred to in section 38(1)(d) has been issued.

Registration of contractors

32.(1) Application for registration with the Municipality as a contractor must be made on the prescribed form and be accompanied by the prescribed fees.

(2) An applicant for registration as a contractor must –

- (a) be a person who –
 - (i) is registered in terms of this By-law as a responsible plumber in accordance with section 33, or who employs on a full-time basis a person registered as a responsible plumber; and
 - (ii) conducts his or her business from premises satisfactory to the Municipality;
- and
- (b) nominate an address for the purpose of the serving of notices and legal documents in terms of this By-law.

(3) Registration as a contractor expires on 31 December of each year unless a contractor was registered on or after 1 November in any year, in which case his or her registration expires on 31 December of the following year.

(4) An application for renewal of registration as a contractor must be lodged with the Municipality before 1 December and must be accompanied by the prescribed fees.

(5) If a change takes place in the particulars reflected in an application referred to in subsection (1), the contractor must, within 14 days of the change, notify the Municipality of the change in writing.

(6) Notwithstanding the provisions of this By-law, a person who, in terms of any law in force immediately prior to the commencement of this By-law was entitled to do the work described

in subsection (1), may continue to do such work for a period not exceeding 12 months after the commencement of this By-law.

Registration of responsible plumbers

33.(1) Application for registration with the Municipality as a responsible plumber must be made on the prescribed form and must be accompanied by the prescribed charge.

(2)(a) An applicant for registration must –

- (i) have the qualifications prescribed by the Municipality;
- (ii) have not less than five years' practical experience in installation work obtained after achieving the qualifications referred to in sub-paragraph (i); and
- (iii) provide proof satisfactory to the Municipality as to his or her knowledge of the provisions of this By-law.

(3) Registration of every responsible plumber must expire on 31 December of every year, and application for renewal thereof must –

- (a) be lodged with the Municipality before 1 December; and
- (b) be accompanied by the prescribed charge:

Provided that if such registration takes place on or after 1 November in any year, it must expire on 31 December of the following year.

(4) Notwithstanding the provisions of this By-law, a person who was registered as a responsible plumber on the date of commencement of this By-law is deemed to be a responsible plumber for the purposes of this By-law.

Registration certificates

34.(1) The Municipality must issue a registration certificate to a contractor or a responsible plumber registered with the Municipality in terms of section 32 or 33.

(2) A registration certificate must state the name of the registered contractor or responsible plumber, and the date of its issue.

(3) A person may not make an alteration to a registration certificate. (4) A registration

certificate must –

- (a) be issued without alteration; and
- (b) at the request of an authorised official, be produced to him or her by the holder within three working days.

Replacement of certificates

35.(1) A person whose registration certificate has been lost, destroyed or damaged, must as soon as is reasonably possible apply to the Municipality on the prescribed form for the replacement of such certificate.

(2) An application in terms of subsection (1) must be accompanied by –

- (a) an affidavit as to the circumstances in which the certificate was lost or destroyed; or
- (b) the damaged certificate,

, and the prescribed charge.

Register of contractors and responsible plumbers

36.(1) The Municipality must maintain a register of registered contractors and responsible plumbers.

(2) The register must be available for inspection at the relevant office of the Municipality during normal working hours.

Cancellation of registration

37.(1) The registration of a registered contractor or responsible plumber may be cancelled if he or she –

- (a) has given false information on an application form;
- (b) has submitted a false or incorrect certificate to the Municipality;
- (c) contravenes or fails to comply with any provision of this By-law; or
- (d) allows his or her registration certificate to be used in a fraudulent manner.

(2) If the Municipality believes that there are grounds for cancelling the registration of a registered contractor or responsible plumber, the following procedure must be followed:

- (a) the Municipality must give the registered contractor or responsible plumber at least 21 days' written notice by hand delivery or registered mail of the Municipality's intention to suspend or withdraw the registration;

- (b) the notice referred to in paragraph (a) must include –
- (i) a statement setting out the nature of the proposed action; (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter; (iv) an address at which representations may be submitted; and
 - (v) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the cancellation of registration, and an indication that the registered contractor or responsible plumber may submit representations and appear at the hearing;
- (c) the registered contractor or responsible plumber must be given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations before the authorised official;
- (d) if a registered contractor or responsible plumber wishes to appear at a hearing and to oppose the proposed action, he or she must, within seven days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and
- (e) after the hearing, the authorised official must give a ruling on whether or not to cancel the registration and must give the registered contractor or responsible plumber reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

(5) A registered contractor or responsible plumber must, within seven days of being notified in writing of the cancellation of his or her registration, surrender his or her registration certificate to the Municipality.

(6) If the Municipality cancels the registration of a registered contractor or responsible plumber, an application for re-registration from that person may not be considered until a period of 12 months has lapsed after the date of the cancellation.

Responsibilities of a registered contractor

38.(1) A registered contractor must –

- (a) unless he or she is also a registered responsible plumber, at all times have at least one registered responsible plumber in his or her full-time employment who has –
- (i) been nominated by the registered contractor in the form referred to in paragraph (c) or the notice referred to in subsection (2); and
 - (ii) acknowledged acceptance of the nomination by signing the form or notice;

- (b) ensure that work undertaken by him or her is carried out under the control of the registered responsible plumber in his or her employment;
- (c) notify the Municipality on the prescribed form of his or her intention to commence work referred to in section 31, not less than three working days prior to the commencement; and
- (d) within five working days of the completion of the work request for a compliance inspection by the relevant Water Inspector and, if the installation complies, a compliance certificate will be issued by the Water Inspector.

(2) A registered contractor must, within five working days of a change of a registered responsible plumber referred to in subsection (1)(b), or any subsequent registered responsible plumber nominated in terms of this subsection, by written notice to the Municipality nominate another registered responsible plumber who must indicate in writing his or her acceptance of such nomination.

Responsibilities of a registered responsible plumber

39. A registered responsible plumber must –

- (a) ensure that installation work done by him or her and any person under his or her control complies with this By-law;
- (b) certify on the prescribed form that installation work complies with this By-law and any standards prescribed by the Municipality; and
- (c) Where a completion certificate is required for installation work, engage with the Water Inspectorate Section.

Work done by persons who are not registered contractors

40.(1) If installation work is being done in contravention of this By-law, the Municipality may by written notice require the owner of the premises concerned to ensure that the work is suspended until the owner has employed a registered contractor to do the work.

(2) If installation work has been done in contravention of this By-law, the Municipality may by written notice require the owner of the premises to employ a registered contractor to

- (a) inspect the work and rectify any part of it which does not comply with this By-law; (b) test and disinfect the work in terms of this By-law; and

- (c) engage with the Water Inspectorate Section to inspect and issue a compliance certificate.

CHAPTER 8

TESTING, DISINFECTION AND USE OF WATER INSTALLATIONS Testing and disinfection of water installations

41.(1) Before a registered contractor submits a compliance certificate, he or she may, at the discretion of the Municipality, be required to test and disinfect the water installation so as to satisfy the requirements of section 43 or 44 of this By-law

(2) For the purpose of a test and disinfection contemplated in subsection (1), the registered contractor must –

- (a) supply, at his or her own cost, all equipment, materials and labour; and
- (b) pay for all water used.

(3) A registered contractor must notify the Municipality on the prescribed form of his or her intention to carry out a test or disinfection contemplated in subsection (1) not less than two working days before the date on which he or she intends to do the work.

(4) If the test or disinfection is not done on the date and at the time stated in the notification contemplated in subsection (3), or if the test or disinfection is unsatisfactory, the registered contractor must submit a new notification and pay the prescribed charge.

Testing or disinfection of water installation required by Municipality

42.(1) The Municipality may by written notice require an owner to employ a registered contractor, at his or her own cost, to –

- (a) test his or her water installation in accordance with section 43; and
- (b) disinfect his or her water installation in accordance with section 44.

(2) The provisions of section 41 apply, with the necessary changes, in respect of the test or disinfection, as the case may be.

(3) The registered contractor contemplated in subsection (1), must, within seven days of completion, submit a compliance certificate to Municipality.

Pressure testing

43.(1) With all terminal water fittings closed, the water installation must be subjected to a water pressure of 1500 kilopascals, or such lesser pressure as the Municipality may specify in each particular case: Provided that in the case of fire or combined installations the water pressure must be 2 000 kilopascals.

(2) The water installation will be regarded as satisfactory if the pressure is maintained for a period of not less than 15 minutes, without additional input of water into the water installation during that period.

(3) A water installation may be tested in such sections as the Municipality may permit.

Disinfection

44.(1) The water installation must be flushed with water from the water supply system until clear water discharges from every terminal water fitting.

(2) Chlorine must be added to the water installation in such quantity and for such length of time that the total residual chlorine content of water drawn off from all terminal water fittings is not less than five milligrams per litre.

(3) In addition to the requirements contemplated in subsection (2), the Municipality may by written notice require that the disinfection process be continued until the result of a bacteriological test indicates an absence of E. coli, Type I in a sample of 100 millilitres of water.

(4) The water installation must be flushed with water from the water supply system when the disinfection process has been completed.

(5) A water installation may be disinfected in such sections as the Municipality may permit.

Use of water installations

45.(1) A water installation, or any portion of a water installation, may not be used, other than for building purposes, before a compliance certificate in respect of that installation has been submitted to the Municipality.

(2) The receipt by the Municipality of a certificate does not relieve the owner of his or her responsibility in terms of section 112.

CHAPTER 9 GENERAL WATER INSTALLATION REQUIREMENTS

Provision and maintenance of water installations

46.(1) An owner must provide and maintain his or her water installation at his or her own cost and, except –

- (a) in the case of a connection to a communication pipe; or
- (b) where permitted in terms of this By-law,

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 must obtain the written consent of the Municipality or the owner of the land on which that portion is situated.

Approved pipes and water fittings

47.(1) A person may not install or use a pipe or water fitting in a water installation unless it is included in the schedule of approved pipes and water fittings prescribed by the Municipality, and in accordance with any conditions listed in that schedule.

(2) Notwithstanding the provisions of subsection (1), the Municipality may, for a specific use in a specific installation, permit the installation or use of a pipe or water fitting which is not included in the schedule and otherwise than in accordance with the conditions listed in that schedule.

Acceptance requirements for pipes and water fittings

48.(1) A pipe or water fitting may be included in the schedule of approved pipes and water fittings if it –

- (a) bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification;
- (b) is certified by the Bureau as complying with a specification or standard specification issued by it; or
- (c) bears a certification mark issued in its country of origin in respect of a specification certified by the SABS at least equivalent to the relevant certification or specification issued by the SABS.

(2) A pipe or water fitting may be included in the schedule of approved pipes and water fittings if the pipe or fitting is of acceptable quality and on condition that a distinctive mark is placed on every such pipe or water fitting.

(3) The Municipality may, in respect of any pipe or water fitting included in the schedule of approved pipes and water fittings, impose any conditions it deems necessary in respect of the use or method of installation of the pipe or fitting.

Inclusion in schedule of approved pipes and water fittings

49.(1) Application for the inclusion of a pipe or water fitting in the schedule of approved pipes and water fittings must be made on the prescribed form and be accompanied by the prescribed charge.

(2)(a) A pipe or water fitting may be included in the schedule of approved pipes and water fittings for a period of not more than two years unless it bears the standardisation mark of the South African Bureau of Standards.

(b) Application for its continued inclusion must be made on the prescribed form accompanied by the prescribed charge, not less than two months before the expiry of each period.

(3) The Municipality may at any time remove a pipe or water fitting from the schedule of approved pipes and water fittings if the pipe or water fitting –

- (a) no longer complies with the criteria upon which its inclusion was based; or
- (b) in the Municipality's opinion, is no longer suitable for the purpose for which its use was accepted.

(4) The schedule of approved pipes and water fittings must be available for inspection at the office of the Head of Department at any time during working hours.

(5) The Municipality may sell copies of the schedule of approved pipes and water fittings at the prescribed charge.

Performance criteria for pipes and water fittings

50.(1) All pipes and water fittings, other than storage tanks, must be capable of withstanding an internal pressure specified in section 43(1) of this By-law.

(2) Brass components of a water fitting intended to be in direct contact with water must be of a copper alloy of which no individual reading, when five random brass samples are tested in accordance with the requirements of ISO 6509 of 1981, must show a depth of penetration exceeding 250 micrometers.

Design criteria for water installations

51.(1)(a) The static water pressure at a terminal water fitting may not exceed 600 kilopascals.

(b) The Municipality may, on application by an owner and on payment of the prescribed fee, 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.

(2) The velocity of flow of water in a pipe may not exceed two metres per second.

(3) Every owner of a premises must ensure that a minimum quantity of water is stored, to be used for purposes other than fire fighting or air-conditioning, as prescribed by the Municipality.

Pumping of water

52.(1) If water is to be pumped from a water supply system, it must be pumped from a storage tank which is fed by gravity from the main and which complies, with the necessary changes, with the provisions of this By-law: Provided that this subsection does not apply to water for fire fighting purposes.

(2) The owner must provide pumping facilities, with at least two pump sets of such size that any one of them is capable of delivering the required flow of water.

(3) The owner must ensure that each pumpset contemplated in subsection (2) can be selected for duty at any time.

(4) Each pumpset referred to in subsection (2) must include –

- (a) protection against low water pressure in its suction pipe;
- (b) an isolating valve, installed on both sides of the pump; and
- (c) a non-return valve installed in the outlet pipe from the pump and situated between the pump and the isolating valve contemplated in paragraph (b).

Installation of pipes

53.(1) If a pipe is laid underground, the vertical distance between the top of the pipe and finished ground level may not be –

- (a) more than one metre; and
- (b) less than –
 - (i) 450 millimetres in the case of a pipe not exceeding 75 millimetres in diameter;
 - or
 - (ii) 750 millimetres in the case of a pipe exceeding 75 millimetres in diameter.

(2) If, in the opinion of the Municipality, it is not possible to comply with subsection (1) over a particular length of pipe, the Municipality must specify the conditions under which such length must be laid.

(3) No pipe may be laid within a horizontal distance of 500 millimetres from any drain or sewer: Provided that where a pipe crosses a drain or sewer at right angles, it may do so with a vertical separation of not less than 100 millimetres.

(4)(a) A pipe which passes under a building must be enclosed in a sleeve which – (i) extends over the full distance that the pipe passes under the building; and (ii) must be of such cross-sectional area as will permit the removal of the pipe.

(b) In addition to the provisions of paragraph (a) –

- (i) there may be no bend in the pipe or junction with another pipe over the length that it is enclosed in the sleeve and adequate space must be available at either end of the sleeve for the removal and replacement of the pipe; and
- (ii) if a pipe passes under a concrete surface it must be enclosed in a sleeve in compliance with paragraph (a), or in a duct filled with sand and covered in such a manner as to provide ready access to the pipe.

(5) A pipe may not be installed –

- (a) within a wall or floor unless it is embedded with mortar in a chase or enclosed in a duct from which it can be removed;
- (b) within a cavity in a wall; or
- (c) integrally with a member of a concrete or masonry structure.

(6) A pipe which is not otherwise held in place must –

- (a) be secured by means of pipe supports which must be of a type and material of manufacture appropriate to the pipe and the temperature of the water conveyed by it; and
- (b) comply with any other requirements or conditions prescribed by the Municipality .

(7) If the Municipality is of the opinion that a pipe or a water fitting of a particular type is unsuitable for use in a particular situation, the Municipality may, by written notice to the owner –

- (a) prohibit the use of such pipe or water fitting; or
- (b) require that protective measures acceptable to the Municipality be applied.

(8) The Municipality may require that different water installations on premises bear an acceptable means of identification or, where practical, are identified by means of the colour code system contained in SABS 0140: Identification of Colour Marking, Part III: Contents of Pipelines, as amended, and published in the *Government Gazette* by General Notice 463 dated 9 July 1982.

Isolating valves

54.(1) An isolating valve must be installed in the service pipe of a water installation at a point not more than 1,5 metres inside the boundary of the premises concerned.

(2) If a valve contemplated in subsection (1) is situated underground, access to the valve must be such that it may readily be operated.

(3) An isolating valve must be installed in a readily accessible position –

- (a) where any pipe enters any building or any portion of a building in separate occupation;
- (b) on a branch pipe from a service pipe;

- (c) on a branch pipe serving a flushing cistern or a flush valve, adjacent to such cistern or valve: Provided that such isolating valve may be omitted if a flushvalve incorporates its own isolating valve;
- (d) on each side of, and adjacent to, a backflow preventer or pressure reducing valve, or combination of backflow preventer and pressure reducing valve; and
- (e) in the case of a storage tank, on the –
 - (i) inlet pipe adjacent to, and upstream of, the valve controlling the inlet of water to the tank; and
 - (ii) outlet pipe connected to the water installation and adjacent to the tank,and no connection may be made to an inlet or outlet pipe between the isolating valve and the tank.

(4) The Municipality may, by written notice, require an owner to install an isolating valve at any point in his or her water installation as the Municipality deems fit.

Storage tanks

55. The Municipality may prescribe standards and requirements for the installation, maintenance and inspection of storage tanks.

Emergency supply connections to domestic installations

56.(1) A pumping connection fitted with a coupling of a size and type specified by the Municipality must be provided in the pipe serving a storage tank in a hospital, clinic, nursing home, old-age home and other building from which the occupants cannot readily be removed in the event of an interruption of water supply.

(2) A non-return valve must:

- (a) be installed immediately upstream of the connection contemplated in subsection (1);
- (b) be flanged for ease of maintenance; and
- (c) be housed within a chamber not less than 450mm x 750mm.

(3) The connection contemplated in subsection (1) must be situated in a readily accessible position outside the building at a height of not more than one metre above finished ground level.

Installation of fixed water heaters

57.(1) The Municipality may prescribe standards and requirements for fixed water heaters and their installation.

(2) The installation of fixed water heaters is to comply with SANS 10254.

(3) All new and replacement geyser installations are to be fitted with a drip tray with the overflow pipe discharging externally.

Maximum temperatures in hot water circulating systems

58. The temperature of the water which discharges from a terminal water fitting supplied from a hot water re-circulating system may not exceed 55°C .

Back syphonage of hot water

59. Acceptable measures, to the Municipality's satisfaction, must be taken to prevent the back syphonage of water between hot and cold water in a water installation.

Provision of strainers

60.(1) Provision must be made either in –

- (a) the fitting concerned; or
- (b) a water installation,

for the prevention of entry of solid particles exceeding 710 micrometers in size into a fitting controlling the direction of flow of water or the water pressure in the installation.

(2) If compliance with the requirements of subsection (1) is effected by means of a strainer which is not incorporated in a fitting referred to in subsection (1), such strainer must be –

- (a) of a design which permits removal of the strainer element without the need to remove the fitting from the water installations; and
- (b) installed in a position where it is readily accessible for maintenance purposes.

Prevention of pressure surges

61. A person may not connect to a water installation, a water fitting or apparatus which causes or is likely to cause damage to the water supply system or another water installation, as a result of pressure surges.

Sizes of pipe

62.(1) The size of any pipe in a water installation must be sufficient to provide the quantity of water required for the proper functioning of any part or parts of a water installation without exceeding the velocity of flow contemplated in section 51(2).

(2) The size of any such pipe must be maintained up to the point or points where such quantity is required.

Installation of solar water heaters

63.(1) A solar water heating system must be installed in accordance with the code of practice for the installation and operation of solar water heater systems (SABS.0106-1985), as published in the *Government Gazette* by General Notice 463 dated 9 July 1982.

(2) All units installed will make provision for the installation of an automatic blending valve.

CHAPTER 10**PREVENTION OF UNDUE CONSUMPTION OF WATER****Waste of water**

64.(1) A customer may not permit –

- (a) the wasteful discharge of water from terminal water fittings; (b) pipes or water fittings to leak;
- (c) the use of maladjusted or defective water fitting; (d) an overflow of water to persist; and
- (e) an inefficient use of water to persist.

(2) An owner must repair or replace any part of his or her water installation which is in such a state of disrepair if, in the opinion of the Municipality, it is either causing or is likely to cause an occurrence listed in subsection (1).

(3) If an owner fails to comply with the provisions of this section, the Municipality may –

- (a) take such measures as he or she deems fit without prior notice; and
- (b) recover the cost of doing so from the owner.

(4)(a) A customer must ensure that the operation of any equipment or plant connected to his or her water installation uses water in an efficient manner.

(b) The Municipality may by written notice prohibit the use by a customer of any equipment in a water installation if, in its opinion, its use of water is inefficient.

(c) The equipment contemplated in paragraph (b) may not be returned to use until its efficiency has been restored and a written application to do so has been approved by the authorised official.

Use of water as a heat-exchange medium

65. A person may not allow water –

- (a) used as a heat-exchange medium in any equipment or plant; and
- (b) supplied from a water installation,

to run continuously to waste, except for maintaining a prescribed level of total dissolved solids in a re-circulating plant.

Hot water distribution systems

66.(1) A pipe carrying hot water directly from a fixed water heater, or from the point of take-off from a hot-water circulating system to a terminal water fitting, may not contain a volume of more than fourlitres.

(2) A central hot water system must be of the circulating type, and the circulating pipes must be insulated with material which –

- (a) has a coefficient of thermal conductivity of not more than 0,04 watts per metre per degree Celsius; and
- (b) is of such thickness that the temperature at its external surface under normal operating conditions may not be more than 6°C above the ambient temperature.

(3) The electrical heating element of a fixed water heater having a capacity of more than 500 litres must be removable without loss of water from such heater.

Heat pumps

67. (1) Heat pumps shall be so selected as to provide the total hot water demand. Heat pump settings are not to exceed 60°C .

(2) If a heat pump is provided, and unless otherwise required, a stand-by heating system shall be provided as a backup in the event of failure of the heat pump.

(3) An isolating switch will be installed to avoid the use of both systems at the same time. (4) Installation of a heat pump is to conform with SANS 1352.

Discharge from terminal water fittings to be visible

68. A terminal water fitting, other than a float valve serving a cistern or a storage tank, must be installed in such a position and in such a manner that discharge of water from the cistern or tank, as the case may be, can be readily seen.

Overflows from cisterns

69. The overflow pipe from a water-closet cistern must be carried through an outside wall of the building concerned so that discharge of water from the cistern is readily visible from outside the building.

Flushing of water-closet pans and urinals .

70.(1) A flushing device serving a water-closet pan or urinal must be activated –

- (a) manually, by a person using such pan or urinal; or
- (b) non-manually, by means of an approved apparatus which causes the flushing device to operate after each use of such pan or urinal.

(2) A flushing device serving a water-closet pan must –

- (a) not be capable of discharging more than 9,50 or less than 8,50 litres of water during one complete flush under normal operating conditions; and

(b) be connected to a watercloset pan which is so designed that its trap will be cleared in (one such complete flush.

(3) A non-manually operated flushing device must be so designed that in the event that it malfunctions no flush will take place.

(4) No automatic cistern or tipping tank must be used for flushing a urinal.

(5) A separate flushing device must serve each –

- (a) wall-mounted urinal; (b) stall urinal; and
- (c) 1,8 metres length of slab urinal.

(6) A flushing device serving a urinal must not be capable of discharging –

- (a) more than two litres; or
- (b) less than one litre,

of water during one complete flush.

Metering taps and showers

71.(1) Each wash basin in a battery of three or more on a premises must be fitted with a metering type of tap which limits the discharge of water in each usage to not more than one litre.

(2) Each shower in a battery of showers of two or more on a premises must be fitted with metering valves to each shower which limits the discharge of water in each usage to not more than 2,5 litres.

Terminal water fittings outside buildings

72. An owner may not install on a premises, apart from a residential premises, a terminal water fitting outside a building unless it –

- (a) incorporates a self-closing device;
- (b) has a removable handle for operating purposes;
- (c) is capable of being locked to prevent unauthorised use; or
- (d) is a demand-type of tap which limits the quantity of water discharged in each operation.

CHAPTER 11
PREVENTION OF POLLUTION OF WATER

Owner to prevent pollution of water

73. An owner must, at his or her own cost, take the necessary steps, acceptable to the Municipality, to prevent the entry of a substance which may be a danger to health or adversely affect the potability of water into –

- (a) the water supply system; and
- (b) any part of the water installation on his or her premises.

Protection of water supply system

74.(1) A measure required in terms of subsection (2) and acceptable to the Municipality for the prevention of the backflow of water from a water installation to the water supply system must be provided and maintained by the owner in the case of -

- (a) a fire or combined installation on a premises;
- (b) a general installation serving the following activities –
 - (i) medical treatment of people or animals;
 - (ii) medical, pharmaceutical or chemical research and manufacturing; (iii) agriculture, including dairies and nurseries;
 - (iv) photographic processing;
 - (v) laundering and dry-cleaning; (vi) metal plating; or
 - (vii) treatment of hides and skins;
- (c) a general installation serving –
 - (i) mortuaries; (ii) abattoirs;
 - (iii) sewage purification works; (iv) refuse pulverising works; (v) harbours;
 - (vi) oil processing and storage facilities;
 - (vii) wineries, distillers, breweries, yeast and cold drink factories; (viii) sports fields; or

- (ix) any other premises on which an activity is carried out which in the Municipality's opinion is likely to cause a danger to health or affect the portability of water in the event of a substance resulting from such activity entering the water supply system; or
- (d) a general installation on any premises after issue of a written notice by the Municipality to do so.

(2) The measures required in terms of subsection (1) are –

- (a) the discharge of water from the service pipe into a storage tank through an air gap in accordance with the provisions of this By-law and any standards or conditions prescribed by the Municipality;
- (b) the passing of such water through a –
 - (i) reduced pressure backflow preventer; or
 - (ii) double check backflow preventer; or
- (c) any other measures accepted by the Municipality which achieve the same purpose as contemplated in paragraph (a) or (b).

(3) The owner must ensure that no connection is made to his or her service pipe between the

–

- (a) point of discharge from the pipe into the storage tank contemplated in subsection (2)(a);
- (b) backflow preventer installed in accordance with subsection (2)(b); and
- (c) measure accepted in accordance with subsection 2(c) and the communication pipe concerned.

(4) A customer may not connect anything to a water installation or use it in a manner which may affect the potability of the water in it without first ensuring that adequate measures or devices exist to prevent a deterioration in water quality in the water installation.

Design and installation of backflow preventers

75.(1) A backflow preventer must be so designed and installed that a condition of backflow in the pipe in which it is installed must be readily detected.

(2) A backflow preventer must be installed in a readily accessible position where it can be inspected, and from which it can be removed for the purposes of servicing, repair and

replacement without alteration to the water installation or the structure within which it is situated.

(3) A backflow preventer which provides for the discharge of water to the atmosphere must be installed above ground in such a position that it cannot be submerged in water or other liquid.

Inspection and servicing of backflow preventers

76.(1) The owner of premises on which a reduced pressure or double check backflow preventer is installed must, at his or her own expense, cause the backflow preventer to be –

- (a) inspected and serviced by a registered contractor not less than once in every 12 months to ensure that it is in working order; and
- (b) replaced or completely overhauled once in every five years.

(2) The owner must maintain a record of the inspections and services contemplated in subsection (1), in the manner prescribed by the Municipality.

Protection of water installation

77.(1) An owner must, by a measure described in subsection (2) which is agreed to by the authorised official, prevent the back-siphonage into the water installation of a substance which is likely to cause a danger to health or affect the potability of water, in the case of –

- (a) a terminal water fitting which is so designed that a hose or other flexible pipe is, or can be, attached to it, which must include a hose bibcock, a laboratory tap, and a moveable shower unit;
- (b) a fire hose reel installed in a combined installation; (c) an underground irrigation system; or
- (d) any other fitting which may provide a contact between polluted water and the water installation.

(2) The measures required in terms of subsection (1) are a –

- (a) vacuum breaker situated on the highest point of an upstand which must be not less than 300 millimetres above the point of discharge of the highest terminal water fitting concerned;
- (b) terminal vacuum breaker situated not less than 300 millimetres above the highest point of connection of a pipe to a riser serving the fittings concerned; or

(c) single check valve or vacuum breaker incorporated in, attached to or installed adjacent to, a terminal water fitting.

(3) The lower point of discharge of the outlet of a terminal water fitting must be not less than 25 millimetres above a flood level of a fixed receptacle into which such fitting discharges.

(4) An owner must ensure that no inter-connection is made between a –

- (a) general installation and a fire installation if they are supplied through separate communication pipes; or
- (b) water installation carrying water supplied by the Municipality and an installation carrying water from another source of supply, unless backflow into such general installation or water installation cannot occur.

(5) An owner must ensure that no inter-connection is made between a water installation, or other installation carrying potable water from any source, and a drain or sewer.

(6) If the Municipality is of the opinion that an activity carried out or intended to be carried out on a premises could give rise to a substance which would have a toxic effect if it gained entry into a water installation, it may by written notice require the owner to install a storage tank from which the water required for such activity must be drawn.

(7) The entry of water into the tank referred to in paragraph (6) must be solely from a pipe which discharges at a height of 75 millimetres or twice the diameter of the pipe, whichever is the greater, above the flood level rim of the tank.

CHAPTER 12 FIRE INSTALLATIONS

Unmetered supply of water for fire fighting purposes

78.(1) If the Municipality supplies water for fire fighting purposes to any premises through an unmetered connection, the Municipality may –

- (a) by written notice advise the owner of its intention to install a device at the cost of the owner in a manner and position specified by it to indicate if water has been used in a fire installation; and

(b) place a seal on the operating valve of every hydrant and hose reel in the fire installation served by such connection.

(2) The provisions of section 19 of this By-law apply, with the necessary changes, to a device installed in accordance with subsection (1).

(3) If the Municipality inspects a fire installation and finds that a seal referred to in subsection (1)(b) is broken, or the device referred to in subsection (1)(a) indicates that water has been used in the fire installation, the Municipality may –

(a) estimate the quantity of water which in its opinion has been drawn off from the installation since the previous inspection; and

(b) render an account to the customer for the –

(i) quantity of water contemplated in paragraph (a); and

(ii) prescribed charge for the replacement of the seal.

(4) If the use of water for purposes other than fire fighting has occurred on any premises, the Municipality may –

(a) by written notice, require the customer on that premises within a specified period to cease using water from his or her fire installation for purposes other than fire fighting; and

(b) if a customer fails to comply with a notice served in accordance with paragraph (a), install a meter in the communication pipe serving the owner's fire installation and charge the owner for the cost thereof.

(5) If a customer uses water from his or her fire installation for purposes other than extinguishing or prevention of a fire or for maintenance purposes, he or she must notify the Municipality within 3 (three) working days of such action.

Sizes of pipes

79.(1) The nominal diameter of a communication pipe serving a fire installation may be not less than –

(a) 25 millimetres, in the case of a fire or combined installation incorporating hose reels;

(b) 75 millimetres, in the case of an automatic sprinkler installation;

(c) 100 millimetres, in the case of a fire or combined installation incorporating hydrants.

- (2) The nominal diameter of a pipe in a fire installation supplying water to fire hydrants must be not less than –
- (a) 75 millimetres, if its length does not exceed 50 metres; and
 - (b) 100 millimetres, if its length exceeds 50 metres.
- (3) The nominal diameter of a pipe serving hoses on any (one) floor of a building may be not less than –
- (a) 25 millimetres, if it serves one or two hose reels; (b) 32 millimetres, if it serves three hose reels;
 - (c) 40 millimetres, if it serves four or five hose reels; or
 - (d) 50 millimetres, if it serves more than five hose reels.

Pumping connections

- 80.(1) The pipe which serves a hydrant and hose reel installation must be provided with a twin pumping connection.
- (2) A pipe serving only hoses which are situated in a building at a height of more than six metres above the ground level abutting on the building must be provided with a single pumping connection.

Non-return valves

- 81.(1) A non-return valve must be installed in any fire installation between –
- (a) a pumping connection referred to in section 80(1) and (2); and
 - (b) the communication pipe serving the installation.
- (2) A pipe which is connected to a storage tank and is provided with a pumping connection must be provided with a non-return valve installed in such a position and manner as to prevent the flow of water into the tank when the pumping connection is in operation.

Pressure gauge and test valve

- 82.(1) A pressure gauge must be installed in a fire installation outside the building concerned, in a position where it can be observed without the necessity of entry into the building.

- (2) A test valve must be installed immediately upstream of the pressure gauge referred to in subsection (1).
- (3) The pressure gauge referred to in subsection (1) must –
- (a) register a maximum pressure of not less than 2500 kilopascals; (b) be graduated at intervals of not less than 25 kilopascals; and
 - (c) have an error of not more than 2% over its range of operation.
- (4) The Municipality may at any time operate the test valve and pressure gauge referred to in subsection (1).

Installation of pipes

- 83.**(1) Non-metallic pipes may not be installed above ground in either a fire installation or a combined installation.
- (2) No pipe in a fire installation may be enclosed in the same duct as a fuel or gas pipeline.

CHAPTER 13 WATER METERS

Defective meters

- 84.**(1) If a customer has reason to believe that a meter used for measuring water supplied to him or her by the Municipality is defective, he or she may, against payment of the prescribed charge, make application on the prescribed form for the meter to be tested.
- (2) The prescribed charge contemplated in subsection (1) must be –
- (a) retained by the Municipality if the meter is found not to be defective; or
 - (b) refunded to the applicant if the meter is found to be defective.
- (3) A meter to which the regulations relating to water meters published under the Trade Metrology Act, 1973 (Act No. 77 of 1973) are applicable, must be deemed to be defective if, when tested in accordance with such regulations, it is found to have a percentage error in

over-registration or under-registration greater than that permitted for a meter in use in terms of those regulations.

(4) A meter to which the regulations contemplated in subsection (3) are not applicable, is deemed to be defective if, when tested at the following percentages of its designed maximum rate of flow–

- (a) not less than 75%;
- (b) between 50% and 55% ; and
- (c) not more than 20%,

it is found to have a percentage error in over-registration or under-registration greater than 5% at any one of the said rates of flow.

Adjustment of quantity of water supplied to customer through a defective meter

85.(1)(a) If a meter is found to be defective, the Municipality must estimate the quantity of water supplied to the customer during the period in which, in the opinion of the Municipality, the meter was defective.

(b) The estimate contemplated in paragraph (a) must be based on the basis of the average daily quantity of water supplied to the customer over a period –

- (i) between two successive meter readings subsequent to the replacement of the meter;
- (ii) in the previous year corresponding to the period in which the meter was defective;

or

- (iii) of three months subsequent to the replacement of the meter, whichever the

Municipality considers most appropriate.

(2) If the quantity of water supplied to a customer during the period when his or her meter was defective cannot be estimated in terms of subsection (1), the Municipality may estimate such quantity on any basis that is available to it.

Adjustment of account if meter is defective

86.(1) The adjustment of the account of a customer who has been charged for water supplied through a defective meter, must be made over the period determined in accordance with section 95(1).

(2) For the purpose of adjusting an account in terms of subsection (1) it must be deemed that the same quantity of water has been supplied in each interval of 24 hours during the period referred to in subsection (1).

CHAPTER 14 PROTECTION OF WATER SUPPLY SYSTEM

Trespassing on water supply system

87. A person may not enter –

(a) into an area used by the Municipality in connection with its water supply system –

(i) which is enclosed by a fence; or

(ii) where entry is prohibited by notice boards; and

(b) a structure used by the Municipality in connection with its water supply system, without prior written permission from the Municipality.

Interference with water supply system

88. An unauthorised person may not interfere or tamper with the water supply system.

Unauthorised connections

89. A person may not make an illegal connection to the water supply system.

Damage to water supply system

90.(1) A person may not damage or endanger the water supply system or cause or permit it to be damaged or endangered.

(2) Any person who intends performing work which may cause damage to the water supply system on land, owned by or vested in the Municipality or over which it has a servitude or other right, must, before beginning the work, obtain written confirmation from the Municipality as to whether any part of the water supply system is situated on that land and, if so, the location of that water supply system.

(3) If the authorised official believes that any work which is being performed or is to be performed on land contemplated in sub-section (2), or on land adjacent thereto, could damage or endanger the water supply system, he or she may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as that person has complied with the conditions specified in the notice.

Obstruction of access to water supply system

91.(1) A person may not prevent or restrict access to the water supply system.

(2) If any person contravenes the provisions of subsection (1), the Municipality may –

- (a) by written notice require the person to restore access at his or her or her own cost within a period specified in the notice; and
- (b) if it believes that access must be restored as a matter of urgency, without prior notice, restore access and recover the cost from the person who contravened the provisions of subsection (1).

Pollution of water supply

92.(1) A person may not do anything which causes, or might cause, the pollution of water in

–

- (a) a reservoir; or
- (b) any other place owned, controlled by or vested in the Municipality either in whole or in part, and used by it in connection with the supply of water,

unless that act is specifically authorised in writing by the Municipality.

(2) A person may not, except at such places as are designated by notice boards or in such receptacles as are provided by the Municipality, deposit or discharge any waste as defined in the Municipality's Waste Removal By-law, on any portion of a catchment area relating to the Municipality's water supply which has been designated by notice boards as being an area where such acts are prohibited.

(3) In the event that a person contravenes the provisions of subsection (1) or (2), the Municipality may–

- (a) give notice in writing, requiring that the person to immediately stop the contravention and take specified action within a specified period; or

(b) if it believes that action is urgently required, without prior notice, take such steps as it deems necessary to remedy the situation and recover the cost from the person in contravention.

Pipes in public places

93. A person may not lay or construct a pipe or an associated component on, in or under a street, public place or other land owned by, vested in, or under the control of the Municipality, without the prior written permission of the authorised official and subject to such conditions as he or she or she may impose.

CHAPTER 15 SERVICE CHARGES

Payment for water supplied

94.(1) All water supplied by the Municipality must be paid for by the customer at the prescribed charge for that particular category of use for which the supply was granted.

(2) A customer must pay for all water supplied to him or her from the date of the agreement to supply water until the date of termination of that agreement.

(3) The Municipality may estimate a quantity of water supplied in respect of a period or periods within the interval between actual successive readings of the meter and may render an account to a customer for the quantity of water so estimated to have been supplied to him or her during each such period.

(4) The amount of an account rendered for water supplied to a customer becomes due and payable on the due date stipulated in the account.

(5) If a customer is dissatisfied with an account rendered for water supplied to him or her by the Municipality, he or she may, prior to the date stipulated in the account, object in writing to the account setting out his or her reasons: Provided that the lodging of an objection does not entitle a customer to defer payment, except with the written consent of the Municipality.

(6) If a customer uses water for a category of use other than that for which it is supplied by the Municipality, and as a result is –

(a) not charged for water so used; or

(b) charged for the water at a rate lower than that at which he or she should be charged,

such customer is liable for the amount due to the Municipality in accordance with the prescribed charges in respect of the –

(i) quantity of water which, in the Municipality's opinion, the customer has used and for which he or she has not been charged; or

(ii) difference between the cost of the water used by the customer at the rate at which he or she has been charged and the cost of the water at the rate at which he or she should have been charged.

Amendments to prescribed charges for water supplied

95. If amendments to the prescribed charges for water supplied become operative on a date between meter readings, it must be deemed, for the purpose of rendering an account in respect of the charges, that the same quantity of water was supplied in each period of 24 hours during the interval between the meter readings.

No reduction of amount payable for water wasted or leakage undetected

96. A customer is not entitled to a reduction of the amount payable for water supplied to him or her if –

(a) water is wasted; or

(b) a leak in his or her water installation is undetected.

Other charges

97. The Municipality may, in addition to the prescribed charges for water consumed, prescribe and levy any of the following charges:

(a) a monthly charge payable by the owner in respect of premises which in the opinion of the Municipality can reasonably be connected to the water supply system but is not so connected, the charge being due from a date determined by the authorised official, until the date of the agreement to supply water;

(b) a charge payable by the customer in respect of each communication pipe or meter provided by the Municipality to serve the premises occupied by him or her, whether or

not water has been supplied to him or her, the charge being due from the date of the agreement to supply water;
and
(c) a monthly charge payable by a customer in respect of a minimum quantity of water, whether or not water has actually been supplied to him or her.

Water supplies from a hydrant

98.(1) The Municipality may grant a temporary supply of water from one or more fire hydrants specified by him or her.

(2) A person who desires a temporary supply of water referred to in subsection (1) must make application therefor on the prescribed form in accordance with section 7.

(3)(a) Water supplied in accordance with subsection (1) must pass through a meter.

(b) The meter together with the appurtenant apparatus required to enable it to be connected to a hydrant must be provided by the Municipality and remain property.

(4) Before an applicant is provided with a meter in accordance with subsection (3), he or she must pay a –

(a) deposit contemplated in section 11; and

(b) prescribed deposit in respect of each meter and appurtenant apparatus supplied by the Municipality, as security for their return in proper working order.

(5) If the Municipality requires that an authorised official be in control of the meter provided in accordance with subsection (3), the customer must pay the prescribed charge for the attendance of the authorised official.

(6) If the Municipality does not require an authorised official to be in control in accordance with subsection (5), a customer to whom a meter and appurtenant apparatus are supplied in accordance with subsection (3) is responsible for the safekeeping and the proper use thereof and must –

(a) return the meter forthwith if it is damaged or becomes defective;

(b) make the meter available for reading purposes before the 7th day of each month, or at such other intervals as the Municipality may prescribe, at a place designated by it; and

(c) return the meter and apparatus to the Municipality on the termination of the agreement for supply.

(7) The customer must, in addition to paying for the water supplied to him or her by the Municipality, pay the prescribed charge for the use of a meter which is supplied to him or her.

(8)(a) If a customer fails to comply with subsection 6(a), (b) or (c), the Municipality may render an account to him or her for a quantity of water which it deems to have been supplied to him or her since the last reading of the meter concerned, basing such quantity on the maximum specified rate of flow of the meter in continuous use over a period of eight hours per day for five days per week or on such lesser rate or period as the Municipality deems appropriate.

(b) The charge contemplated in paragraph (a) must continue to be levied until the customer returns the meter and appurtenant apparatus, or notifies the Municipality in writing that he or she is unable to do so.

(c) Notwithstanding the provisions of paragraph (a) and (b), if a customer returns the meter in working order and with its seal intact after being charged for water in accordance with paragraph (a), the Municipality must adjust the amount charged to the cost of the water actually supplied to him or her.

(9) If a customer to whom water is supplied in accordance with subsection (1) –

(a) takes water from a hydrant which is not specified by the authorised official;

(b) is found to be taking, or to have taken, water from a hydrant without its passing through a meter; or

(c) fails to comply with any provision of subsection (6),

the Municipality may forthwith terminate his or her agreement for supply.

Resale of water supplied by Municipality

99.(1) A customer who is supplied with water in terms of this By-law may not sell such water unless –

(a) provision has been made therefore in a special agreement as contemplated in section 8; or

(b) he or she has obtained the prior written permission of the Municipality to do so.

(2) If the Municipality grants the permission contemplated in subsection (1), it may stipulate the maximum price at which the water may be sold and impose such other conditions as it deems fit.

(3) The Municipality may at any time withdraw the permission contemplated in subsection (1).

Liability for charges

100. The owner of a premises, and not the tenant, is liable in respect of the charges for water supplied to that premises.

Conditions relating to charges

101. The Municipality may prescribe conditions and requirements relating to the metering of water supplied to different categories of customers, and the liability of those customers to pay the prescribed charges for water supplied.

Leak repair policy

102. The Municipality may, prescribe the following after following the public participation process contemplated in section 23:

- (a) a leak repair policy;
- (b) a credit control and debt collection policy relating to water supplied to domestic customers;
- (c) a debt relief policy; or
- (d) a policy dealing with free basic water services for indigent people.

Domestic water insurance

103.(1)(a) Domestic customers are entitled to insure themselves against undetected underground leaks by payment of a monthly premium, which is raised on the consolidated bill and forwarded to a private insurance company.

(b) The relationship is between the customer and the private insurance company and the Municipality acquires no obligations in respect of any insurance which a customer may choose to acquire.

(2) The customer's account may be suspended for disconnections to water for a period of 60 days to facilitate the insurance process contemplated in subsection (1).

(3) Accounts may not be suspended where there are disputes with respect to the amount paid by the insurance company.

(4) An adjustment, determined in accordance with the terms and conditions of the water loss insurance policy for individually metered dwelling units, will be made in respect of sewage disposal charges raised against any domestic or non-domestic customer where the sewage disposal charges arise from any underground water leaks which were repaired correctly and timeously.

Service subsidy

104. Domestic residential customers supplied via a low pressure roof tank are entitled to a reduction on the standard tariff for consumption up to thirty kls per month

Unallocated consumption

105. When water consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised, the relevant charges for water services must be raised against the registered owner on his or her consolidated bill.

Deceased estates

106.(1) The executor of a deceased estate is liable, in his or her official capacity as such, for the payment of all debts on the property.

(2) Where the estate has not been finalised, the occupants of the property are deemed to be the owners for the purposes of any amounts due relating to water services provided that the deemed owner may, subject to the terms and conditions of the Municipality's water policy, apply for –

- (a) a flow limiter; and
- (b) the debt relief programme.

CHAPTER 16
NOTICES

Notices and documents

107.(1) A notice or document issued by the Municipality in terms of this By-law must be deemed to be duly issued if it is signed by an authorised official.

- (2) If a notice or document is to be served on a person in terms of this By-law, such service must be effected –
- (a) by delivering it to him or her personally or to his or her duly authorised agent;
 - (b) by delivering it at his or her residence or place of business or employment to a person apparently –
 - (i) not less than 16 (sixteen) years of age; and
 - (ii) residing or employed there;
 - (c) if he or she has nominated an address for the receipt of notices and other legal documents, by delivering it to that address;
 - (d) if he or she has not nominated an address for the receipt of notices and other legal documents, by delivering it to the address given by him or her in his or her application for a supply of water, for the reception of an account for water supplied;
 - (e) in the case of a body corporate, by delivering it at the registered office or business premises of such body corporate;
 - (f) by registered or certified post addressed to his or her last known address; or
 - (g) if service cannot be effected in accordance with paragraphs (a) to (f), by affixing it to a principal door of entry to the premises concerned.

Compliance notice

108.(1) The Municipality may by written notice order a person who is in contravention of this By-law or any condition or requirement prescribed in terms of this By-law to stop that contravention within a period specified in the notice.

- (2) If a person fails to comply with a written notice served on him or her in terms of this By-law within the specified period, the Municipality may take such action or do such work as it deems necessary to ensure compliance, and recover the cost of such action or work from the person.

False statements or information

109. A person may not make a false statement or furnish false information to the Municipality, nor falsify a document issued in terms of this By-law.

**CHAPTER 17
GENERAL****Prescribed matters**

110. The Municipality may, by following the public participation procedure referred to in section 23, prescribe any standard, condition, requirement, policy or any other matter required for the implementation of this By-law.

Exceptions to application of this By-law

111.(1) If authority was given before the date of commencement of this By-law for installation work to be done, or if authorised work is in progress on such date, such work must comply with any laws governing such work which were in force in the area of jurisdiction of the Municipality prior to the date of commencement of this By-law.

(2) The Municipality may, for a period of 90 days after the date of commencement of this By-law, give authority for installation work to be done in accordance with any laws governing such work which were in force in the area of jurisdiction of the Municipality prior to the date of commencement of this By-law.

Responsibility for compliance

112. It is the responsibility of the –

- (a) owner of the premises to comply with the provisions of this By-law in respect of the water installation; and
- (b) customer to comply with the provisions of this By-law in respect of the use of the water on the premises.

Existing water installation

113. (1) An owner may not be required to comply with this By-law by altering a water installation or a part thereof which was installed in conformity with every law applicable immediately before the date of commencement of this By-law.

(2) Notwithstanding subsection (1), the Municipality may by notice in writing require the owner to comply with the provisions of this By-law within a specified period, if it is of the opinion that the installation or a part thereof is so defective or in such a condition or position as to cause, or be likely to cause, waste or undue consumption of water, pollution, pollution of the water supply, or a health or safety hazard.

Use of water from sources other than the water supply system

114.(1) A person may not use or permit the use of water obtained from a source other than the water supply system, except with the prior consent of the Municipality and in accordance with such conditions as it may impose, for –

- (a) domestic, commercial or industrial purposes; or
- (b) the purpose of filling a swimming pool.

(2) Any person desiring the consent contemplated in subsection (1) must provide evidence to the satisfaction of the Municipality that the –

- (a) water referred to in that subsection complies, whether as a result of treatment or otherwise, with the requirements of SABS specification 241-1971: Water for Domestic Supplies published in the *Government Gazette* under General Notice 463 dated 9 July 1982 which are prescribed by the Council, and as amended from time to time; or
- (b) use of such water does not or will not constitute a danger to health.

(3) Any consent given in accordance with subsection (1) may be withdrawn if in the opinion of the Municipality –

- (a) a condition imposed in accordance with subsection (1) is breached; or
- (b) the water no longer conforms to the requirements contemplated in subsection (2).

(4) If water obtained from a borehole or other source of supply on a premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the Municipality's sewerage system, the Municipality may install a meter in the pipe leading from such borehole or other source of supply to the point or points where it is so used.

(5) The provisions of section 20 apply, with the necessary changes, in respect of the meter contemplated in subsection (4).

Notification of boreholes

115. The Municipality may by public notice require the –

- (a) owner of any premises upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify the Municipality on the prescribed form of the existence of a borehole on the premises, and provide it with such information in respect thereof as the Municipality may require; and
- (b) owner or occupier of a premises who intends to sink a borehole on the premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.

Sampling of water

116.(1) The Municipality may take samples of water obtained from a source other than the water supply system and cause the samples to be tested for compliance with the requirements contemplated in section 114.

(2) The prescribed charge for the taking and testing of the samples contemplated in subsection (1) must be paid by the person to whom consent to use the water was granted.

Supply of non-potable water

117.(1) The Municipality may on application in terms of section 7, grant a supply of non-potable water to a customer.

(2) Any supply of water granted in accordance with subsection (1) may not be used for domestic or any other purpose which, in the opinion of the Municipality, may give rise to a health hazard.

Conditions of supply of non-potable water

118.(1) No warranty, expressed or implied, applies to the purity of any non-potable water supplied by the Municipality or its suitability for the purpose for which the supply was granted.

(2)(a) The supply of non-potable water is entirely at the risk of the customer, both as to condition and use.

(b) The customer is liable for any consequential damage or loss arising to him- or herself or others caused directly or indirectly from the supply of non-potable water, including the consequences of any bona fide fault of the Municipality or malfunction of a treatment plant.

Use of non-potable water for irrigation purposes

119.(1) If non-potable water supplied by the Municipality is used for irrigation purposes, the customer must ensure that it is applied uniformly over the irrigated areas and in such a way as to prevent ponding.

(2) The customer must, at his or her own expense, take such steps as may be necessary to prevent any run-off of surplus non-potable water from irrigated areas.

(3) If the customer fails to take the steps contemplated in subsection (2), the Municipality may by written notice require him or her to take steps within a specified period.

(4) If the customer fails to comply with the written notice as contemplated in subsection (3), the Municipality may take such steps at the expense of the customer.

Warning signs and notices

120.(1) On premises on which non-potable water is used, the customer must ensure that every terminal water fitting and every appliance which supplies or uses such water is clearly marked with a weatherproof notice indicating the water therefrom is unsuitable for domestic purposes.

(2) In an area where treated sewage effluent is used, the customer must erect weatherproof notices in prominent positions warning that such effluent is not suitable for domestic purposes.

(3) Every warning notice contemplated in subsections (1) and (2) must be in English, isiZulu and Afrikaans, and any such other language as the Municipality may deem necessary.

CHAPTER 18 ENFORCEMENT

Power of entry and inspection

121.(1) An authorised official may for any purpose connected with the implementation or enforcement of this By-law, at all reasonable times or in an emergency at any time, enter premises, request information and make such inspection, examination and enquiry as he or she may deem necessary, and for those purposes operate any component of the water installation.

(2) If the authorised official considers it necessary that work be performed to enable him or her to properly and effectively implement a function contemplated in subsection (1), the authorised official may –

- (a) by written notice, require the owner or occupier of the premises at his or her own cost, to do specified work within a specified period; and
- (b) if in his or her opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done, at the cost of the owner.

(3) Only in the event that the work contemplated in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed and no such contravention is established, the Municipality must bear the expense connected therewith together with that of restoring the premises to its former condition.

(4) If an authorised official requires the presence of –

- (a) an owner at an inspection of his or her water installation;
- (b) a registered contractor doing installation work at an inspection of such work; or
- (c) a registered contractor's responsible plumber at an inspection of work being done under his or her control, he or she may give such person written notice of not less than two working days to that effect, indicating the date and time when, and the place where, he or she proposes to carry out the inspection.

Indemnity

122. The Municipality and any authorised official are not liable to any third party for any damage caused by anything lawfully done or omitted by the Municipality or the authorised official in carrying out any function or duty in terms of this By-law.

Lawful instructions

123. Failure to comply with a lawful request of the authorised official constitutes a contravention of this By-law.

Recovery of costs

124.(a) If a person—

- (i) contravenes the provisions of this By-law; or
- (ii) fails or refuses to comply with a compliance notice issued in terms of this By-law,

the Municipality may take any steps required in order to address or rectify such non-compliance, and recover the costs from such person responsible.

(b) Any liability contemplated in paragraph (a) is in addition to any fine which may be imposed on such person.

Relaxation

125. The Municipality may, in an individual case, relax or waive the requirements of a provision of this By-law upon such conditions as it deems fit to impose if it is of the opinion —

- (a) that the application or operation of that provision in that particular case would be so unreasonable as to cause substantial prejudice of a nature or degree which was not intended to flow from the enactment of the provision; and
- (b) that the —

- (i) purpose for which the provision has been enacted has substantially been attained in that case or will be so attained upon compliance with the conditions imposed; or
- (ii) need to attain that purpose is for any reason absent in the particular case.

Offences

126. A person is guilty of an offence under this By-law if he or she —

- (a) unlawfully prevents the authorised official entry to his or her premises or causes or permits any other person to prevent entry;

- (b) obstructs or hinders the authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised official;
- (c) refuses or fails to provide to the authorised official such information as is required to allow the authorised official to perform a function in terms of this By-law;
- (d) knowingly gives false or misleading information to an authorised official; (e) impersonates an authorised official;
- (f) contravenes or fails to comply with any provision of this By-law; or
- (g) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

Penalties

127.(1) Any person who is convicted of an offence under this By-law is liable to a fine and imprisonment as determined in the Council's Schedule of Fines.

CHAPTER 19 MISCELLANEOUS PROVISIONS

Delegations

128.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or
(c) duty,

conferred, in terms of this By-law, upon the Municipality, or on any of the other political structures, political office bearers, councillors or staff members of the Municipality, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation contemplated in subsection (1) must be effected in line with the system of delegation adopted by the Municipality in accordance with section 59(1) of the Local

Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

129.(1) A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may appeal against that decision in terms of the appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

130.(1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

131. This By-law is called the Water Supply By-law, 20__ and takes effect on the date on which it is published in the *Provincial Gazette* of KwaZulu-Natal.

**SCHEDULE LAWS
REPEALED**

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

WASTE REMOVAL BY-LAW, 20__

To make provision for the collection and removal of domestic waste and business waste; to require waste generators to collect and remove bulky waste, building waste, garden refuse, hazardous waste, industrial waste, health care waste, special domestic waste and special industrial waste; to provide for the temporary storage of waste pending collection; to provide for the operation of garden refuse sites; to impose obligations regarding special industrial waste, hazardous waste and health care waste; to provide for proof of disposal of building waste; to impose obligations regarding event waste; to provide for waste management plans; to encourage the recycling of waste; to provide for the conduct of municipal waste disposal sites; to regulate private waste removal contractors and to impose penalties for dumping and other offences and to provide for matters incidental thereto.

PREAMBLE

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of section 24(a) of the Constitution;

WHEREAS one of the objects of the _____ municipal council is, in terms of section 152(d) of the Constitution, the promotion of a safe and healthy environment;

WHEREAS there is a need to regulate waste removal within the area of jurisdiction of the _____ Municipality in order to ensure a safe and healthy environment;

WHEREAS the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution to control refuse removal, refuse dumps and solid waste disposal;

AND WHEREAS the _____ municipal council has competence, in terms of the section 156 (2) of the Constitution of the Republic of South Africa, to make and administer by-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the _____ municipal council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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INTERPRETATION****Definitions**

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

“accommodation establishment” means an accommodation establishment as defined in the Municipality’s Accommodation Establishment By-law;

“authorised official” means a person authorised to implement the provisions of this By-law, including but not limited to—

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995; and

(c) such employees, agents, delegated nominees, representatives and contractors of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

“authorised waste removal contractor” means—

(a) a private waste removal contractor who has been contracted by the Municipality to provide waste removal services on behalf of the Municipality; or

(b) a private waste removal contractor who holds a permit from the Municipality authorising it to contract directly with waste generators to provide waste removal services for its own account;

“beach” means the portion of land above and contiguous to the seashore and includes any grass verge (where such verge exists);

“dump” means to dispose of waste in a manner which is not permitted by this By-law and includes, without limiting the generality of the foregoing, to deposit, discharge, drop, spill, release or store waste in or at any place, whether publicly or privately owned, including but not limited to—

(a) a public place; (b) a public road;

- (c) a sewage or storm water system; (d) a vacant erf;
- (e) the beach or the seashore; and
- (f) a water resource;

“**event**” means any sporting, entertainment, cultural, religious or other event that is held within the Municipality;

“**event organiser**” means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

“**event waste**” means waste generated by or at an event, or from activities related to an event, regardless of whether or not the event takes place on private or public property;

“**garden refuse**” means waste of an organic origin which is generated as a result of normal gardening activities on any premises, such as–

- (a) grass cuttings; (b) leaves;
- (c) plants; (d) flowers;
- (e) weeds; and
- (f) the clippings of trees, hedges or fences: Provided that this excludes branches with a diameter exceeding 40 mm;

“**garden refuse site**” means a site provided by the Municipality for the disposal and temporary storage of garden refuse at the discretion of the Municipality;

“**guest house**” means an accommodation establishment, as defined in the Municipality’s Accommodation Establishment By-law;

“**hazardous waste**” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

“**Head of Department**” means the person–

- (a) appointed as head of the department responsible for cleansing and solid waste matters by the Municipality from time to time;
- (b) authorised to act in that capacity; or
- (c) any other officer of the Municipality nominated by it to discharge all or part of the functions of the Head of Department under this By-law to the extent of such nomination;

“**health care waste**” means waste generated by a hospital, clinic, nursing home, doctor’s rooms, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, traditional surgeon, veterinarian or

any other place where health care waste which is infectious or potentially infectious is generated, and includes but is not limited to—

- (a) microbial waste which can cause disease in humans, including but not limited to cultures, stocks and associated biologicals;
- (b) human blood and blood products, including but not limited to serum, plasma and other blood components;
- (c) pathological waste of human origin, including but not limited to tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal waste including but not limited to animal carcasses, body parts and bedding which has been exposed to infectious agents;
- (e) isolation waste associated with human beings or animals known to be infected with highly communicable diseases;
- (f) contaminated and uncontaminated sharps, including but not limited to clinical items which can cause a cut, puncture or injection, such as needles, syringes, blades and microscope slides;
- (g) used medical equipment and other medical material which is capable of or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, including but not limited to used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy and other catheter bags, gloves, drip bags, administration dines and tongue depressors;
- (h) pharmaceutical products, including but not limited to human and animal vaccines, medicine and drugs; and
- (i) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source;

“**industrial waste**” means waste in solid form generated as a result of manufacturing, maintenance, fabricating or dismantling activities, as well as the activities of railway marshalling yards, but does not include building waste, business waste, domestic waste or special industrial waste. Industrial waste includes waste of this nature which is generated from a residential premises as a result of a business activity, regardless of whether or not the activity is being lawfully conducted from those premises;

“**municipal council**” or “**council**” means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

“Municipality” means the _____ Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of Provincial Notice No. 43 of 2000 (KZN);

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“mutagen” means a physical or chemical agent that increases the frequency of mutations by changing the genetic material of an organism;

“occupier” includes—

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and
- (b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

“owner” means—

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;
- (b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property 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 the premises or a building or buildings on the premises;
- (d) in a case where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or
- (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) as common property, the developer or the body corporate in respect of the common property; or

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KWAZULU-NATAL PROVINCE
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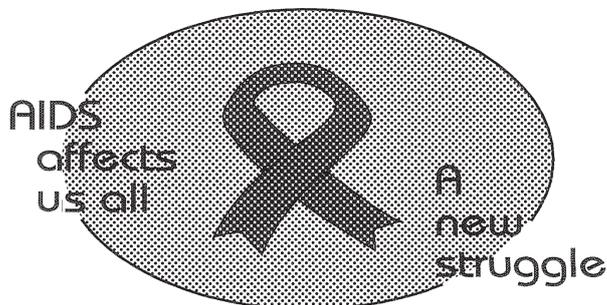
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(ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"public place" means—

- (a) a public road;
- (b) a public parking space; or
- (c) any square, park, recreation ground, sports ground, beach, shopping centre, municipal cemetery, open space, or vacant municipal land which is vested in the Municipality, or in respect of which the public has the right of use, or which is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office as having been provided for the use of the public or the owners of erven in such township;

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

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

"premises" means any erf or land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, lagoon, drain or ditch (open, covered or enclosed), whether improved or not and whether public or private;

"recyclable waste" means any waste intended for recycling or a remanufacture process and which is separated from other waste and managed as a potential resource by the waste generator or someone acting on his or her behalf;

"recycling" means the collection, selection or removal of waste for the purpose of reselling or re-using selected materials in a manufacturing, remanufacturing or other process;

“**residential premises**” means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in the Municipality’s Accommodation Establishment By-law;

“**seashore**” means the seashore as defined in the National Environmental Management: Integrated Coastal Management Act , 2008 (Act No. 24 of 2008);

“**skip**” means a container, with a capacity of between 6 m³ and 18 m³, designed for the temporary storage of waste and to be loaded onto a truck for removal, rather than being emptied on site;

“**special domestic waste**” means domestic waste which cannot by virtue of its mass, shape or size be conveniently–

- (a) stored in a waste container; or
- (b) removed as part of the Municipality’s normal domestic waste removal service;

“**special industrial waste**” means waste, consisting of a liquid or sludge, resulting from–

- (a) a manufacturing process; or
- (b) the pre-treatment, for disposal purposes, of any industrial liquid waste,

which, in terms of the Municipality’s Sewage By-law, may not be discharged into a sewer without the consent of the Municipality, which consent has not been granted;

“**tariff charge**” means the prescribed charge for any service provided by the Municipality in terms of this By-law as set out in the tariff of charges adopted by resolution of the council from time to time;

“**venue owner**” means a person who owns, manages or is entitled to exercise the rights of an owner or occupier of a venue used for events, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

“**waste**” means any substance, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), whether or not that substance can be reduced, re-used, recycled and recovered–

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;

(b) which the generator has no further use of for the purposes of production; (c) that must be treated or disposed of; or

(d) that is identified as a waste by the Minister of Water and Environmental Affairs by notice in the Gazette, and

includes waste generated by the mining, medical or other sector, but—

(i) a by-product is not considered waste; and

(ii) any portion of waste, once re-cycled and recovered, ceases to be waste;

“**waste bin**” means a container designed for the temporary storage of waste, with a capacity of less than 2 m³, whether wheeled or not, and which complies with—

(a) South African Bureau of Standards specification 493-1973: Steel waste bins;

or

(b) South African Bureau of Standards specification 1310-1980: Waste bins of polymeric materials, as published in General Notice No. 463 of 9 July 1982;

“**waste container**” means either a waste bin, a bulk waste container or a skip;

“**waste disposal site**” means a site, excluding a garden refuse site, for the disposal of waste and which site may be owned or set aside by—

(a) the Municipality; or

(b) a private person and operated by that person in terms of a permit or licence issued by a responsible authority;

“**waste generator**” means any person who, or entity which, generates or produces waste and includes—

(a) the occupier of any premises on which waste is generated; and

(b) in the case of premises which are occupied by more than one person, the owner of those premises;

“**waste removal service**” means the collection and removal of domestic, garden, industrial and business waste as provided for in this By-law; and

“**water resource**” means a river, spring or natural channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows, surface water, an estuary or aquifer and includes any borehole, structure, earthwork or equipment installed or used for or in connection with the storage, distribution, provision or use of water.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to–

- (a) regulate the collection and removal of domestic waste and business waste by the Municipality in order to ensure the efficient and effective provision of this service;
 - (b) provide for the collection and removal of other types of waste;
 - (c) ensure proper waste management at events;
 - (d) impose special requirements regarding the disposal of building waste;
 - (e) provide for the registration of waste removal contractors;
 - (f) prohibit dumping and impose appropriate penalties on dumping and other offences;
- and
- (g) manage and promote the recycling of waste.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 2
DOMESTIC AND BUSINESS WASTE

Domestic and business waste removal service

5.(1) The Municipality must itself, or through an authorised waste removal contractor, provide a service for the collection and removal of domestic waste and business waste from premises within its area of jurisdiction.

(2) The Municipality is not required to collect and remove business waste from any premises in respect of which—

- (a) the waste generator has given written notice that he or she wishes the Municipality to stop providing waste removal services;
- (b) the waste generator has contracted with an authorised waste removal contractor to provide waste removal services in respect of the premises; and
- (c) waste is being effectively and timeously removed from those premises.

(3) Where a waste generator has contracted with an authorised waste removal contractor as contemplated in subsection (2), the waste generator must provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

Waste bins and bulk waste containers

6.(1) Waste generators must make adequate provision for the temporary storage of domestic waste and business waste in either waste bins or bulk waste containers.

(2) Every waste generator must ensure that all the domestic waste or business waste generated on his or her premises is placed and kept in waste containers for removal by the Municipality or an authorised waste removal contractor, as the case may be.

(3) Nothing in this By-law prevents any waste generator who has obtained the Municipality's prior written consent from—

- (a) selling or otherwise disposing of recyclable waste;
- (b) selling or disposing of swill for non-human consumption; or
- (c) using suitable domestic waste for making compost: Provided that—
 - (i) neither the waste nor the compost causes a nuisance or is a fire threat; and
 - (ii) the waste and the compost are kept on the premises on which they are generated or made, as the case may be, and are not, without limiting the generality of the foregoing, kept on any verge or neighbouring property.

(4) Every waste generator must ensure that all waste bins and bulk waste containers on his or her premises are—

- (a) kept clean and hygienic; (b) in good condition; and
- (c) replaced when necessary.

(5) In the event of non-compliance with this section, the Municipality may, in addition to any fines imposed on the waste generator, remove the waste container and have it cleaned at the expense of the waste generator.

(6) The Municipality may give written notice to any waste generator calling on him or her to comply with the provisions of this section within a period specified in the notice.

Waste containers supplied by Municipality

7.(1) The Municipality may, in its discretion, supply waste containers to premises if it considers these containers more suitable than waste bins in view of the—

- (a) quantity of the domestic or business waste generated on the premises;
- (b) nature of the domestic or business waste and the suitability of waste bins for storing this type of waste; and
- (c) accessibility of the waste storage area to the Municipality's waste collection vehicles.

(2) Waste containers supplied to a waste generator by the Municipality for the purpose of the temporary storage of domestic waste or business waste may be used only for the purpose of storing that waste.

(3) Waste containers supplied by the Municipality remain the property of the Municipality and may, at any time in the discretion of the Municipality, be replaced or removed by the Municipality.

(4) If the Municipality removes a bulk waste container, other than on a temporary basis, the occupier or owner of the premises concerned, as the case may be, must immediately make

adequate provision for the temporary storage of waste in either waste bins or bulk waste containers.

(5) No waste generator may willfully or negligently damage a waste container supplied by the Municipality.

(6) Each waste generator is responsible for the safekeeping of any waste container supplied by the Municipality and is liable to the Municipality to replace any container which is lost or damaged, except where loss or damage is caused by the Municipality's employees.

(7) Each waste generator must immediately report to the Municipality any loss of or damage to a waste container supplied to him or her by the Municipality.

(8) No waste generator may, without the Municipality's prior written consent, remove waste containers from the premises in respect of which they were supplied by the Municipality.

(9) The Municipality may charge a rental at the applicable tariff charge in respect of any waste containers supplied by the Municipality to a waste generator.

Waste storage areas

8. (1) Every waste generator must provide a reserved waste storage area on his or her premises for the keeping of waste containers and such storage area must—

- (a) be appropriate given the number and size of the waste containers;
- (b) be such that the waste containers are not visible from a street or a public place; (c) comply with the Municipality's Building By-law; and
- (d) comply with any other requirements of the Municipality.

(2) Each waste generator must—

- (a) place the waste containers, or cause the waste containers to be placed, in the waste storage area; and
- (b) at all times keep the waste containers in the waste storage area, except when they are removed for emptying.

(3) The waste generator must ensure that the—

- (a) waste storage area and the waste containers are kept neat, clean and hygienic at all times;
- (b) waste storage area and the waste containers do not cause a nuisance to any person; and
- (c) waste containers are properly covered by means of a lid or other covering supplied with the container.

Waste collection day

9.(1) The Municipality must, from time to time, indicate the days on which it will collect domestic waste and business waste from the different areas under its jurisdiction.

(2) Every waste generator must, before 07:00 on waste collection day for the area within which his or her premises fall, ensure that all waste containers on the premises containing domestic waste or business waste are placed–

- (a) immediately outside the boundary of the premises; (b) on the nearest street boundary; or
- (c) in such other place as may be determined by the Municipality.

(3) If the waste generator has been provided with disposable plastic refuse bags by the Municipality, all bags containing domestic waste or business waste must be placed–

- (a) immediately outside the boundary of the premises; (b) on the nearest street boundary; or
- (c) in such other place as may be determined by the Municipality.

(4) The waste generator must ensure that the waste containers are properly closed and that they do not cause any obstruction to pedestrian or vehicular traffic.

Prohibited use of waste containers

10.(1) The following items may not be placed in any waste container: (a) hot ash;

- (b) unwrapped glass or china pieces or fragments;

(c) waste or other waste material, including any liquid which, by reason of its mass or other characteristics, is likely to render the waste containers unreasonably difficult to handle; and

(d) any other waste or other waste material which may cause damage to waste containers or waste removal vehicles or which may cause injury to the Municipality's employees while they carry out their duties in terms of this By-law, unless suitable steps have been taken to avoid such damage or injury.

(2) No person may place any item which is not domestic waste or business waste, as defined in this By-law, in a waste container intended for domestic waste or business waste. In addition, the following items may not be placed in a waste container intended for domestic waste or business waste:

(a) any metal item; (b) timber

rests;

(c) soil, pebbles or rocks; and

(d) any other material which is not commonly generated in gardens or households, or in businesses.

(3) In the event of non-compliance with this section, the Municipality may leave the waste container concerned unserviced and may, in addition, impose a fine on the waste generator.

Notice to Municipality of new waste generators

11.(1) The occupier of premises on which business waste or domestic waste is about to be generated for the first time or after a period of inactivity or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing before beginning to generate the waste.

(2) In notifying the Municipality of the changed circumstances, the occupier must provide the Municipality with full details of the change and must, on request, supplement those details as required by the Municipality.

Notice to Municipality of changed circumstances

12.(1) The occupier of premises on which business waste or domestic waste is generated or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing within seven days of—

- (a) registration of transfer of ownership in the premises;
- (b) any change in the identity of an occupier of the premises;
- (c) new occupation of the premises following a period of non-occupation; and
- (d) any change in the nature, mass or volume of the waste generated.

(2) In notifying the Municipality of the changed circumstances, the occupier must provide the Municipality with full details of the change and must, on request, supplement those details as required by the Municipality.

Disposable plastic bags and waste containers for domestic waste

13.(1) The Municipality must provide each domestic waste generator with a—

- (a) number of refuse bags as determined by the Municipality in its discretion; or
- (b) waste container if, in the Municipality's discretion, the waste generated by the waste generator is more appropriately stored in a waste container.

(2) The Municipality may, in its discretion, distribute the disposable plastic refuse bags at intervals which are convenient given its operations in each of the areas under its jurisdiction.

(3) Every waste generator must, if he or she has been provided with disposable plastic refuse bags by the Municipality, ensure that waste generated from his or her premises is placed only in waste bins lined with those bags and is not placed directly into a waste bin.

Tariffs: domestic and business waste removal

14.(1) Each waste generator is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of waste from premises on which domestic waste or business waste is generated.

(2) The occupier of premises on which domestic waste or business waste is generated remains liable for payment of the tariff until—

- (a) the occupier has submitted proof to the satisfaction of the Municipality that he or she is no longer liable for payment of the tariff in terms of this By-law; or
- (b) registration of transfer of the premises into the name of a new owner has taken place.

Home businesses: tariff charge for business waste

15.(1) Where business waste is generated as a result of business activities conducted from a residential premises, the waste generator concerned is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of business waste from premises.

(2) In the circumstances referred to in subsection (1), the Municipality shall be entitled to levy the tariff charge for the removal and disposal of business waste in respect of all waste generated in respect of the premises concerned, regardless of whether that waste is domestic waste or business waste.

CHAPTER 3

GARDEN REFUSE, SPECIAL DOMESTIC WASTE AND BULKY WASTE

No garden refuse, special domestic waste or bulky waste removal by Municipality

16. The Municipality is not obliged to collect and remove garden refuse, special domestic waste or bulky waste.

Garden refuse, special domestic waste or bulky waste removal

17.(1) Each waste generator of garden refuse, special domestic waste or bulky waste must— (a) remove the waste and dispose of it at a waste disposal site against payment of the tariff charge; or
(b) make arrangements with an authorised waste removal contractor for the removal and the disposal of the waste at a waste disposal site at the waste generator's cost.

(2) Nothing in this By-law prevents a waste generator from retaining garden refuse for the purpose of making compost:

Provided that–

- (a) neither the waste nor the compost causes a nuisance or is a fire threat; and
- (b) the waste and the compost are kept on the premises on which they are generated or made, as the case may be, and are not, without limiting the generality of the foregoing, kept on any verge or neighbouring property.

(3) The Municipality may, by notice in writing, instruct a waste generator who generates garden refuse, special domestic waste or bulky waste to comply with the provisions of subsection (1) or to dispose of the waste –

- (a) in such manner; and
- (b) at such frequencies,

as may be required by the Municipality.

Garden refuse sites

18.(1) Garden refuse must, once it has been removed from the premises on which it was generated, be deposited either at a–

- (a) garden refuse site, subject to the requirements of subsection (2); or
- (b) waste disposal site.

(2) A waste generator may deposit reasonable quantities of garden refuse at a garden refuse site at no charge, unless otherwise determined by the Municipality, and provided that–

- (a) the waste was generated on residential premises;
- (b) the waste is delivered by means of a vehicle not exceeding a 750 kg or $\frac{3}{4}$ ton pay load; and
- (c) each waste generator deposits such waste not more than once a week.

(3) Garden refuse generated at an accommodation establishment, a bed and breakfast, a guest house or any other business premises may only be deposited at a waste disposal site or other designated site against payment of the tariff charge.

(4) An authorised official is entitled to levy the tariff charge on any waste deposited at a garden refuse site if he or she is reasonably satisfied that the waste was not generated at a

residential premises or that it was delivered to the garden refuse site in a manner which does not comply with the provisions of this By-law.

(5) The Municipality shall be entitled, from time to time, to determine the operating hours of garden refuse sites, which times must be indicated on notice boards erected at these sites.

(6) No person may deposit any waste other than garden refuse at a garden refuse site except with the permission of the Municipality.

Disposal of special domestic waste and bulky waste

19. Special domestic and bulky waste must, once it has been removed from the premises on which it was generated, be deposited at a waste disposal site, against payment of the tariff charge.

Municipality's special service

20. At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove garden refuse, special domestic waste or bulky waste from any premises.

CHAPTER 4 INDUSTRIAL WASTE

No industrial waste removal by Municipality

21. The Municipality is not obliged to collect and remove industrial waste.

Industrial waste removal

22.(1) Each waste generator who generates industrial waste must—

- (a) remove, or cause to be removed, the waste and dispose of it at a waste disposal site against payment of the tariff charge; or

(b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who–

(a) generates industrial waste; or

(b) keeps equine or bovine animals for the purpose of business or trade,

to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to dispose of it in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of industrial waste, the waste generator must, on written request from the Municipality, provide proof to the reasonable satisfaction of the Municipality, that a waste removal contract is in place.

Waste bins and bulk waste containers: industrial waste

23.(1) Waste generators must–

(a) make adequate provision for the temporary storage of industrial waste in either waste bins or bulk waste containers; and

(b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce industrial waste as it has in respect of the generators of domestic and business waste as set out in section 6.

Waste storage areas: industrial waste

24. Waste generators must–

(a) provide a reserved waste storage area on his or her premises for the keeping of waste containers; and

(b) comply with the provisions of section 8 to the extent applicable.

Municipality's special service: industrial waste

25. At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove industrial waste from any premises.

CHAPTER 5

SPECIAL INDUSTRIAL WASTE, HAZARDOUS WASTE AND HEALTH CARE WASTE

No special industrial waste, hazardous waste and health care waste removal by Municipality

26. The Municipality is not obliged to collect and remove special industrial waste, hazardous waste or health care waste.

Special industrial waste, hazardous waste and health care waste removal

27.(1) Each waste generator who generates special industrial waste, hazardous waste or health care waste must—

- (a) remove, or caused to be removed, this waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates special industrial waste, hazardous waste or health care waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) Where a waste generator has contracted with an authorised waste removal contractor for the removal of special industrial waste, hazardous waste or health care waste, the waste generator must on written request from the Municipality provide proof, to the reasonable satisfaction of the Municipality, that a waste removal contract is in place.

Waste bins and bulk waste containers

28.(1) Waste generators must—

- (a) make adequate provision for the temporary storage of special industrial waste, hazardous waste and health care waste in either waste bins or bulk waste containers; and
- (b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce special industrial waste, hazardous waste and health care waste as it has in respect of the generators of domestic and business waste as set out in section 6.

Special waste, hazardous waste and health care waste storage areas

29.(1) Waste generators must—

- (a) provide a reserved waste storage area on his or her premises for the keeping of waste containers;
- (b) ensure that the area is suitable for the storage of waste;
- (c) store the waste and ensure that any sharps or other hazardous items are stored in such a manner that it does not become a nuisance or a safety hazard or pollute the environment; and
- (d) comply with the provisions of section 8 to the extent applicable.

(2) If special industrial waste, hazardous waste or health care waste is not stored in accordance with the provisions of this By-law, the Municipality may order the waste generator to remove the waste within a reasonable time and, if the waste is not removed within that time, the Municipality may, at the waste generator's expense, remove the waste itself or have the waste removed.

Notification of generation

30.(1) A waste generator who generates special industrial waste, hazardous waste or health care waste must notify the Municipality, before beginning to generate that waste, of–

- (a) the composition of the waste; (b) the quantity of the waste;
- (c) the method of storage of the waste;
- (d) the proposed duration of the storage of the waste; and
- (e) the manner in which the waste will be removed, in terms of the provisions of section 27.

(2) If so required by the Municipality, the notification referred to in subsection (1) must be substantiated by an analysis of the waste certified by an appropriately qualified industrial chemist or a person designated by the Municipality.

(3) Subject to the provisions of any applicable legislation, an authorised official may enter any premises at a reasonable time to ascertain whether special industrial waste, hazardous waste or health care waste is generated on the premises and may take samples of and test any waste found on the premises to ascertain its composition.

(4) A person referred to in subsection (1) must notify the Municipality of any changes in the composition and quantity of the special industrial waste, hazardous waste or health care waste occurring after the notification in terms of subsection (1);

Special waste, hazardous waste and health care waste removal

31.(1) No person may operate or conduct a waste removal service for special industrial waste, hazardous waste or health care waste, irrespective of whether such service is rendered for payment or not, unless that person has the written consent of the Municipality.

(2) The Municipality may refuse or grant consent subject to such terms and conditions as the Municipality may deem fit.

(3) The waste generator may only have special industrial waste, hazardous waste or health care waste removed by a waste removal contractor approved by the Municipality in compliance with the relevant legislation.

(4) Special industrial waste, hazardous waste and health care waste may only be transported by a waste removal contractor who is approved by the Municipality and meets the Municipality's requirements in respect of the—

(a) competence of the contractor to remove the particular type of waste concerned; (b) containers used by the contractor;

(c) markings on the containers used by the contractor;

(d) manner of construction of the containers used by the contractor; (e) contractor's procedures for safety and cleanliness; and

(f) contractor's documentation relating to the source, transportation and disposal of waste.

(5) An authorised waste removal contractor must inform the Municipality, at such intervals as the Municipality may stipulate, of the

(a) removal of special industrial waste, hazardous waste or health care waste; (b) identity of the contractor who will remove the waste;

(c) date on which the waste will be removed; and

(d) quantity and the composition of the waste to be removed.

(6) Should a person be convicted of contravening the provisions of this section, he or she must, notwithstanding any penalty imposed on him or her, dispose of the waste as directed by the Municipality or, alternatively, the Municipality may dispose of the waste itself at the expense of that person.

CHAPTER 6 BUILDING WASTE

No building waste removal by Municipality

32. The Municipality is not obliged to collect and remove building waste.

Building waste removal

33.(1) Each waste generator who generates building waste must—

- (a) remove, or cause to be removed, this waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates building waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of building waste, the waste generator must on written request from the Municipality provide proof, to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

(5) Any building contractor whose activities produce building waste is jointly and severally liable with the waste generator to ensure that the waste is removed and disposed of in terms of this section.

Storage of building waste

34. The waste generator and the building contractor whose activities produce the building waste must ensure that—

- (a) adequate provision for the temporary storage of building waste is provided; (b) the waste is not unsightly;
- (c) it does not constitute a nuisance or a safety hazard to any person; and
- (d) it does not pollute the environment.

Disposal of building waste

35.(1) It is an offence for any person to deposit building waste at any place other than a waste disposal site.

(2) Builder's waste may, with the prior written consent of the Municipality, be deposited at a place other than one of the Municipality's waste disposal sites for the purpose of reclaiming land.

(3) Any consent given in terms of subsection (2) must be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality must have regard to—

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of waste at the site; (e) the levelling of the site;
- (f) the control of dust; and
- (g) other relevant factors.

(4) Every waste generator, building contractor and waste removal contractor is obliged, when depositing building waste at a waste disposal site, to obtain and retain for a period of 12 months a weigh bill from the authorised official at the waste disposal site confirming the nature and weight of building waste deposited.

(5) It shall be presumed, until the contrary has been proven, that building waste has been disposed of contrary to the provisions of this section if the waste generator, building contractor or waste removal contractor is unable to produce a weigh bridge certificate or certificates confirming that—

- (a) the building waste was disposed of at a waste disposal site; or
- (b) an amount of building waste was disposed of at a waste disposal site which could reasonably be expected to have been generated from the building operations concerned as determined by the Head of Department or any other qualified person designated by him or her.

**CHAPTER 7
EVENT WASTE**

Responsibility for event waste

36.(1) Every event organiser and venue owner, as defined in section 1, is responsible for storing, collecting, recycling and disposing of waste generated before, during and after an event.

(2) Every event organiser and venue owner must ensure that an authorised waste removal contractor is contracted to collect and dispose of waste generated before, during and after an event in terms of this By-law.

Integrated waste management plans for events

37.(1) Every event organiser and venue owner must develop an integrated waste management plan in respect of each event.

(2) The integrated waste management plan must –

- (a) be delivered to the Municipality at least 10 working days before the proposed event; and
- (b) deal with at least the following matters:
 - (i) the full names and contact details of the event organiser;
 - (ii) the full names and contact details of the owner of the premises at which the event will be held;
 - (iii) the nature and duration of the event;
 - (iv) the estimated costs of waste management associated with the event; and
 - (v) the information as required under subsection 38(2).

(3) The Municipality must consider the plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame; (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(4) If an event organiser and venue owner fail to comply with any provision of this section or the plan submitted in terms of this section, the Municipality may arrange for the collection, recycling and disposal of the waste at the cost of the event organiser and venue owner and recover the cost from the deposit paid.

(5) If no deposit was paid by the event organiser and venue owner, the event organiser and venue owner are jointly and severally liable for any expenses incurred by the Municipality in this regard.

(6) Should an event holder fail to provide an integrated waste management plan in respect of an event, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of the event organiser.

CHAPTER 8 WASTE MANAGEMENT PLANS

Integrated waste management plans

38.(1) An integrated waste management plan must be submitted to the Municipality by waste generators who generate the following types of waste before they begin generating such waste:

- (a) business waste; (b) industrial waste; (c) building waste; (d) event waste;
- (e) hazardous waste; and
- (f) health care waste.

(2) An integrated waste management plan must include at least the following information: (a) a description of the type of waste that will be generated;

- (b) an assessment of the quantity of waste that will be generated; (c) the premises at which the waste will be generated;
- (d) how waste generated will be stored, collected, recycled and disposed of;

- (e) the full names and contact details of any authorised waste removal contractor contracted by the waste generator and proof that he or she has been contracted to collect and dispose of waste;
- (f) a description of how the waste generator intends separating recyclable and non- recyclable material at the point of source;
- (g) a description of the waste generator's waste minimisation and pollution prevention plans;
- (h) an assessment of the impact or potential impact on the environment of the waste generated;
- (i) the waste generator's targets for waste reduction, re-use and recycling; and
- (j) the waste generator's reduction measures or programmes that can minimise the consumption of natural resources.

(3) The Municipality may instruct any waste generator to supply a new or amended waste management plan at any time on not less than 90 day's written notice.

(4) When instructed to submit an integrated waste management plan or a new or amended integrated waste management plan in terms of this By-law, a waste generator shall do so within the time stipulated in the instruction.

(5) The Municipality must consider the plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame; (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(6) If an integrated waste management plan is rejected or not submitted at all, the Municipality shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator fail to take such measures within the time frame specified by the Municipality, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.

(7) The Head of Department may by written notice require any person to provide such information as he or she requires when preparing the Municipality's integrated waste management plan.

(8) Should a person fail to provide the information referred to in this section, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of waste generator.

Exemptions from submitting an integrated waste management plan

39.(1) A waste generator may apply, in writing, for exemption from the requirement to prepare an integrated waste management plan.

(2) The Municipality may declare –

- (a) certain classes of waste;
- (b) a particular mass or volume of waste;
- (c) a particular waste generator or a class of waste generators; or
- (d) waste generators whose waste management plans have been approved by other spheres of government in terms of applicable legislation,

to be exempt from the requirement to submit an integrated waste management plan.

CHAPTER 9

RECYCLING, RE-USE, SORTING AND REDUCTION OF WASTE

Recycling, re-use and reduction of waste

40.(1) No person may, except for their own domestic purposes–

- (a) recycle, re-use or recover waste; (b) sort waste;
- or
- (c) operate as a scrap dealer or buy-back centre, without a permit

issued by the Municipality .

(2) When applying for a permit from the Municipality, the applicant must–

- (a) submit an environmental impact assessment or any similar assessment required by national or provincial legislation, showing that the proposed recycling, re-use or reduction of the waste will be less harmful to the environment than its disposal;

- (b) submit an integrated waste management plan; and
- (c) comply with any other requirements set by the Municipality from time to time.

(3) Any person who handles, transports, processes, treats or disposes of waste for recycling purposes must provide the Municipality with a written report on their activities and in such format and at such frequencies as may be determined by the Municipality.

(4) The Municipality may exempt waste generators, handlers, transporters or agents from the requirements of this Chapter in circumstances where the mass or volume of the waste generated is below a threshold stipulated by the Municipality from time to time.

(5) The Municipality may, from time to time, determine categories of waste which must be recycled, categories of waste generators which must engage in specified forms of recycling, as well as methods, standards and other rules applicable to recycling.

CHAPTER 10 WASTE DISPOSAL SITES

Waste prohibited at municipal disposal sites

41.(1) No person must deliver to, or discharge at, a municipal waste disposal site any of the following types of waste without the specific prior written approval of the Municipality:

- (a) any waste which is a fire hazard by virtue of having a closed cup flashpoint greater than 61°C;
- (b) any waste containing a substance which is a Group A or Group B carcinogen as defined by the International Agency for Research on Cancer;
- (c) any waste containing a substance which is a Group C or Group D carcinogen as defined by the International Agency for Research on Cancer at a concentration greater than 1%;
- (d) any waste containing a substance which is a mutagen;
- (e) any health care waste, unless it has been incinerated at 800°C or higher for at least 1 second;

- (f) any waste containing a substance with a median lethal dose of LD50 for acute oral toxicity, as defined in SABS 0228: 1995, less than or equal to 5000 milligrams per kilogram;
- (g) any waste containing a substance with a median lethal dose of LD50 for acute dermal toxicity, as defined in SABS 0228: 1995, less than or equal to 2000 milligrams per kilogram;
- (h) any waste containing a substance with a lethal concentration of LC50 for acute toxicity on inhalation, as defined in SABS 0228: 1995 less than or equal to 10 milligrams per litre;
- (i) any waste with a pH less than 6 or greater than 12;
- (j) any waste which falls into Class 1 (explosives), Class 2 (compressed gases) or Class 7 (radioactive materials) as specified in SABS 0228:1995; (k) any waste containing a substance listed in SABS 0228:1995; (l) any waste which is difficult to analyse and classify;
- (m) paints and paint sludges; (n) laboratory chemicals;
- (o) any waste which will or might reasonably chemically attack the waste disposal facility; and
- (p) any waste which separately, or when mixed with other waste, creates or has the potential to create a health hazard or a nuisance.

(2) The waste generator and any waste removal contractor are jointly and severally liable for any costs incurred by the Municipality in remedying damage or in abating any nuisance caused by the discharge of waste at a disposal site in contravention of this By-law, and for the amount of any legal liability or costs incurred by the Municipality in respect of any claim arising from any nuisance.

Conduct at municipal disposal sites

42.(1) No person must enter a waste disposal site controlled by the Municipality for any purpose other than the disposal of waste in terms of this By-law and then only at such times and between such hours as the Municipality may from time to time determine.

(2) Every person who, for the purpose of disposing of waste, enters a waste disposal site controlled by the Municipality must—

- (a) enter the waste disposal site only at an authorised access point as indicated by the Municipality;
- (b) present the waste for weighing in the manner required by the authorised official;
- (c) give to the authorised official all the particulars required in regard to the composition of the waste;
- (d) follow all instructions given to him or her with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited;
- (e) provide the authorised official with full information as to the person who is liable to pay the tariff charge for the waste deposited to enable an account to be rendered to him or her, and
- (f) provide the authorised official with a cash payment on his or her own behalf or on behalf of any person who is liable to pay the tariff charge for the waste deposited,

provided that the provisions of paragraphs (b), (c) and (e) above do not apply to a person who, in terms of section 18(2) of this By-law, has entered a disposal site for the purpose of disposing of garden refuse.

(3) No person may bring any intoxicating liquor or any drug onto a waste disposal site controlled by the Municipality.

(4) No person may cause or allow a vehicle in his charge to remain at a disposal site for longer than is necessary for the discharge of waste.

(5) If for any reason a vehicle becomes incapable of leaving the site under its own power the person in charge of the vehicle must take immediate steps to prevent any obstruction on the site by the vehicle and to remove it from the site.

(6) In failing to comply with subsection (5), an authorised official may take steps to remove the vehicle from the site, or cause these steps to be taken, at the cost of the owner of the vehicle.

(7) Neither the Municipality nor any employee of the Municipality incurs liability to the owner for any loss or damage which may be suffered by him or her as a result of any action taken in terms of subsection (6).

(8) No person may deliver to or discharge at a waste disposal site any liquid waste or cause the same to be done, except with the prior written permission of the Municipality and in accordance with such conditions as may be imposed by it.

Waste suitable for use

43. Notwithstanding anything contained in this By-law, no charge is payable when a person wishes to deposit at a waste disposal site controlled by the Municipality any waste approved by the Municipality as suitable for top cover, road surfacing or other purposes connected with the waste disposal site.

CHAPTER 11

PRIVATE WASTE REMOVAL CONTRACTORS

Private waste removal contractors

44.(1) Waste may only be collected and removed from premises by a waste removal contractor who has been—

- (a) issued with a scheduled activity permit in terms of the Municipality's Scheduled Activities By-laws; and
- (b) authorised in writing by the Municipality.

(2) Application for authorisation as a waste removal contractor must be made to the Municipality on the form prescribed from time to time.

(3) The authority contemplated by subsection (1) may be granted or refused at the discretion of the Municipality and may be subject to such conditions, whether as to period of validity, the type of waste which may be collected and removed, or otherwise, as the Municipality may impose.

(4) No person must hold himself or herself out to be, or act as, a waste removal contractor if—

- (a) he or she has not been authorised to do so in terms of subsection (1); or

(b) his or her approval has expired or been withdrawn.

(5) No waste removal contractor may contravene any condition imposed on him or her in terms of subsection (3).

(6) No person may employ a waste removal contractor who has not been authorised in writing by the Municipality in terms of subsection (1).

(7) Any waste generator who intends to appoint an authorised waste removal contractor must notify the Municipality in writing of that fact and must likewise notify the Municipality whenever such engagement is terminated.

(8) If the waste generator has given notice in terms of subsection (7), the waste generator is thereafter responsible for ensuring that waste, excluding domestic waste, is collected and removed in compliance with the provisions of this By-law within a reasonable time after the generation thereof.

(9) The Municipality may, if waste is not being collected and removed to the Municipality's satisfaction from any premises by an approved waste removal contractor, by written notice to waste generator instruct him or her to terminate the services of the contractor concerned and to use the service provided by the Municipality for the collection and removal of waste with effect from a date specified in such notice.

(10) A waste removal contractor may not remove waste from any premises unless he or she is provided with proof that the waste generator has notified the Municipality in writing that the waste generator has entered into a contract with a waste removal contractor for the removal of such waste and that the Municipality should not provide a service to the premises for its removal.

(11) If the Municipality believes that there are grounds to suspend or withdraw authorisation given to a waste removal contractor, the following procedure must be followed:

- (a) the Municipality must give the waste removal contractor at least 21 days written notice by hand delivery or registered mail of the Municipality's intention to suspend or withdraw the authorisation;
- (b) the notice referred to in paragraph (a) must include:

- (i) a statement setting out the nature of the proposed action; (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter; (iv) an address at which representations may be submitted; and
 - (v) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the waste removal contractor may submit representations and appear at the hearing;
- (c) the waste removal contractor must be given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations before the Head of Department;
- (d) if a waste removal contractor wishes to appear at a hearing and to oppose the proposed action, he or she must, within 7 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and
- (e) after the hearing, the Head of Department must give a ruling on whether or not to suspend or withdraw the authorisation and must give the waste removal contractor its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

CHAPTER 12 ENFORCEMENT

Accumulation of waste

45.(1) If waste accumulates on premises so as to constitute a nuisance, or in such a way that it is likely that a nuisance will be created, the Municipality may at the waste generator's cost remove the waste or cause the waste to be removed.

(2) Where the Municipality removes such waste, the waste generator shall be liable for the tariff charge of collecting and removing the waste.

Waste needing special treatment

46.(1) The Municipality may serve written notice on the occupier of any premises or in the case of vacant land, on the owner of the premises, requiring that special measures be taken for the collection, temporary storage, disposal or treatment of any waste on the premises concerned, within such time period as may be stipulated, if the Municipality is of the opinion that the measures are required in order to avoid or remove a health hazard or nuisance.

(2) Failure to comply with a notice issued in terms of subsection (1) is an offence.

(3) In the event of non-compliance with subsection (1), the Municipality may, in addition to any fines imposed on the waste generator, arrange for such measures to be carried out at the expense of the person on whom the notice was served.

Access to premises

47.(1) An authorised official is entitled to access any premises on which waste is generated for the—

- (a) purpose of ensuring compliance with this By-law; and
- (b) delivery of any notice required under this By-law.

(2) An authorised official is entitled to take samples of waste and to test any waste found on the premises in order to ascertain its composition.

Transporting of waste

48.(1) Any person removing or transporting waste or other offensive matter must remove the waste or matter—

- (a) only by means of a properly constructed and enclosed vehicle; and
- (b) in such manner as will prevent the waste from accidentally falling from the vehicle or from any other nuisance arising.

(2) No person may, without the prior written consent of the Municipality, transport waste from any premises along a street or public place in order to gain access to a waste storage area located elsewhere on the same premises.

(3) The Municipality may serve a written notice upon any person who transports waste or offensive material by means of a street or public place imposing any conditions on the manner in which, or the times during which, waste may be transported if it is of the opinion that the transport of the waste is likely to be objectionable or to give rise to nuisance.

CHAPTER 13 OFFENCES AND PENALTIES

Dumping: general

49.(1) No person may dump waste in a manner not permitted in terms of this By-law, nor may any person allow a person under his or her control to do so.

(2) Any person found guilty of dumping shall be liable for a fine or imprisonment as set out in this By-law.

(3) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped and the person responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing of the waste.

Dumping on private land

50.(1) The owner of private land to which the public has access must ensure that sufficient containers are provided to contain litter which is discarded by the public.

(2) If the provisions of subsection (1) are contravened, the Municipality may direct, by way of a written notice to the owner that he or she—

- (a) cease the contravention, in a specified time;
- (b) prevent a further contravention or the continuation of the contravention; and
- (c) take whatever measures the Municipality considers necessary to clean up or remove the waste, and to rehabilitate the area, to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully.

(3) The Municipality may in respect of the notice contemplated in subsection (2)(c) state that the owner must, within a maximum of 5 working days remove the waste or litter, provided the Municipality may grant a further 2 days, on request of the owner, to remove the litter or waste.

(4) A person who owns land or premises, or who is in control of or has a right to use land or premises, must-

(a) not use or permit the use of the land or premises for unlawful dumping of waste;

(b) take reasonable steps to prevent the use of the land or premises for that purpose;

and

(c) report all unlawful dumping of waste on the land or premises to the Municipality.

(5) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped in contravention of subsection (4) and the person responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing the waste.

Dumping: whistle blowing

51.(1) The Municipality may establish mechanisms to assist members of the public to report instances of dumping in contravention of this By-law.

(2) Any whistle blowing mechanism established in terms of subsection (1) may, at the discretion of the Municipality, provide for the reporting of dumping on an anonymous or other basis.

Dumping: naming and shaming

52.(1) The Municipality may publish the name of any person convicted of dumping in contravention of this By-law, along with details of that person's offence.

(2) The names and details of dumping in contravention of this By-law, as contemplated in subsection (1) may be published on the Municipality's website, by posting these details on

the Municipality's notice boards, in the media or in any other manner deemed appropriate by the Municipality.

Offences

53. A person is guilty of an offence under this By-law if he or she—

- (a) unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
- (b) obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the official;
- (c) refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (d) knowingly gives false or misleading information to an authorised official; (e) impersonates an authorised official;
- (f) contravenes or fails to comply with any provision of this By-law; (g) dumps waste;
- (h) contravenes any provision or condition in respect of a consent or authorisation given to him or her; or
- (i) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

Penalties

54.(1) Any person who is convicted of an offence under this By-law shall be liable to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

CHAPTER 14
MISCELLANEOUS PROVISIONS

Ownership of waste

55. All waste removed by the Municipality and all waste deposited at waste disposal sites controlled by the Municipality is the property of the Municipality.

Delegations

56.(1) Subject to the Constitution and applicable national and provincial laws, any– (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty,

conferred, in terms of this By-law, upon the Municipality, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Municipality in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

57. (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.
- (3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
- (5) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.
- (7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

58.(1) The laws mentioned in the first and second columns of Schedule 1 to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All notices published under the Refuse Removal By-law, Municipal Notice number 47 of 2002 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

59. This By-law is called the Waste Removal By-law, 20__ and takes effect on the date on which it is published in the *Provincial Gazette*.

SCHEDULE 1: LAWS REPEALED

(Section 58)

SEWAGE DISPOSAL BY-LAW, 20__

To provide for efficient, affordable, economical and sustainable access to sanitation and sewage services; to provide for different mechanisms of sanitation; to provide for the management and regulation of sewage; to provide assistance to those who cannot afford to pay for sanitation and sewage services; to provide offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the _____ Municipal Council recognises that effective and sustainable sanitation and sewage services are essential to community life, business and the environment;

WHEREAS the Water Services Act establishes the Municipality as a water services authority and the Municipality's Water and Sanitation Unit as a water supply services provider for the Municipality's area of jurisdiction;

WHEREAS the _____ Municipal Council recognises that, as a water services authority, it has a duty to all customers or potential customers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to basic sanitation services;

WHEREAS the _____ Municipal Council has competence in terms of Part B of Schedule 4 of the Constitution of the Republic of South Africa, 1996 relating to such matters as sanitation services;

WHEREAS the _____ Municipal Council has competence, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 to make and administer By-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS the _____ Municipality has a duty to make By-laws for the provision of water services in terms of section 21 of the Water Services Act;

NOW THEREFORE the _____ Municipal Council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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**CHAPTER 1
INTERPRETATION**

Definitions

1. In this By-law, unless the context indicates otherwise, any word or expression used has the meaning ascribed to it by the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977) , and –

approved means approved by an authorised official;

-authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

'best practicable environmental option' means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost deemed to be acceptable to society by the Municipality, in the long term as well as in the short term;

'borehole' means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water;

"chemical toilet" means a toilet which uses chemicals to deodorize waste instead of storing it in a hole or piping it away to a sewage treatment plant where the effluent is fit to be disposed of at a municipal wastewater treatment works through a discharge point designed at the facility;

'connecting point' means the point at which a drainage installation joins a connecting sewer;

'connecting sewer' means a pipe owned and installed by the Municipality for the purpose of conveying sewage from a drainage installation on a premises to a sewer –

- (a) beyond the boundary of those premises;
- (b) within a servitude area; or
- (c) within an area covered by a wayleave or by agreement;

'conservancy tank' means a sealed tank that contains and stores sewage from premises and is required to be emptied on a regular basis;

"Constitution" means the Constitution of the Republic of South Africa, 1996 ;

'Council' means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

'customer' means –

- (a) a person who is supplied with water by the Municipality; and
- (b) where water is supplied through a single water meter to a number of persons, the person to whom the Municipality has agreed to supply water;

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

'drainage installation' means a system which is used for, or intended to be used for or in connection with, the reception, storage, treatment or conveyance of sewage on any premises to the connecting point and includes –

- (a) drains; (b) fittings;
- (c) appliances; (d) septic tanks;
- (e) conservancy tanks; (f) pit latrines;
- and
- (g) 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;

'duly qualified sampler' means a person who has been certified by a suitably competent municipal employee to take samples for analysis from the sewage systems, the stormwater disposal systems and from public waters;

'dwelling' means accommodation intended for human habitation which has –

- (a) its own metered electricity supply; (b) its own exclusive entrance; and
- (c) a kitchen for the sole use of its residents;

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

"environmental impact assessment" means the process of identifying and evaluating the effects of development proposals on the environment before decisions and commitments are made toward that development;

"French drain" means a trench filled with suitable material which is used for the disposal of –

- (a) liquid effluent from a septic tank; or
- (b) wastewater;

"Municipal Manager" means a person appointed in terms of section 54A of the Municipal Systems Act;

"high strength sewage" means sewage with a strength or quality greater than standard domestic effluent;

"metering period" means the time interval between successive meter readings;

"Municipality" means the _____ Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of Provincial Notice No. 43 of 2000 (KZN);

"National 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);

"National Water Act" means the National Water Act, 1998 (Act 36 of 1998);

"occupier" means –

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and
- (b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

"on-site privately-owned sewage disposal system" means either a septic tank, a conservancy tank system or a low-volume sewage treatment plant owned by the owner of the premises on which it is situated;

-owner" means –

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;
- (b) where the registered owner of the premises is insolvent or dead or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;
- (d) where the premises concerned have been leased for a period of 30 (thirty) years or longer, the lessee of the premises; and
- (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) as common property, 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 a person;

'person' means any natural person, juristic person, voluntary association or the trustees of any trust;

"premises" means any piece of land, with or without any building or structure thereon where–

- (a) the external surface boundaries of which are delineated on–
 - (i) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937); or
 - (ii) a sectional plan registered in terms of the Section Titles Act, 1986 (Act No. 95 of 1986); or
- (b) there is an official document in respect of rural land or Ingonyama Trust land, which is situated within the area of jurisdiction of the Municipality;

(c) a municipal service is rendered on land which is not specified on a plan; and
a portion of such land which is not so delineated but which is connected to the sewage system or is capable of being so connected;

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

'public notice' means notice –

- (a) in a newspaper in at least two of the official languages in general use within the area in question;
and
- (b) where possible, 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 which the public has a right to use or to which the public has the right of access;

'septic tank' means a tank designed to receive and retain sewage for such a time and in such a manner as to ensure adequate decomposition;

'sewage' means waste water, trade effluent, standard domestic effluent and other liquid waste, either separately or in combination, but excludes stormwater;

"Sewage Disposal By-laws of 1999" means the Durban Transitional Metropolitan Council Sewage Disposal By-law, MN No. 27 of 1999;

'sewage disposal system' means the structures, pipes, valves, pumps, meters or other associated items used in –

- (a) conveying sewage through the sewer reticulation system;
- (b) treating sewage at the treatment works under the control of the Municipality;
- and
- (c) the disposal of sewage, including
sea outfalls;

-sewer means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for conveying sewage from the connecting sewer, but excludes any drain;

'standard domestic effluent' means domestic effluent which meets strength characteristics relating to chemical oxygen demand and settleable solids as prescribed by the Municipality from time to time as being appropriate to sewage discharges from domestic premises, but excludes trade effluent;

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

'trade effluent' means any liquid, whether or not containing matter in solution or suspension, which is given off in the course of or as a result of any industrial, trade, manufacturing, mining or chemical process or any laboratory research or agricultural activity, and includes any liquid other than standard domestic effluent or stormwater;

'trade premises' means premises upon which trade effluent is produced;

'urine diversion toilet' means a toilet which –

(a) separates urine and faecal matter through the use of a special pedestal and separate urinal to divert urine to soak away in order that only faecal matter collects in the pit; and

(b) which consists of –

(i) two pits;

(ii) a cover slab;

(iii) a superstructure; and

(iv) a vent pipe to each pit;

'VIP' means a ventilated improved pit latrine;

'Water Services Act' means the Water Services Act, 1997 (Act 108 of 1997);

'wet industry' means an industry which discharges trade effluent;

'working day' means a day other than a Saturday, Sunday or public holiday.

'1 in 50 year flood level' means that level reached by flood waters resulting from a storm of a frequency of one in 50 years; and

'1 in 50 year flood plain' means the area subject to inundation by flood waters from a storm of a frequency of one in 50 years;

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The object of this By-law is to regulate sewage disposal in a manner which –

- (a) progressively ensures efficient, affordable, economical and sustainable access to sanitation and sewage services;
- (b) regulates the duty of customers to pay for sanitation and sewage services;
- (c) provides various measures to assist those who are economically unable to meet normal service charges;
- and
- (d) complies with the Water Services Act.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 2
GENERAL PROVISIONS

Provision of services to trade premises

5. A person who wants to construct or cause to be constructed any building or development must, when undertaking an environmental impact assessment, ensure that provision is made for the treatment and disposal of domestic sewage, trade effluent and stormwater.

Objectionable discharge

6.(1) A person may not cause or permit, whether wilfully or negligently, any solid, liquid or gaseous substance other than stormwater to enter any –

- (a) stormwater drain, stormwater sewer or excavated or constructed watercourse;
- (b) river, stream or natural watercourse or any public water, whether ordinarily dry or otherwise, except in accordance with the provisions of the National Water Act, 1998 (Act No. 36 of 1998);
- (c) street; or
- (d) premises.

(2) The Municipality may prescribe the minimum standards and criteria dealing with the discharge of sewage or any substance into the sewage disposal system.

(3) A person may not 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 by the Municipality;
 - (b) which –
 - (i) is offensive; (ii) has an odour; (iii) has fats;
 - (iv) has excessive foam; or
 - (v) has colour dyes,
- and may cause an obstruction or public health nuisance in the inflow of any treatment works;

(c) contains any substance in such concentration as will produce or is likely to produce any offensive or otherwise undesirable taste, colour, odour, obstruction or any foam in the final treated effluent –

- (i) at any treatment works;
- (ii) at any sea outfall discharge point; or
- (iii) in any public water;

(d) may prejudice the re-use of treated sewage or adversely affect any of the processes by which sewage is purified for re-use or treated to produce sludge for disposal;

(e) contains any substance or thing which –

- (i) is not amenable to treatment to a satisfactory degree at a treatment works; or (ii) causes or is likely to cause a breakdown, pass-through or inhibition of the treatment processes in use at such works with the exception of an electrical conductivity below 95mS/m at the head of the treatment works;

(f) contains any C.O.D., substance or thing which is of such strength or nature, or which is amenable to treatment only to a limited degree, and will result in effluent from the treatment works or discharge from a sea outfall being unable to comply satisfactorily with any requirements of or under the National Water Act;

(g) may –

- (i) cause danger to the health or safety of any person;
- (ii) be injurious to the structure or materials of the sewage disposal system; or
- (iii) prejudice the use of any ground used by the Municipality for the sewage disposal system, other than in compliance with any permission issued in terms of this By-law; or

(h) may inhibit the unrestricted conveyance of sewage through the sewage disposal system.

(4) No trade effluent may be allowed to enter a septic tank or a French drain.

(5) A person may not cause or permit any stormwater to enter the sewage disposal system. (6) An authorised official

may, by written notice, order the owner or occupier of any premises

to conduct, at his or her own 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 official.

(7) An authorised official may by written notice order the owner or occupier of any premises to execute, at his or her own cost, any precautionary measures required by the Municipality to prevent any contravention of the provisions of this By-law.

(8) An authorised official may, by written notice, order a person who breaches this by-law or condition imposed in terms of this by-law to remedy such breach within a period specified in the notice at the persons own cost.

(9) If any person contravenes any provision of subsection (1) or (3), he or she must within 12 hours advise an authorised official of the details of the contravention and the reasons for it.

CHAPTER 3 USE OF SEWAGE DISPOSAL SYSTEM

Agreement to provide services

7. Subject to any applicable law an authorised official may enter into an agreement with any person on behalf of the Municipality to provide a sewage disposal service.

Application for use of sewage disposal system

8. (1) A person wishing to use the sewage disposal system must make application to the Municipality in the form required, accompanied by such information as the Municipality may require from time to time.

(2) An application for the use of the sewage disposal system which has been granted by the Municipality constitutes an agreement between the Municipality and the customer.

(3) The owner is liable for all the prescribed fees in respect of the use of the sewage disposal system granted to him or her until the agreement between the Municipality and the owner is terminated.

(4) Where premises have been connected to the sewage disposal system, or are reasonably capable of being so connected, it must be deemed for the purpose of this By-law that an agreement in terms of subsection (1) exists.

Special agreements for disposal of sewage

9. (1) The Municipality may enter into a special agreement for the disposal of sewage with a person –
- (a) inside the area of jurisdiction of the Municipality, if the disposal necessitates the imposition of conditions not contained in this By-law; or
 - (b) outside the area of jurisdiction of the Municipality.

(2) A special agreement must be subject to any resolution passed by an authorised official.

(3) If the Municipality, in terms of a special agreement, provides a means of disposal of sewage to a person outside the area of jurisdiction of the Municipality, it may permit him or her to accept sewage for eventual disposal by the Municipality from other persons outside the area of jurisdiction of the Municipality, subject to such conditions as the Municipality deems fit.

Termination of agreement

10. A person may terminate an agreement referred to in section 8 or 9 by giving the Municipality not less than five working days' notice in writing of his or her intention to do so: Provided that the authorised official is satisfied with the manner in which sewage arising from the premises will be disposed of on the termination of the contract.

Provision of connecting sewer

11. (1) In the event that –
- (a) an agreement for the use of the sewage disposal system in accordance with section 8 or 9 exists; and
 - (b) no connecting sewer exists in respect of the premises,

the owner or his or her agent must immediately make application on the prescribed form and pay the prescribed charge for the installation of a connecting sewer.

(2) If an application is made for use of the sewage disposal system for premises which are so situated that it is necessary to extend the sewer in order to connect the sewage disposal

system to the premises, an authorised official may agree to the extension subject to such conditions as he or she may impose.

(3) An authorised official may agree, at the request of any person and subject to such conditions as the authorised official 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 must be responsible for –

- (a) any extension of the drainage installation to the connecting point designated by an authorised official; and
- (b) obtaining at his or her cost, such servitudes over other premises as may be necessary.

(4) A connecting sewer provided and installed by the Municipality must –

- (a) be located in a position determined by an authorised official; (b) terminate –
 - (i) at a connection point approximately one metre 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
 - (ii) when subsection (3) applies, at the connecting point designated in terms of that subsection; and
- (c) be of a size determined by an authorised official.

(5) An owner or his or her agent must pay the connection charge prescribed by the Council. (6) Where an owner or his

or her agent is required to provide a sewage lift as contemplated

in the National Building Regulations, the rate and time of discharge into the sewer are subject to the approval of an authorised official.

Acceptance of sewage delivered by road haulage

12.(1) An authorised official may, and subject to such conditions as he or she may specify, accept sewage for disposal delivered by road haulage to a specified treatment works facility of the Municipality.

(2)(a) A person may not discharge sewage into the facilities of the Municipality by road haulage, except with and in terms of the written permission of an authorised official.

(b) The charges for any sewage delivered for disposal to any Municipal facility must be assessed by an authorised official in accordance with the charges prescribed from time to time in terms of section 28.

(3) When delivery is by road haulage, the –

- (a) time of delivery must be arranged with an authorised official; and
- (b) nature and composition of the sewage must be established to the satisfaction of an authorised official prior to the discharge thereof:

Provided that a person may not deliver sewage which does not comply with the standards laid down in accordance with this By-law.

(4) An authorised official may withdraw any permission to discharge sewage delivered:

Provided that 14 days' written notice is given to the permit holder, if the permit holder –

- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule -All or -BII, as applicable, or in the permit;
- (b) fails or refuses to comply with any notice lawfully served on him or her in accordance with this By-law or contravenes any provisions of this By-law or any condition imposed on him or her in terms of any permission granted to him or her; or
- (c) fails to pay the assessed charges in respect of any sewage delivered.

CHAPTER 4

LEVELS OF SUPPLY: HOUSEHOLDS AND INFORMAL SETTLEMENTS

Levels of supply of sanitation to households

13.(1) The sanitation provided to domestic households must be in the form of one of the following methods:

- (a) a privately owned urine diversion toilet;
- (b) if a municipal waterborne sewerage reticulation system is available, connection to such system; or
- (c) if a municipal waterborne sewerage reticulation system is not available, an on-site- privately owned sewage disposal system.

(2)(a) The sanitation must match the available water supply to the premises concerned. (b) Where –

- (i) water supply to a household is limited to 300 litres per day via a ground tank or yard tap, sanitation must be provided in the form of a urine diversion toilet or an alternative approved by an authorised official ; and
- (ii) either a semi-pressure supply or a full pressure water supply is provided by the Municipality, sanitation must be provided in the form of the municipal waterborne sewerage reticulation system or an on-site privately-owned sewage disposal system.

- (3)(a) The Municipality may prescribe that a particular sanitation method must be applied in a particular area.
- (b) Any form of sanitation other than that prescribed for an area as contemplated in paragraph (a) may be used only with the permission of an authorised official: Provided that
- the –

- (i) sanitation method matches the level of available water supply; (ii) sanitation method is implemented by the householder; and
- (iii) water supply system is able to sustain the level of water demand.

- (4) The following sanitation methods for domestic households are not permitted without an authorised official's consent, which may only be granted under exceptional circumstances:

- (a) night soil pail;
- (b) a simple, unimproved pit latrine; and
- (c) a conventional VIP or chemical toilet.

Sanitation of informal settlements

14. (1) Sanitation to informal settlements must be provided by means of either –
- (a) an ablution block connected to the municipal waterborne sewerage reticulation system; or
 - (b) a toilet block where no connection to the municipal waterborne sewerage reticulation system is available: Provided that each toilet must be equipped with its own VIP pit which must be emptied as and when required.
- (2) The minimum level of access to sanitation provided in informal settlements must be an ablution block or toilet block within 200 meters of every household.

CHAPTER 5
DRAINAGE INSTALLATION

Drains in streets or public places

15. A person may not, for the purpose of conveying sewage, construct a drain 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 an authorised official and subject to such conditions as he or she may deem fit.

Construction by Municipality on private premises

16. (1) The Municipality may, by agreement with the owner of any premises, construct drains on those premises at the cost of the owner.

(2) When agreeing with the owner of premises to construct drains on those premises, a term of the agreement must be that the owner will be liable for the full cost of construction as certified by an authorised official, either in advance or on demand.

Maintenance of drainage installation

17. (1) In the event that the owner or occupier of any premises fails to –

- (a) provide a drainage installation and a sewer connection; or
- (b) keep the drainage installation on those premises in proper working condition,

the Municipality may itself carry out any necessary work on the premises, and recover the full cost thereof from the owner or occupier.

(2) Any person who requests that a drainage installation be cleared by the Municipality is liable to pay the fee as prescribed.

(3) An authorised official may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section of the installation and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff of charges.

Installation of pre-treatment facility

18. An authorised official may, in his or her discretion, require that new premises be provided with a minimum pre-treatment facility of a type specified by him or her prior to such premises being connected to the sewage disposal system.

Protection from ingress of floodwaters

19. Where a premises is situated in the 1 in 50 year flood plain, the top level of manholes, inspection chambers and gullies must be placed above the 1 in 50 year flood level, except, in the case of manholes and inspection chambers, where the cover is secured in place by means approved by an authorised official.

**CHAPTER 6
DEVELOPMENTS****Sewage disposal in sectional title developments**

20.(1) The developers of a new sectional title development must, at his, her or its own cost, construct an approved sewage reticulation system, including any pump-stations and rising mains, which is adequate to serve each household and any common areas as required.

(2) Where the municipal waterborne sewage reticulation system is available to serve the development, the developer must at his, her or its own cost connect the internal sewage reticulation system to the municipal reticulation system.

(3) Where the municipal waterborne sewage reticulation system is not available to serve the development, the developer must install a suitable on-site privately owned sewage disposal system.

Sewage disposal to mini-sub developments

21.(1) The developer of any new mini-sub development is required to construct, to the specifications of the Municipality, a sewage reticulation system, including any pump-stations and rising mains, to serve each freehold site and any common areas as required.

(2) Where the municipal waterborne sewage reticulation is available to serve the development, the developer must connect the internal sewage reticulation system to the municipal reticulation system.

(3) The Municipality may take over the reticulation, up to the connection point, at no cost to the Municipality once –

- (a) the sewage reticulation system has been completed to the satisfaction of the Municipality; and
- (b) a complete set of as-built drawings have been received from the developer.

(4) Where the municipal waterborne sewage reticulation is not available to serve the development, the developer may investigate the provision of a suitable on-site privately owned sewage disposal system, subject to the home owner's association fulfilling its obligations as water services provider or water services intermediary.

CHAPTER 7 PRIVATELY-OWNED SEWAGE DISPOSAL SYSTEMS

Septic tanks

22.(1) A septic tank must consist of a tank in which breakdown of the sewage occurs and from where effluent is dispersed into the ground through a soak away or French drain.

(2) The permissible flow to a septic tank is limited to liquid containing domestic sewage.

(3) Septic tanks must be designed by a qualified person or alternatively it should follow the eThekweni Municipality guideline for the design and approval of on-site disposal of domestic sewage.

Conservancy tanks

23. (1) A conservancy tank may only be installed on premises in areas where there is municipal waterborne sewerage, with the prior permission of an authorised official , which will only be granted in exceptional circumstances.

(2) If permission for a conservancy tank on premises in areas where there is municipal waterborne sewerage is granted, the following conditions apply:

(a) the conservancy tank must –

- (i) comply with the requirements set out in the SABS 0400 Code of Practice, as amended, for the Application of the National Building Regulations; and
- (ii) be designed by a professional engineer proficient in planning or designing of on-site wastewater disposal;

(b) the scale of the proposed development must be limited;

(c) the authorised official must be satisfied that adequate arrangements have been made for the required emptying service; and

(d) for a –

- (i) domestic application, the conservancy tank must have a minimum capacity of 7000 litres and have a seven day retention capacity; and
- (ii) non-residential application, the conservancy tank must have a minimum capacity sufficient to hold four days retention of the potential flow generated.

Privately-owned sewage treatment plant

24. (1) A –

(a) privately-owned sewage treatment plant may only be installed on premises; and

(b) privately-owned low volume domestic sewage treatment plant may only be installed on domestic premises, with the prior permission of an authorised official, which will only be granted in exceptional circumstances.

(2) If permission for a privately-owned low volume domestic sewage treatment plant on domestic premises is granted, the following conditions apply:

(a) the plant must comply with the eThekweni guideline document: Package Plants for The Treatment of Domestic Wastewater, as published and amended from time to time; (b) the developer must appoint a professional engineer at the commencement of the project and such professional engineer–

(i) is responsible for the design and selection of the plant;

(ii) must supervise the construction, installation and commissioning of the plant;

and

(iii) is responsible for the operational control, monitoring and maintenance of the plant for a period of 5 years in terms of a service contract to the satisfaction of an authorised official ; and

(c) the developer must lodge a financial guarantee with the Municipality in an amount equal to 1,5 (one comma five) times the total cost of the plant for a period of five years.

(3) The Municipality may prescribe additional requirements for privately-owned low volume domestic sewage treatment plants.

(4) If the discharge from a privately-owned low volume domestic sewage treatment plant does not comply with the General Limit Values as set by the Department of Water Affairs and Forestry's General Authorisations in terms of Section 39 of the National Water Act, an authorised official may instruct the owner of such plant to discharge into an approved municipal facility on such conditions as an authorised official may prescribe.

(5) If it becomes apparent that a privately-owned low volume domestic sewage treatment plant does not meet the discharge standards set by the Department of Water Affairs as in subsection (4) above, an authorised official may instruct the owner of the plant to remove and replace the plant at his or her own cost.

CHAPTER 8 TRADE EFFLUENT

Permission to discharge trade effluent

25. (1) A person may not discharge, cause or permit to be discharged into the municipal sewage disposal system any trade effluent, except –

- (a) with and in terms of the written permission of an authorised official; and
- (b) in accordance with this By-law.

(2) Any application for permission to discharge trade effluent into the sewage disposal system must be made in accordance with the requirements stipulated by an authorised official and against payment of the prescribed fee.

(3) An authorised official may grant an applicant permission to discharge trade effluent into the municipal sewage disposal system if, in his or her opinion, there is sufficient capacity in the sewage disposal system to permit the –

- (a) conveyance;

(b) effective treatment; and
(c) lawful disposal,
of the additional trade effluent.

(4) The person to whom permission has been granted in terms of this Chapter shall ensure that no trade effluent is discharged into the sewage disposal system unless it complies with the standards and criteria set out in Schedules "A" and "B" hereto.

(5) In granting permission to discharge effluent into the municipal sewage disposal system, an authorised official may –

- (a) specify the duration of the permission;
- (b) impose any conditions in addition to those which may be prescribed by an authorised official; and
- (c) relax or vary the standards set up in Schedules -All and -Bl or any conditions prescribed by an authorised official if he or she is satisfied that any relaxation or variation is the best practicable environmental option taking into account the following factors:
 - (i) whether the applicant's plant is operated and maintained at optimal levels;
 - (ii) whether the technology used by the applicant represents the best available technology to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
 - (iii) whether the applicant is implementing a programme of waste minimisation which complies with waste minimisation or management standards prescribed in terms of applicable legislation;
 - (iv) the cost to the Municipality of granting the relaxation or variation; and
 - (v) the environmental impact, or potential impact, were the relaxation of variation to be granted and in doing so must apply a risk-averse and cautious approach.

(6) Trade effluent may only be discharged into the municipal sewage disposal system in terms of permission granted in accordance with –

- (a) this By-law;
- (b) any conditions relating to the permission granted; and
- (c) any standards and criteria prescribed by an authorised official from time to time.

(7) A duly qualified sampler may take test samples at any time to ascertain whether the trade effluent complies with the provisions of this By-law and any standard or condition prescribed by the permit from time to time.

- (8) The authorised official may in the permit or at any time, by written notice, require a permit holder to –
- (a) subject trade effluent to any preliminary treatment that, in the opinion of the authorised official, ensures that such effluent conforms with this By-law and any standard or condition prescribed by the authorised officer, and in Schedules -All and -BII before being discharged into the municipal sewage disposal system;
 - (b) install equalising tanks, valves, pumps, appliances, meters and other equipment as, in the opinion of the authorised official, is necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed on the permit holder;
 - (c) install for the conveyance of his or her trade effluent into the sewage disposal system at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent, and may prohibit such permit holder from disposing of his or her –
 - (i) trade effluent at any other point; and
 - (ii) waste water and standard domestic effluent by means other than into a sewage disposal system;
 - (d) construct on any pipe conveying his or her trade effluent to any sewer, a manhole or stop-valve in such position and of such dimensions and materials as the authorised official may require;
 - (e) provide all such information as may be required by the authorised official to enable him or her to assess the charges due to the Municipality in accordance with this By-law;
 - (f) provide adequate facilities to prevent a discharge into the sewage disposal system which is in contravention of the provisions of this By-law, including but not limited to level or overflow detection devices, standby equipment, overflow catchpits or other appropriate means;
 - (g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of the permit holder at times laid down by the authorised official, and to forward copies of the calibration certificate to him or her; and
 - (h) cause his or her trade effluent to be analysed as often and in such manner as may be prescribed by the authorised official, and to provide the Municipality with returns of these tests when completed.

(9) The owner or occupier of any premises must at his or her own cost install precautionary measures to prevent the contravention of any provision of this By-law as contemplated in any guidelines set out by the Municipality relating to the approval of building plans, which include but are not limited to the following:

- (a) installing an impermeable containing structure or bund around all liquid containers with a volume not less than the volume of the largest liquid container therein; and
- (b) ensuring all containing structures are roofed with gutters to ensure that clean stormwater run-off is directed to the stormwater drainage system.

(10) The authorised official may grant a relaxation of the requirements set out in subsection

(9) if the permit holder applies for such relaxation in writing and is able to—

- (a) prove that there would be no increased risk to the environment; and
- (b) demonstrate what other provisions he or she would put in place to minimise the risk.

(11) In the event of failure or a faulty recording meter or other device, the volume must be assessed by such means as an authorised official may decide.

(12) The cost of any treatment, plant, works or analysis which the permit holder may be required to carry out, construct or install in accordance with subsection (8) must be borne by the permit holder concerned.

(13) A permit holder must obtain the written permission of the authorised official for any proposed changes to the composition of trade effluent discharged into the sewage disposal system.

(14) If a permit holder discharges into the sewage disposal system any trade effluent which does not comply with the permit issued in respect of that process or premises, the permit holder or his or her agent must, within 12 hours of the discharge, notify an authorised official of the incident and the reasons for it.

(15) The authorised official may withdraw any permission to discharge trade effluent into the sewage disposal system if the permit holder –

- (a) fails or refuses to comply with any notice lawfully served on him or her in terms of this By-law or contravenes any provisions of this By-law or any condition imposed on him or her in terms of any permission granted to him or her; or
- (b) fails to pay the assessed charges in respect of any trade effluent discharged; (c) fails to ensure trade effluent quality complies with Schedules -All and -BI:

Provided that the permit holder must be given 14 days' written notice.

(16) If the authorised official withdraws permission to discharge trade effluent, he or she may

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(a) in addition to any steps prescribed in this By-law, and on 14 (fourteen) days' written notice served on the permit holder, authorise the closing or sealing of the connecting sewer of the premises concerned to any sewer for such charge as may be prescribed by the authorised official; and

(b) continue to refuse to accept any further trade effluent from the permit holder until he or she is satisfied that the permit holder concerned has taken adequate steps to ensure that the trade effluent to be discharged conforms with the standards prescribed in this By-law.

(17) If the authorised official authorises the reopening of the connection or seal after it being closed, the permit holder is liable for the charge in terms of the prescribed charges.

(18)(a) If it comes to the attention of the authorised official that a person is discharging trade effluent which has the potential, if allowed to continue, to seriously damage the sewage disposal system or the environment, he or she may immediately authorise the sealing of the sewer connection through which the trade effluent is being discharged.

(b) A person may not permit the opening of the connection contemplated in paragraph (a) until an authorised official is satisfied that the trade effluent will comply with the prescribed standards.

(19) The provisions of this section apply equally to trade effluent discharged into any of the sea outfalls of the Municipality, subject to applicable legislation, and further subject to the following provisions:

(a) where trade effluent is accepted for discharge into a sea outfall, it must be delivered to the point of acceptance approved by the authorised official by means of a pipeline constructed and maintained by the permit holder at his or her own expense;

(b) no trade effluent may be accepted for discharge into a sea outfall unless it complies with the standards and criteria set out in Schedule -BI;

(c) trade effluent may not be accepted for discharge into a sea outfall unless it, whether alone or in combination with other substances, can be demonstrated to the satisfaction of the authorised official not to be toxic to marine fauna or flora and not to contain any

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(i) other constituents in concentrations which –

- (aa) can create a nuisance on the beaches or in the sea, or a health hazard; or
 - (bb) may have an adverse effect on bathing or other recreational areas; (ii) floating material;
 - (iii) substance which may be prejudicial or injurious to the sea outfalls of the Municipality and associated sumps, sewers, plant and equipment or to its employees;
 - (iv) materials capable of creating a nuisance by frothing; and
 - (v) standard domestic effluent;
- (d) subject to the provisions of subsection (c), the authorised official may, in writing in the permission concerned, relax or vary the standards and criteria prescribed by Schedule -BI;
- (e) the delivery pipeline from the premises concerned to the point of acceptance must be maintained in a proper condition and free from all leaks;
- (f) acceptance of the trade effluent must be subject to periodic review: Provided that such review may be made at any time if, in the opinion of the authorised official, special circumstances, which may include but is not limited to, the pollution of the sea or beaches, the killing of fish, or other incidents, arise as a result of the acceptance thereof into a sea outfall;
- (g) a suitable sampling point to the satisfaction of the authorised official must be provided by the permit holder in respect of the trade premises concerned;
- (h) the above mentioned sampling point shall be labeled to the satisfaction of the authorised official;
- (i) the authorised official must be notified of any proposed changes in the process of manufacture or in the quantity or nature of the materials used which is likely to affect the nature, composition or quantity of the trade effluent discharged: Provided that the permission of the authorised official must be obtained for the continued discharge of such effluent.

CHAPTER 9 PAYMENT FOR SERVICES

Payment for use of sewage disposal system

26.(1) Payment for the use of the sewage disposal system must be made –

- (a) in accordance with the prescribed tariff for the disposal of sewage; or
- (b) in terms of a special agreement entered into between the Municipality and a person in terms of section 9; or
- (c) in terms of some other means as prescribed by the authorised official. (2) Payment is due

and payable on the due date stipulated in the account.

Trade effluent charge when sewage rates applied

27. When the charge for the use of the sewage disposal system is by means of sewage rates and a person holds a permit for the discharge of trade effluent in excess of the prescribed minimum volume of 'T' kilolitres per month, the permit holder is liable to charges in addition to that levied by means of sewage rates, calculated in accordance with section 28.

Trade effluent charges

28. The Municipality may prescribe trade effluent charges and amend such charges as it deems necessary.

Sewage disposal charge when tariff rates applied

29. When a charge for the use of the sewage disposal system is by means of prescribed tariff rates, charges for standard domestic effluent become payable by the customer when a premises –

- (a) is connected to the sewage disposal system or is reasonably capable of being so connected; or
- (b) receives a supply of water from the Municipality.

Trade effluent charge when tariff rates applied

30.(1) A person who holds a permit for the discharge of trade effluent in excess of the prescribed minimum volume of 'T' kilolitres per month, is liable for a minimum charge per kilolitre of trade effluent which is equivalent to the charge for the disposal of standard domestic effluent.

(2) In addition to the provisions of subsection (1), a permit holder who discharges a trade effluent with a strength or quality greater than standard domestic effluent is liable for an

additional charge in respect of high strength sewage calculated in accordance with the provisions of section 28.

Volume of standard domestic effluent determined for payment purposes

31.(1) The volume of standard domestic effluent must be determined –

- (a) by a percentage of water supplied by the Municipality in accordance with any prescribed procedures;
- (b) on an assessment made by the authorised official based on criteria such as the number of employees at a premises, the number of shifts worked, number of meals served and the like; or
- (c) where premises are supplied with water from a source in addition to the water supply system of the Municipality, by river abstraction or partially or wholly by a borehole, on an assessment made by the authorised official based on such criteria as he or she deems relevant.

(2) Notwithstanding the provisions of subsection (1)(a), where the authorised official is of the opinion that the percentage applicable in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, he or she may reduce the percentage applicable to those premises to a figure which, in his or her opinion and in the light of information then available, more realistically reflects the proportion between the likely volume of sewage discharged from the premises and the quantity of water supplied thereto

Volume of trade effluent determined for payment purposes

32. The volume of trade effluent discharged into the sewage disposal system or to sea outfalls must be determined in the following ways:

- (a) where direct measurements of the volume of trade effluent discharged from a premises are made, such volume must be used for the purposes of calculating the amount payable;
- (b) where no direct measurement of the volume of trade effluent discharged from the premises are made, then the volume must be determined as a percentage of water supplied by the Municipality in accordance with procedures prescribed by the Municipality;
- (c) where premises are supplied with water from a source in addition to the Municipality's water supply system, by river abstraction or partially or wholly by a

borehole, the volume must be assessed by the authorised official based on such criteria as he or she may deem relevant; and

(d) where a portion of the water supplied to a permit holder forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the authorised official may, in his or her sole discretion, on application by the permit holder, reduce the assessed volume of trade effluent.

Other charges

33.(1) Notwithstanding anything to the contrary contained in this By-law, the authorised official may prescribe and levy the following charges:

- (a) a charge payable by any person in respect of a minimum volume of sewage;
- (b) a charge payable by any person in the form of a general surcharge on the prescribed charges for use of the sewage disposal system in the event that there is any prohibition or restriction in the consumption or use of water;
- (c) a charge for the recovery of costs incurred by the Municipality for trade effluent control and monitoring of permit holders who dispose of trade effluent into the sewage disposal system;
- (d) a charge payable by a person who disposes of an objectionable discharge as referred to in section 6 for the recovery of full costs incurred by the Municipality in tracing the source of such objectionable discharge and in remedying the effects thereof: Provided that such full cost must include the environmental cost;
- (e) a charge payable by any person at –
 - (i) the applicable prescribed tariff rate; or
 - (ii) if no tariff has been prescribed, the full cost for any other service rendered or goods sold;
- (f) the Municipality may raise additional charges for any charges relating to water quality that may be levied by the national government;
- (g) a charge must be payable by any person who exceeds the discharge limits as set out in Schedules -All and -BII; and
- (h) the owner of any premises where storm water infiltration into the sewerage reticulation has been found must be charged in respect of the estimated volume of storm water discharged to sewer: Provided that the volume storm water entering the sewer system must be estimated by the authorised official.

(2) No person must establish or operate an industry or a commercial undertaking, producing waste or water containing waste in an area zoned for residential purposes.

Payment of deposit

34.(1) The authorised official may require any person to deposit with the Municipality a sum of money representing the cost of sewage disposal charges which in his or her opinion would be incurred by the person during a period specified by the Municipality.

(2) A deposit contemplated in subsection (1) must accompany the application submitted in accordance with section 8 or subsection (1).

(3) A deposit paid in accordance with subsection (1) may not be regarded as being in payment or part payment of a current account due for the disposal of sewage.

(4) Subject to the Credit Control and Debt Collection By-law the Municipality may, by notice in writing, require the person concerned to increase the deposit by an amount specified in such notice.

(5) Subject to the Credit Control and Debt Collection By-law the Municipality may of its own accord, or at the request of a customer, reduce the amount of a deposit or a guarantee required by him or her if the Municipality is satisfied that the reduction is justified by –

- (a) the present level of sewage disposal charges to the customer; or
- (b) a change in the circumstances pertaining to the assessment of the original amount of the deposit or guarantee.

Reduction of amount payable if water wasted or leakage undetected

35.(1) A person is entitled to a reduction of the amount payable for the disposal of sewage in the event that the water meter readings upon which the charge is calculated include any period during which –

- (a) water was wasted; or
- (b) a leakage was undetected:

Provided that the customer demonstrates to the satisfaction of the authorised official that the water was not discharged into the sewage disposal system.

(2) The amount payable for the disposal of sewage may be reduced by an amount based on the volume of standard domestic effluent calculated from the volume of potable water lost through leakage or wastage during the leak period.

(3)(a) The leak period must be either the metering period immediately prior to the date of repair of the leak or the metering period during which the leak is repaired, whichever results in the greater reduction of the amount payable.

(4)(a) The volume of lost water must be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time.

(b) If –

(i) there is no previous consumption history existing; or

(ii) the average consumption is not considered representative by the authorised official, the average water consumption is that amount determined by him or her, after due consideration of all relevant information.

(c) There may be no reduction of the amount payable as a result of a loss of water directly or indirectly caused by or resulting from –

(i) subsidence or landslip;

(ii) refilling of swimming or other pools or ponds, whether following leakage or otherwise;

(iii) the deliberate act of the person who has suffered such loss or any person acting on his or her behalf if such act results in loss of water; or

(iv) water installations that do not conform to any installation guidelines of the Municipality.

Amendments to amount payable

36. If, for any reason, a person liable under this By-law is –

(a) not charged at all; or

(b) charged for sewage at a rate lower than that for which he or she is liable,

he or she may not be absolved from payment, and must on demand remit all sums due to the Municipality, calculated in accordance with the provisions of this By-law.

Amendments to prescribed charges

37. Where amendments to the prescribed tariff rates for disposal of sewage become operative on a date between meter readings, the customer must pay charges calculated on the same quantity of sewage as was disposed of in each period of 24 (twenty four) hours during the interval between meter readings.

**CHAPTER 10
PROTECTION OF SEWAGE DISPOSAL SYSTEM**

Trespassing on the sewage disposal system

38. Except with the prior authority of the authorised official, a person may not enter –
- (a) upon an area used for the purpose of the sewage disposal system which is enclosed by a fence or where entry is prohibited by notice boards; or
 - (b) a structure used by the Municipality in connection with its sewage disposal system.

Interference with sewage disposal system

39. Except with the prior authority of the authorised official, a person may not –
- (a) interfere or tamper with the sewage disposal system except under the provisions of section 43;
 - (b) make a connection to the sewage disposal system except under the provisions of section 11; or
 - (c) construct a building or raise or lower the ground level within an area that is subject to a sewer servitude.

Damage to sewage disposal system

40. (1) A person may not damage or endanger the sewage disposal system, or cause or permit it to be damaged or endangered.

(2) A person who intends performing work which may cause damage to the sewage disposal system on land owned by or vested in the Municipality or over which it has a servitude or other right must, prior to commencement of such work, ascertain from the Municipality whether any part of the sewage disposal system is situated on the land.

(3) If work, which in the opinion of the authorised official could damage or endanger the sewage disposal system, is to be performed or is being performed on land contemplated in subsection (2), or on land adjacent thereto, he or she may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as he or she has complied with the conditions specified in the notice.

Consequential maintenance of sewers

41. Whenever a sewer is damaged or becomes obstructed or in need of repair as a result of the act or omission of any person, whether by reason of the failure of such person to comply with the requirements of this By-law or otherwise, the authorised official may –

- (a) carry out such work, maintenance or repair as the authorised official considers necessary; or
- (b) remove the obstruction,

at the expense of such person and recover from that person the full cost of doing so.

Obstruction of access to sewage disposal system

42. (1) A person may not prevent or restrict access to the sewage disposal system.

(2) In the event that a person contravenes the provisions of subsection (1), the authorised official may –

- (a) by written notice require the person to restore access at his or her own cost within a specified period; or
- (b) if he or she is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the full cost of doing so from the person.

Work by private persons

43.(1) The authorised person or its agents must lay all sewers and connecting sewers unless it elects not to do so, in which case the work shall be executed in accordance with the Municipality's conditions of contract applicable to the work and the provisions contemplated in subsection (2).

(2) If the authorised official elects to allow another person to lay a sewer or connecting sewer, the work must be done in accordance with the standards and procedures approved by the Municipality for such work, including the following provisions:

- (a) any person carrying out work must, prior to commencement of such work, lodge with the authorised official a written indemnity to the satisfaction of the authorised official, indemnifying the Municipality against all liability in respect of any accident or injury to persons or loss or damage to property which may occur as the direct or indirect result of the execution of such works;
- (b) where a connection is to be made with any sewer, it must be made at a point indicated by the authorised official;
- (c) whenever the surface of any street or road has been disturbed in the course of work, the restoration of the surface of the street or road must be undertaken solely by the Municipality at the expense of the person carrying out such work; and
- (d) before disturbing the surface of any street or road, a deposit must be made with the Municipality which in the opinion of the authorised official is sufficient to cover the estimated cost of restoration: Provided that when the actual cost is greater or less than the amount deposited, any –
 - (i) excess must be recoverable from such person; or
 - (ii) balance must be refunded to him or her.

(2) All work must be carried out in accordance with the requirements, and to the satisfaction of, the authorised official.

CHAPTER 11 ENFORCEMENT

Entry by authorised official

- 44.** (1) An authorised official may for any purpose connected with the implementation or enforcement of this By-law, at all reasonable times or in an emergency at any time –
- (i) enter premises;
 - (ii) request information; (iii) take samples; and
 - (iv) make such inspection, examination and enquiry and carry out work,
- as he or she may deem necessary, and for those purposes operate any component of the drainage installation.

(2) If an authorised official considers it necessary that work be performed to enable him or her to properly and effectively implement a function contemplated in subsection (1), he or she may –

- (a) by written notice require the owner or occupier of the premises at his or her own cost to do specified work within a specified period; or
- (b) if in his or her opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done, the cost of which must be recovered from the owner or occupier.

(3) If the work contemplated in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed and no such contravention is proved, the Municipality must bear the expense connected therewith together with that of restoring the premises to its former condition: Provided that in all other circumstances, the owner of the premises must bear such expense.

(4) All health and safety and access control policies and procedures in place at a premises must be amended to prevent any delays in the carrying out of a person's responsibilities in terms of this By-law.

(5) A person may not refuse access to, interfere with, hinder or obstruct an authorised official in the exercise of his or her powers in terms of the provisions of this By-law.

(6) An authorised official must, when entering any premises, produce a valid identification document issued to him or her by the Municipality, to the owner or occupier.

Powers of authorised officials

45. An authorised official may, when entering any premises –

- (a) inspect, monitor or investigate any part of those premises relating to the water system, sewage disposal system or other drainage system as well as where chemicals of any nature are handled, stored or disposed of;
- (b) question the owner or any occupier of the building; (c) take photos of the premises;
- (d) take samples;
- (e) seize pertinent evidence relating to water quality; or
- (f) do anything necessary to implement the provisions of this By-law.

Service of notices

46.(1) Whenever a compliance notice is required to be served on a person in terms of the provisions of this By-law, it is deemed to have been effectively and sufficiently served on that person –

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence, employment or business in the Republic of South Africa with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic of South Africa and an acknowledgement of the posting thereof is produced;
- (d) if his or her address in the Republic of South Africa is unknown, when it has been served on his or her agent or representative in the Republic of South Africa in the manner contemplated in paragraphs (a), (b) or (c); or
- (e) if his or her address and agent in the Republic of South Africa are unknown, when it has been affixed to a door, gate or in any other conspicuous place on the building.

(2) When a compliance notice is required to be served on a person by reason of his or her being or having been the owner or holding some other right in respect of immovable property

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- (a) it is not necessary to name him or her; and
- (b) he or she may be described as the owner or holder of such premises or other right, as the case may be.

Indemnity

47. The Municipality and any authorised official are not liable to any third party for any damage caused by anything lawfully done or omitted by the Municipality or any authorised official in carrying out any function or duty in terms of this By-law.

Lawful instructions

48. Failure to comply with a lawful request of an authorised official constitutes a contravention of this By-law.

Recovery of costs

49. If a person –

- (a) contravenes the provisions of this By-law or of any other By-law; or
- (b) fails or refuses to comply with a compliance notice issued in accordance with this By-law; or
- (c) fails to rehabilitate a damaged area after being requested to do so,

such person is guilty of an offence and the Municipality may take any steps required in the compliance notice itself and recover the costs from such person: Provided that such liability is in addition to any fine which may be imposed on such person.

Offences

50. A person who –

- (a) contravenes any provision of this By-law;
- (b) fails or refuses to comply with a compliance notice issued to him or her;
- (c) fails to comply with any lawful instruction given in accordance with this By-law;
- (d) contravenes any conditions imposed in the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this By-law
- (e) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
- (f) deliberately furnishes false or misleading information to an authorised official, is guilty of an offence.

Penalties

51. (1) Any person who commits an offence in terms of this By-law shall be liable, upon conviction, to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

CHAPTER 12**MISCELLANEOUS PROVISIONS****Delegations**

52.(1) Subject to the Constitution and applicable national and provincial laws, any – (a) power, excluding a power referred to in section 160(2) of the Constitution; (b) function; or (c) duty,

conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in accordance with subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

53.(1) A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may appeal against that decision in terms of the appeals provision contained in Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

Repeal of laws and savings

54.(1) The laws mentioned in the first and second columns of Schedule C to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All notices published under the Sewage Disposal By-laws of 1999 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

55. This By-law are called the Sewage Disposal By-law, 20__ and takes effect on the date on which it is published in the *Provincial Gazette* of KwaZulu-Natal.

SCHEDULE A**ACCEPTANCE OF TRADE EFFLUENT FOR DISCHARGE INTO THE SEWAGE DISPOSAL SYSTEM**

No trade effluent shall be accepted for discharge into the sewage disposal system unless it complies with the following conditions.

All analyses must be undertaken by a laboratory accredited by an authority recognised by the Municipality using methods applicable for the given matrix, suitable detection limits and ranges.

The effluent shall not contain concentrations of substances in excess of those stated below— Large Works' general quality limits are applicable when an industry's effluent discharges in a catchment leading to a sewage works of greater than 25 M³/d capacity. Small Works' quality limits apply for catchments leading to sewage works with less than 25 M³/d capacity.

GENERAL QUALITY LIMITS		LARGE WORKS > 25 M³/d	SMALL WORKS < 25 M³/d	UNITS
1.	Temperature (°C)	< 44°C	< 44°C	Degrees Celcius
2.	pH	6 < pH < 10	6,5 < pH < 10	pH units
3.	Oils, greases, waxes of mineral origin	50	50	mg/l
4.	Vegetable oils, greases, waxes	250	250	mg/l
5.	Total sugar and starch (as glucose)	1 000	500	mg/l
6.	Sulphates in solution (as SO ₄ ²⁻)	250	250	mg/l
7.	Sulphides, hydrosulphides and polysulphides (as S ²⁻)	1	1	mg/l
8.	Chlorides (as Cl ⁻)	1 000	500	mg/l

9.	Flouride (as F ⁻)	5	5	mg/l
10.	Phenols (as phenol)	10	5	mg/l
11.	Cyanides (as CN ⁻)	20	10	mg/l
12.	Settleable solids	Charge	Charge	mg/l
13.	Suspended solids	2 000	1 000	mg/l
14.	Electrical Conductivity	400	400	mS/m

15.	Anionic Surfactants	—	500	mg/l
16.	C.O.D.	Charge	Charge	mg/l
Heavy Metal Limits				
17.	Copper (as Cu)	50	5	mg/l
18.	Nickel (Ni)	50	5	mg/l
19.	Zinc (Zn)	50	5	mg/l
20.	Iron (Fe)	50	5	mg/l
21.	Boron (B)	50	5	mg/l
22.	Selenium (Se)	50	5	mg/l
23.	Manganese (Mn)	50	5	mg/l
24.	Lead (Pb)	20	5	mg/l
25.	Cadmium (Cd)	20	5	mg/l
26.	Mercury (Hg)	1	1	mg/l
27.	Total chrome (Cr)	20	5	mg/l
28.	Arsenic (As)	20	5	mg/l
29.	Titanium (Ti)	20	5	mg/l
30.	Cobalt (Co)	20	5	mg/l
31.	Colour as measured by American Dye Manufacturer's Index	450	450	ADMI
32.	Benzene, Toluene, Ethyl Benzene and Xylene	4	4	mg/l

SPECIAL LIMITATIONS

- 1 No calcium carbide, radio active waste or isotopes
- 2 No yeast & yeast wastes, molasses spent or unspent
- 3 No cyanides or related compounds capable of liberating HCN gas or cyanogen
- 4 No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21°C.

5. No substance discharged at a flow rate and concentration that will cause interference with any Treatment Works.

SCHEDULE B

ACCEPTANCE OF TRADE EFFLUENT FOR DISCHARGE EITHER DIRECTLY OR INDIRECTLY INTO SEA OUTFALLS

No trade effluent shall be accepted for discharge into the sea outfall unless it complies with the following conditions.

The effluent shall not contain concentrations of substances in excess of those stated below—

<i>SEA OUTFALL QUALITY LIMIT</i>			<i>UNIT</i>
1.	Temperature	44	°C
2.	pH	5,5 < pH < 9,5	
3.	Settleable solids	2	mg/l
4.	Oils, greases and waxes of mineral origin	50	mg/l
5.	Arsenic (expressed as As)	5	mg/l
6.	Cadmium (expressed as Cd)	1,5	mg/l
7.	Total chromium (expressed as Cr)	3	mg/l
8.	Copper (expressed as Cu)	3	mg/l
9.	Lead (expressed as Pb)	5	mg/l
10.	Mercury (expressed as Hg)	0,05	mg/l
11.	Cyanides (expressed as CN)	10	mg/l
12.	Nickel (expressed as Ni)	10	mg/l
13.	Zinc (expressed as Zn)	20	mg/l
14.	Sulphide (expressed as S ²⁻)	1	mg/l
15.	Sulphates in solution (expressed as SO ₄)	250	mg/l
16.	Toxicity as Minimum Acceptable Toxicant Dilution	200	Number of dilutions
17.	Benzene, Toluene, Ethyl Benzene and Xylene	4	mg/l

**SCHEDULE C LAWS
REPEALED**

PART A: BY-LAWS

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
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_____ MUNICIPALITY: OUTDOOR ADVERTISING BY-LAW, 20__

To provide for the regulation of outdoor advertising or matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the _____ Municipality to control and regulate outdoor advertising within its jurisdiction;

WHEREAS the _____ Municipality is authorised according to Section 156(2) of the Constitution to make and administer by-laws for the effective administration of the matters which it has the right to administer within its area of jurisdiction.

AND WHEREAS the _____ Municipality is authorised according to Part B of Schedule 5 of the Constitution to deal with matters concerning billboards and the display of advertisement in public places.

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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5. Application for display of permanent advertisements
6. Consideration of application of display of permanent advertisements
7. Sign-boards affixed to buildings
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9. Ground sign-boards
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11. General prohibitions relating to advertisements
12. General prohibitions relating to directional signs
13. Construction of sign-boards
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15. Alterations of and additions to permanent advertisements
16. Removal of permanent advertisements
17. Delegation of Council's powers

CHAPTER 4**GENERAL PROVISIONS****CHAPTER 4 : GENERAL PROVISIONS**

18. Offences
19. Repeal of By-laws
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CHAPTER 1 DEFINITIONS

Definitions

1. In this Bylaw, unless the context otherwise indicates

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

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

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

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"council" or **"municipal council"** means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

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

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

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

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

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

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

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

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

CHAPTER 2

APPLICATION

Application of regulations

2.(1) Subject to the provisions of sub-section (2), this Bylaw shall apply to all advertisements displayed or to be displayed within the area of jurisdiction of the Council.

(2) The following categories of advertisements shall be exempted from the provisions of this Bylaw:

- (a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any erf during the course of building operations including plumbing, electrical wiring, painting and renovations;
- (b) an advertisement relating to the immediate sale of newspaper within the public road; provided the advertisement does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians;
- (c) an advertisement required to be displayed by law;
- (d) an advertisement displayed on any vehicle which is being used on a public road; provided that the main purpose for which that vehicle is being used is not to display such advertisement;
- (e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following:
 - (i) the name or address of such building;
 - (ii) the name of the occupier or owner thereof;
 - (iii) a general description of the type of business lawfully carried on in such building;
 - (iv) the hours of attendance or business; and
 - (v) the telephone number of such business;provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is affixed;
- (f) an advertisement affixed to or painted on any part of any building used as a dwelling-house which merely indicates -
 - (i) the name or address of the dwelling-house; and
 - (ii) the name of the owner or occupier the dwelling house;provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is attached;
- (g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an erf or premises on the erf; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area;
- (h) an advertisement advertising the sale or lease of any erf, or the fact that such erf has been sold; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area; and
- (i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors.

CHAPTER 3

TYPES OF ADVERTISEMENTS

Temporary and portable advertisements

3.(1) Any advertisement -

- (a) intended to be displayed solely for or in connection with a particular event including but not limited to an election or referendum; or
- (b) displayed on any sign-board intended or adapted to be carried or conveyed,

shall only be displayed with the prior written consent of the authorised official and subject to the requirements of sub-section (2) and any other conditions which the authorised official may impose.

(2) Any advertisement displayed in terms of subsection (1) shall –

- (a) not exceed 0,8 m² in area; and
- (b) not be displayed for longer than 14 days before or after the event.

(3) Every application for permission in terms of sub-section (1) shall be accompanied by a fee and a deposit prescribed by the Council, the deposit being refundable when all advertisements concerned have been removed to the satisfaction of the authorised official.

(4) Any person who, having displayed or caused to be displayed any advertisement in respect of which approval has been given under sub-section (1), fails to remove it or cause it to be removed within the relevant time, shall be guilty of an offence and the authorised official shall be entitled to remove any such advertisement and deduct from any deposit made in terms of sub-section (6) the sum prescribed by the Council in respect of each and every advertisement so removed; provided that any excess shall be a civil debt due to the Council; provided further that when any advertisement is so removed in terms of these regulations the Council shall be entitled to destroy any such advertisement without giving notice to anyone, after a period of 14 days from the date of such removal.

(5) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in sub-section (1) shall be presumed to be the displayer until it is proved to the contrary.

Display of permanent advertisements prohibited

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

Application for display of permanent advertisements

5.(1) Any person intending to erect, alter or display any permanent advertisement for which the prior written permission of the Council is required, shall apply for such permission to the Council on the prescribed application form attached to this By-law as Schedule 2. Such form shall be signed by the applicant and by the owner (if he or she is not also the applicant) of the site upon which such advertisement is or is to be located.

(2) An application referred to in sub-section (1) shall be accompanied by -

- (a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;
- (b) a drawing indicating –
 - (i) the position of such sign on the site at a scale of not less than 1: 50;
 - (ii) the full text of the advertisement;
 - (iii) the colour of the material;
 - (iv) the construction;
 - (v) the overall dimensions;
 - (vi) the method of attachment, suspension or support; and
 - (vii) any other details required by the Council;
- (c) in the case of ground signs, information in regard to all calculations upon which such size is based;

(d) the application fee prescribed by the Council.

(3) The Council may refuse or grant such application subject to such conditions as it may deem proper.

Consideration of application of display of permanent advertisements

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

- (a) the design;
 - (b) colour;
 - (c) other characteristics of the advertisement in question;
 - (d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and
 - (e) the neighbouring properties,
- (3) such advertisement will detract from or disfigure the appearance of the building or premises concerned or neighbouring properties, or otherwise be unsightly.

Sign-boards affixed to buildings

7.(1) The following sign-boards and no others may, subject to the provisions of this By-law, be affixed to buildings:

- (a) flat sign-board-boards;
- (b) projecting sign-boards, and
- (c) sky sign-boards

(2) No flat sign-board-board shall -

- (a) extend above the top or beyond either side of the wall to which it is affixed;
- (b) project in any part more than 100 mm from the wall to which it is affixed;
- (c) exceed 15% of the height of the building to the eaves or 15% of the area of the wall to which it is affixed.

(3) No projecting sign-board shall -

- (a) be affixed otherwise than at right angles to the road line;
- (b) be affixed at a clear height of less than 2,5 m;
- (c) exceed 225 mm in thickness;
- (4) (d) extend beyond the top of the wall to which it is affixed;
- (e) project in any part more than 1,5 m from the wall to which it is affixed;
- (5) (f) extend over or nearer than 1,2 m to any overhead electricity wires or cables; or
- (6) (g) be affixed otherwise than in a vertical plane.

Advertisement painted on buildings

8.(1) Only the following types of advertisements may be painted on buildings:

- (a) advertisements painted on the walls of buildings; and
- (b) advertisements painted on the roofs of buildings used in connection with industry or a manufacturing process.

(2) No advertisement painted on a wall of a building shall exceed 15% of the height of the building from the ground to the eaves or 15% of the area of the wall on which it is painted.

(3) An advertisement painted on the roof of a building shall contain only the name (or an abbreviation thereof) of the person, firm, company, society or association occupying such building.

Ground sign-boards

9. Every ground sign-board shall -

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

Flashing advertisements

10. The Council shall only approve flashing illuminated advertisements if it is of the opinion that, having regard to the proposed position and characteristic of the advertisement, the display of the advertisement will not be likely to distract or disturb persons using any public road or to create the conditions contemplated in section 11(2).

General prohibitions relating to advertisements

11.(1) No person shall display any advertisement so as to obstruct any fire escape or the means of egress to a fire escape or to obstruct or interfere with any window or opening required for ventilation purposes.

(2) No person shall display any advertisement –

- (a) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;
- (b) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15 m (measured horizontally) from the vertical line of the road line at the corner of a public road; or
- (c) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

12(a) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the Council, and on payment of the prescribed fee. Such directional signs shall be either 2m long and 0,3 (300 mm) high or 1 m long and 0,3m (300 mm) high and be constructed to the satisfaction of the Council.

(b) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the Council in writing.

Construction of sign-boards

13.(1) Every sign-board shall be neatly and properly constructed and finished in a workmanlike manner to the satisfaction of the building control officer.

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

Maintenance of permanent advertisements

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

Alterations of and additions to permanent advertisements

15(1) Any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the Council in writing for its approval.

(2) An application referred to in sub-section (1) shall specify the nature and extent of the proposed alteration or addition.

(3) A person who has applied in terms of sub-section (2) for the Council's approval shall furnish such additional particulars in connection with his application as the Council may require.

Removal of permanent advertisements

16(1) Where there is displayed a permanent advertisement -

(a) for which no approval was granted under section 4; or

(b) which is displayed in contravention of this By-law,

the Council may, by notice in writing, direct the person having possession or control of the advertisement to remove it or to effect such alterations as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given) as may be specified in the notice.

(2) If a person to whom a notice has been given in terms of subsection (1) fails to comply with a direction contained in that notice within the period therein specified, the Council may, at any time after the expiration of that period, through the agency of any person authorised thereto by the Council, enter upon the land upon which the advertisement to which the notice relates and remove the advertisement or effect the alterations prescribed in the notice.

(3) The Council may recover the expenses which it incurred by any action taken under subsection (2) from any person to whom the notice in question was given.

Delegation of Council's powers

17(1) The Council may by resolution delegate to the building control officer any power conferred upon it by this Bylaw on such conditions as the Council may determine.

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

CHAPTER 4**GENERAL PROVISIONS****Offences**

18 Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine or imprisonment to be determined in Council's schedule of fines .

Repeal of existing By-laws

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

Short title and commencement

20 These by-laws shall be called the Outdoor Advertising By-laws, 201____, and shall come into operation on

FIRE PREVENTION BY-LAWS, 20__

To provide for the prevention of fire; to regulate fire-fighting services; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the Municipality to promote the prevention of uncontrolled fire and to regulate fire-fighting services.

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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

(a) In this bylaw, unless the context indicates otherwise-

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

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

"building" means any structure, whether of a temporary or permanent nature and irrespective of the materials

used in the construction thereof, erected or used for or in connection with:

- (i) the accommodation or convenience of human beings or animals;
- (ii) the manufacture, processing, storage or sale of any goods;
- (iii) the rendering of any service;
- (iv) the destruction or treatment of combustible refuse or combustible waste;
- (v) the cultivation or growing of any plant or crop;

- (a) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
- (b) any fuel pump or any tank used in connection therewith;
- (c) any facilities or system, or part or portion thereof, within or outside or incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building;

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

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

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

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

"Municipal Council" or **"Council"** means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution or any other person designated by Council to discharge certain functions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) "National Building Regulations (A2)" means the provisions regulating the submission of building plans and

particulars to the Council;

(b) "National Building Regulations (A20)" means the provisions regulating the classification and designation of occupancies;

(c) "National Building Regulations (A21)" means the provisions regulating the population of a building;

(d) "National Building Regulations (T1)" means the provisions regulating general requirements for fire protection of a building, and

(e) "National Building Regulations (T2)" means the provisions regulating the offences for non-compliance with the National Building Regulations (T1);

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

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

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

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

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

"owner" means:

(a) in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;

(b) in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;

(c) in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation; provided that such a person is not the owner mentioned in (b), and

(d) in the event of the Council being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

"person in charge" means:

(a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, or utilisation of the premises;

(b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2

FIRE PROTECTION OF BUILDINGS

Reporting a fire hazard and other threatening danger

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

Access for emergency vehicles

3.(1) When, in the opinion of the Council, premises are not readily accessible from public roads it must be provided with emergency vehicle access which must -

- (b) be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises; and
- (c) where the premises have a motorized or electronically operated gate, be equipped in such a manner that access to the premises can be gained without the use of a motor or electronic device.

(2) Fire lanes must be provided for all premises which are set back more than 45 metres from a public road or exceed nine metres in height and are set back over 15 metres from a public road.

(3) Fire lanes must be at least four metres in width, the position of which must be decided upon after consultation with the Council, and the area from ground level to a clearance height of four metres above the fire lane must remain unobstructed.

(4) A cul-de-sac that is more than 90 metres in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.

(5) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the Council.

(6) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

Division and occupancy separating elements

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

Fire doors and assemblies

5.(1) Subject to the provisions of SABS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.

(2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the Council.

(3) A fire door and assembly may not be rendered less effective through:-

- (a) altering the integrity, insulation or stability of a particular class of door;
- (b) disconnecting the self-closing mechanism;
- (c) wedging, blocking or obstructing the door so that it cannot close;
- (d) painting the fusible link actuating mechanism of a door;
- (e) disconnecting or rendering less effective an electric or electronic release mechanism, or
- (f) any other action that renders a fire door or assembly less effective.

Escape Routes

6.(1) No part of a fire escape route shall be obstructed or rendered less effective in any way.

(2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Council.

(3) Where required by the Council, an escape route must be clearly indicated with signage, which complies with SABS 1186, indicating the direction of travel in the event of fire or any other emergency.

CHAPTER 3**FIRE SAFETY EQUIPMENT****Fire extinguishers**

7.(1) Fire extinguishers must be provided and installed on premises as required by the National Building Regulations (T1) and (T2).

(2) Fire extinguishers must be maintained in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part I.

(3) No person may fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part I, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.

(4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or certificate mentioned in subsection (3).

(5) Where a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the Council must instruct the owner or person in charge of such

premises to have the work carried out by a person who is in possession of such a permit or certificate.

(6) When, in the opinion of the Council, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Council must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.

(7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.

(8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

Testing and maintenance of fire protection systems

8.(1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.

(2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test, and where applicable, the parties who monitor the fire protection system.

(3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2).

(4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.

(5) The owner or person in charge of the premises must immediately notify the Council when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Council as soon as the system is restored.

(6) The owner or person in charge of the premises must take all steps deemed necessary by the Council to provide alternate equipment to maintain the level of safety within the premises.

Interference with fire protection systems and fire extinguishers

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

CHAPTER 4

PUBLIC SAFETY

Attendance of a service

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

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

Formulation of an emergency evacuation plan

11.(1) The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons (including staff), must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening

danger.

(2) The Council may order the owner or person in charge of the premises, other than those contemplated in subsection (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.

(3) The plan mentioned in subsections (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.

(4) The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.

(5) The register mentioned in subsection (4) must contain the following information:

- (a) the date and time of the test;
- (b) the number of participants;
- (c) the outcome of the test and any corrective actions required, and
- (d) the name and signature of the person supervising the test.

(6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the Council.

(7) The Council may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

Displaying of escape route plans

12. The escape route plan must be displayed in a conspicuous position in any room within the building.

Barricading of vacant buildings

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

CHAPTER 5

HOUSEKEEPING

Combustible waste and refuse

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

(2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other danger.

Combustible or flammable substances and sweeping compounds

15.(1) Only water-based solutions, detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.

(2) The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

Accumulations in chimneys, flues and ducts

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

a fire hazard or other threatening danger.

Sources of ignition

17.(1) Smoking, the carrying of matches, the use of heating, flame-emitting devices or spark-producing equipment is prohibited in areas containing combustible or flammable substances.

(2) Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.

(3) An adequate distance, as deemed appropriate by the Council, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.

(4) Portable heaters must be secured so that they cannot be overturned and the Council may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

Smoking

18.(1) If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and "No Smoking" signs must be displayed as directed by the Council and the signs must comply with SABS 1186: Part 1.

(2) No person may remove a "No Smoking" sign.

(3) No person may light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited and in a public building.

(4) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a public road or public place.

Electrical fittings, equipment and appliances

19. No person may cause or permit –

(1) an electrical supply outlet to be overloaded; or

(2) an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

Flame-emitting device

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

CHAPTER 6

FIRE HAZARDS

Combustible material

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

(2) The owner or person in charge of any premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

Lighting of fires and burning of combustible material

22.(1) The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.

(2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.

(3) Burning may take place on State land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes provided that the prior approval is obtained from the Council.

CHAPTER 7**FLAMMABLE SUBSTANCES****Storage and use of a flammable substance**

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

(2) Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1), SABS 0131: Parts 1 and 2, SABS 089: Part 3 and SABS 087: Parts 1,3 and 7 (whichever is applicable) in the presence of the Council.

(3) Notwithstanding subsection (2), the Council may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).

(4) The Council must be notified at least 48 hours prior to the pressure test.

(5) The owner or person in charge of the premises may not store or use:

- (a) a flammable gas in excess of 19 kilogram, or
- (b) a flammable liquid of a danger group (i), (ii), (iii) or (iv) in excess of 200 litres, unless he or she has obtained a flammable substance certificate from the Council.

Flammable substance certificate

24.(1) The owner or person in charge of the premises, who requires a flammable substance certificate mentioned in section 23(5), must submit an application to the Council.

(2) The Council must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this by-law, and where the Council is of the opinion that the non-compliance of the premises can be remedied, the Council must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises and the issuing of the certificate.

(3) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance requires to be changed.

(4) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Council, a flammable substance is stored or utilised for any process in a manner which is hazardous to life or property, or an installation is unauthorised, an order may be issued for the removal of the flammable substance or installation from the premises.

(5) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the Council.

(6) A flammable substance certificate is valid only:

- (a) for the installation for which it was issued;
- (b) for the state of the premises at the time of issue, and
- (c) for the quantities stated on the certificate.

(7) The flammable substance certificate must be available on the premises for inspection at all times.

Permanent or temporary above ground storage tank for a flammable liquid

25(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Council, on the merit of the situation, provided that the following requirements are complied with:

- (a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40 degrees centigrade;
- (b) to be on the premises for a period not exceeding six months;
- (c) the entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2 whichever is applicable, and
- (d) written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the Council for the erection of the tank.

(2) Notwithstanding section 28(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Council for approval in terms of the National Building Regulations (T1).

(3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognised codes.

(4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.

(5) A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.

(6) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.

(7) A permanent or temporary tank must have a bund wall.

(8) Adequate precautions must be taken to prevent spillage during the filling of a tank.

(9) Sufficient fire extinguishers, as determined by the Council, must be provided in weatherproof boxes in close proximity to a tank.

(10) Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank, and the signs must comply with SABS 1186: Part 1.

(11) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.

(12) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.

(13) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

Underground storage tank for a flammable liquid

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

Bulk storage depot for flammable substances

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

Small installations for liquefied petroleum gas

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

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

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

The fuelling of forklift trucks and other LP gas operated vehicles

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

The storage and filling of refillable liquid petroleum gas containers

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

Bulk storage vessel for liquid petroleum gas

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

Termination of the storage and use of flammable substances

33.(1) If an above ground or underground tank installation, liquid petroleum gas installation or associated pipework is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must:

- (a) within seven days of the cessation, notify the Council in writing thereof;
- (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
- (c) within six months of the cessation, remove the installation including any associated pipework, from the premises entirely, unless the controlling authority otherwise instructs, and
- (d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Council within a period of seven days of the completion of the removal of the installation.

(2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the Council to fill the tank with liquid cement slurry.

Reporting accidents

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

Flammable stores

35.(1) The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SABS 0400.

(2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.

(3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.

(4) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400:

- (a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance when it forms part of another building;
- (b) the ventilation of a flammable store must be achieved by the use of bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5 m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
- (c) the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1 100 meshes per metre, and
- (d) the wire gauze must be held in position by metal straps, a metal frame or cement.

(5) When required by the Council, the flammable store must be ventilated by a mechanical ventilation system approved by the Council and must comply with the following requirements:

- (a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
- (b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6 metres above ground level, whichever is the greater;
- (c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store, and
- (d) the ducting must be as short as possible and must not have sharp bends.

(6) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are complied with, and the door must open outwards.

(7) When required by the Council, a flammable store door must be a D-class fire door, which complies with SABS 1253.

(8) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.

(9) No other electrical apparatus may be installed in the flammable store.

(10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipework leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the

words "Foam Inlet" in 100 millimetre block letters.

(11) Racking or shelving erected in the flammable store must be of non-combustable material.

(12) The flammable store must be identified by the words, "Flammable Store-Bewaarplek vir Vlambare Vloeistowwe-Isitoro Indawo Yokugcina Izixhobo Ezithatha Lula Umlilo", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.

(13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.

(14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.

(15) Sufficient fire extinguishers, as determined by the Council, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.

(16) Any hand tool used in the flammable store must be intrinsically safe.

(17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the Council has been notified in terms of the following procedure:

- (a) within seven days of the cessation, notify the Council in writing thereof;
- (b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe,
and
- (c) within 30 days of the cessation, remove all signage.

(18) Subject to the provisions in this section, the Council may call for additional requirements to improve the fire safety of a flammable store.

Container handling and storage

36.(1) All flammable substance containers must be kept closed when not in use.

(2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.

(3) Flammable liquid containers must be labelled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.

(4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.

(5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.

(6) An empty flammable liquid container must be placed in a flammable store.

(7) Where a flammable store is not available for the storage of empty flammable liquid containers, the Council may permit such storage in the open, provided that:

- (a) the storage area must be in a position and of sufficient size which in the opinion of the Council, will not cause a fire hazard or other threatening danger;

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

(8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

Spray rooms and booths

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

Liquid petroleum gas containers

38.(1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.

(2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.

(3) A liquid petroleum gas container of a capacity not exceeding nine kilogram must be filled and stored in accordance with SABS 087: Part 7.

CHAPTER 8

GENERAL PROVISIONS

Indemnity

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

Offences and penalties

40. Any person who -

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

shall be guilty of an offence and shall be liable on conviction to a fine as determined in the Council's Schedule of fines.

Enforcement provisions

41. Any authorized official of the Council may –

- (1) enter any premises at any reasonable time to inspect the premises for compliance with this by-law;
- (2) summarily abate any condition on any premises which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger and to this end may-
 - (a) call for the immediate evacuation of the premises;
 - (b) order the closure of the premises until such time as the violation has been rectified;
 - (c) order the cessation of any activity, and
 - (d) order the removal of the immediate threat.

Authority to investigate

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

Failure to comply with provisions

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

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

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

Repeal of existing By-laws

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

1. Short title and commencement

45. These by-laws shall be called the Fire Fighting Services By-laws, 20.., and shall come takes effect on the date of publication thereof in the *Provincial Gazette*.

_____ **ENVIRONMENTAL HEALTH BY-LAW, 20__**

To provide for the regulation of environmental health; the provision of applicable permits; and the appointment of Environmental Health Officers.

PREAMBLE

WHEREAS there is a need to develop legislation to deal with municipal environmental health issues and matters incidental thereto; and

NOW THEREFORE The Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 4 (Part B) of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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1. CHAPTER 1**2. DEFINITIONS****3. Definitions**

1. In these by-laws, unless the context indicates otherwise –

"

"authorised official" means a person authorised to implement the provisions of this

By-law, including but not limited to–

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan Police Officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"compliance notice" means a notice issued in terms of section 16 to comply with these by-laws or with a permit issued in terms of these by-laws;**"Council"** means the Council of the Municipality;**"environmental health officer"** means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;**"municipal manager"** means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;**"occupier"**, in relation to any premises, means any person -

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

"owner" means –

(a) the person who is the registered owner of the premises in the relevant Deeds Office;

(b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;

(d) where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or

(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) as common property, 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;

"permit" means a public health permit granted by the Council in terms of the section 11;

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

"pest" means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

"premises" means -

(a) any land without any buildings or other structures on it;

(b) any building or other structure and the land on which it is situated; or

(c) any vessel, vehicle or movable structure that is used for a scheduled use;

(d)

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

"prohibition notice" means a notice issued in terms of section 18;

"public health" means the mental and physical health and well-being of people in the Council's area;

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

(a) the circumstances referred to in section 3(3);

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

“**public health nuisance**” means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of the public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of section 5; and

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

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2

PUBLIC HEALTH HAZARDS

Prohibition on causing a public health hazard

3.(1) No person may create a public health hazard.

(2) Every owner or occupier of premises must ensure that a public health hazard does not occur on the premises.

(3) An owner or occupier of premises creates a public health hazard if –

- (a) the premises are infested with pests or pests are breeding in significant numbers on the premises;
- (b) there are conditions on the premises that are conducive to the spread of a communicable disease;
- (c) there are unsanitary conditions in any part of the premises; or
- (d) any water supply for domestic consumption on the premises is unsafe for human consumption.

(4) Any person that contravenes or fails to comply with subsections (1) or (2) commits an offence.

4. Duty to report

4.(1) The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence –

- (a) eliminate the public health hazard; or
- (b) if the owner or occupier is unable to comply with subsection (a), take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.

(2) An owner or occupier who does not comply with subsection (1) commits an offence.

CHAPTER 3**PUBLIC HEALTH NUISANCES****Prohibition on causing a public health nuisance**

- 5.(1) No person may cause a public health nuisance.
- (2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on the premises.

General nuisances

6. An owner or occupier of premises creates a public health nuisance where –
- (1) any stream, pool, marsh, ditch, gutter, watercourse, cistern, urinal, drain, sewer, septic tank, long drop, slop tank, ash heap or dung heap is so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to the public health;
 - (2) any stable, kraal, shed, run or other structure used for the keeping of animals or birds is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
 - (3) any accumulation of refuse, offal, manure or other matter is offensive or is injurious or dangerous to health;
 - (4) any factory, industrial or business premises is so overcrowded, inadequately lit or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; and
 - (5) any factory, industrial or business premises causes or gives rise to smells or effluvia which are offensive or which are injurious or dangerous to health.

5. Pest control

7. An owner or occupier of premises creates a public health nuisance where -
- (1) waste or other material is left or kept in a manner that attracts rodents or other pests to the premises; or
 - (2) flies or mosquitoes are attracted to, or breeding , in significant numbers on the premises;

CHAPTER 4**POTENTIALLY HAZARDOUS USES OF PREMISES****Duty to list potentially hazardous uses**

8. The Council may list any use of premises, in a schedule to these by-laws, which has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level and Council must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

Scheduled uses

9. Any person who uses premises in a manner or for a purpose listed in the Schedule to these by-laws must –
- (1) comply with each of the provisions set out in the Schedule relating to that use unless that person has been granted an exemption under section 9 from complying with any provision; and

- (2) obtain a permit under section 10 before commencing the use and must comply with the terms and conditions of the permit.

Exemption certificate

10. (1) Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws, but who wishes to be exempted from complying with one or more of the requirements of the Schedule, may apply to the Council for an exemption certificate.

(2) The Council may grant an exemption certificate, with or without conditions, if an environmental health officer is satisfied that –

- (a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant schedule; and
- (b) the scheduled use for which the exemption is required is not likely to cause a public health hazard or a public health nuisance.

Public health permits

11.(1) Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws, must apply in writing to the Council in accordance with section 11 for a public health permit.

(2) The Council may issue a public health permit to the owner or occupier of any premises if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.

(3) A public health permit –

- (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council; and
- (b) may exempt the permit holder for complying with one or more of the provisions of the relevant schedule, if the person authorised to issue the permit reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant schedule.

Application procedure

12.(1) Any person that wants to obtain a permit or an exemption certificate must apply to the Council in writing in a form stipulated by the Council, prior to undertaking the relevant scheduled use.

(2) When the Council receives an application for a permit or an exemption certificate it must ensure that the relevant premises are inspected by an environmental health officer as soon as reasonably possible.

(3) Before deciding whether or not to approve an application referred to in subsection (1), the Council –

- (a) must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for a scheduled use, have been consulted and have had an opportunity to make representations; and
- (b) may request the applicant to provide any further information which the Council considers relevant to enable him or her to make a properly informed decision.

General terms applicable to permits and certificates

13.(1) A permit or an exemption certificate –

- (a) is not transferable from one person to another; and
- (b) applies only to the premises specified in the permit or certificate.

(2) Every permit or exemption certificate –

- (a) must specify the address and other relevant details regarding the location of the premises concerned;
- (b) must describe the premises concerned;
- (c) must describe the activity concerned;
- (d) may specify terms and conditions; and
- (e) must indicate when it expires.

(3) The Council may charge applicants a prescribed fee for considering and granting the permit or exemption certificate.

(4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.

Suspension, cancellation and amendment of permits and of exemption certificates

14.(1) An environmental health officer may by written notice to the holder of a permit or exemption certificate, suspend, amend or cancel the permit or certificate.

(2) An environmental health officer may suspend or cancel a permit or exemption certificate with immediate effect if –

- (a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
- (b) the holder of the permit or certificate has failed to comply with a compliance notice that states that the permit or certificate may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.

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

CHAPTER 5

IMPLEMENTATION AND ENFORCEMENT

Appointment and identification of environmental health officers

15.(1) The Council must issue an identity card to each environmental health officer.

(2) The identity card must –

- (a) contain a recent photograph of the environmental health officer;
- (b) be signed by the environmental health officer; and
- (c) identify the person as an environmental health officer.

(3) The environmental health officer must display his or her identity card so that it is clearly visible or produce it at the request of any person in relation to whom the environmental health officer is exercising a power under these by-laws.

General powers of an environmental health officer

16.(1) An environmental health officer may, for the purposes of implementing or administering any power or duty under

these by-laws –

- (a) exercise any power afforded to such officer in terms of these by-laws or any other applicable legislation;
 - (b) issue a compliance notice in terms of section 16 requiring any person to comply with the provisions of these by-laws;
 - (c) issue a prohibition notice in terms of section 17 prohibiting any person from conducting an activity;
 - (d) undertake measures in terms of section 19 to remove, reduce and/or minimise any public health nuisance;
 - (e) cancel, suspend or amend any permit or exemption certificate in terms of section 13 or
 - (f) enter and inspect premises and for this purpose may-
 - (i) question any person on the premises;
 - (ii) take any sample that the environmental health officer considers necessary for examination or analysis;
 - (iii) monitor and take readings or make measurements; and
 - (iv) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.
- (2) An environmental health officer who removes anything from any premises being inspected must –
- (a) issue a receipt for it to the owner, occupier or person apparently in control of the premises; and
 - (b) return it as soon as practicable after achieving the purpose for which it was removed.

Compliance notices

17.(1) If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on the premises or that the premises are being used in a manner or for a purpose listed in the Schedule to these by-laws without a permit, the environmental health officer may serve a compliance notice on one or more of the following persons:

- (a) the owner of the premises;
 - (b) the occupier of the premises; or
 - (c) any person apparently in charge of the premises.
- (2) A compliance notice must state –
- (a) why the environmental health officer believes that these by-laws is being contravened;
 - (b) the measures that must be taken –
 - (i) to ensure compliance with these by-laws; or
 - (ii) to eliminate or minimise any public health nuisance;
 - (c) the time period within which the measures must be taken;
 - (d) the possible consequences of failing to comply with the notice; and
 - (e) how to appeal against the notice.
- (3) If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may –
- (a) take the required action specified in the compliance notice; and
 - (b) recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action.

6. Prohibition notice

18.(1) An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:

- (a) the owner of the premises;
 - (b) the occupier of the premises; or
 - (c) any person apparently in charge of the premises if the environmental health officer reasonably believes that that person has not complied with the terms of a compliance notice.
- (2) The environmental health officer must give the person on whom he or she intends serving a prohibition notice a

reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

(3) A prohibition notice must state –

- (a) the reasons for serving the notice;
- (b) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- (c) the possible consequences of failing to comply with the notice; and
- (d) how to appeal against the notice.

(4) The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

Withdrawal of prohibition notice

19.(1) An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

(2) After completing the investigation the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.

(3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

Municipal remedial work

20. The Council may enter any premises and do anything on the premises that it reasonably considers necessary –

- (a) to ensure compliance with these by-laws or with any compliance notice or prohibition notice;
- (b) to reduce, remove or minimise any public health nuisance; or
- (c) to reduce, remove or minimise any significant public health hazard.

CHAPTER 6

APPEALS

Appeals

21.(1).

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 (twenty one) days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within 6 (six) weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

CHAPTER 7

GENERAL

Offences

22. Any person who -

- (d) contravenes or fails to comply with any provisions of these by-laws;
- (e) fails to comply with any notice issued in terms of these by-laws;
- (f) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws –

shall be guilty of an offence and shall be liable on conviction to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

Repeal of existing By-laws

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

Short title and commencement

24 These by-laws shall be called the Environmental Health By-laws, 20.., and shall come into operation on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE

SCHEDULED USES

The uses of premises defined as scheduled businesses in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified are taken to avoid the risk or to reduce it to a level acceptable to the Council.

1 Definitions

In this Schedule, unless the context indicates otherwise -

“**effluent**” means any waste water which may arise as a result of undertaking any scheduled use;

"**scheduled uses**" means any business listed below or that involves an activity listed below –

- (a) panel beating or spray painting;
- (b) operating a waste recycling plant;
- (c) scrap yard;
- (d) tanning, glue or size making;
- (e) charcoal burning, brick burning or lime burning;
- (f) manure or compost making or storing;
- (g) manufacturing malt and yeast;
- (h) cement works, coke-ovens or salt glazing works;
- (i) sintering of sulphurous materials;
- (j) viscose works;
- (k) ore and mineral smelting, calcining, puddling and rolling of iron and other metals, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion and compounding of carbon with iron and other metals;
- (l) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
- (m) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enameled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride and zinc oxide; or
- (n) the refining or processing of petrol, oil or their products; and

"**scheduled business person**" means any person who owns, conducts or carries on a business which is listed as a scheduled use or which includes an activity listed as a scheduled use.

2 Permit requirement

No person may conduct a scheduled business in or on any premises, except in terms of a valid permit.

3 Requirements for premises

No person may undertake a scheduled use of any premises unless –

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluents arising from the manufacturing process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products or articles or materials which are used in the manufacturing process and which may-
 - (i) discharge offensive or injurious effluent or liquids; or
 - (ii) decompose in the course of the work or trade;

- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gases, fumes, vapours or dust produced during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of material;
- (k) adequate toilet facilities are provided as prescribed in the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (l) a perimeter wall or fence with a minimum height of 2 metres is constructed around the premises;
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities from public view; and
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening.

4 Duties of a scheduled business person

A scheduled business person must –

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

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