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- ☐ 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 OF 1 2016**EMALAHLENI LOCAL MUNICIPALITY SOLID WASTE MANAGEMENT****BY-LAWS**

The **EMALAHLENI LOCAL MUNICIPALITY** (herein after referred to as the municipality) hereby in terms of section 13(a) of the Local Government Municipality Systems Act 2000 (Act 32 of 2000), Section 156 (2) of the Constitution of the Republic Of South Africa and Section 9(3) (a-d) of the National Environmental Management: Waste Act publishes the Emalahleni Local Municipality Waste Management By-laws as approved by Council on 1st October 2015 under Council Resolution number: A. 211/15 which by - laws will come into effect on the date of publication hereof.

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CHAPTER 1

DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and the NEM: Waste Act, 2008 (Act 59 of 2008) as amended from time to time or its corresponding replacement shall bear the same meaning in these by-laws, and unless the context indicates otherwise—

“authorised official” means a person authorised by the municipality in terms of these by-laws to execute work, conduct an inspection, monitor and enforce compliance with these by-laws; and shall include a waste management officer.

“basic services” means a service provided exclusively by the municipality or its service provider to collect domestic waste, business waste and dailies in accordance with the provisions of the Systems Act and which in the case of business waste extends only to waste deposited in bin liners, waste bins and any waste container approved by council.

“building waste” includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition. Excluding any hazardous material in the building waste;

“bulky waste” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is, in the opinion of the municipality, inconvenient to remove in the routine door-to-door basic service provided by the municipality;

“by-law” means legislation passed by the municipality’s Council which is binding on persons who reside within, visiting the area of authority of the municipality or using municipal services;

“business waste” means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes;

“certificate holder” means any person who has obtained a certificate of approval in terms of Chapter 11 of these by-laws;

“commercial services” means any service, excluding basic services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

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

“dailies” means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a frequent (normally daily) basis, to prevent the waste from decomposing and being either a nuisance or a risk to the environment or public health;

“domestic waste” means waste generated on premises that are used solely for a residential purpose and for the purpose of public worship, but does not include business waste, building waste, garden waste or bulky waste;

“dump” means placing waste anywhere other than an approved receptacle, or a place designated as a waste handling facility or as a waste disposal facility, by the municipality;

“enforcement notice” means a notice issued by an authorised official under section 49 of these by-laws;

“environment” means the surroundings within which humans exist made up of

—

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

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

“garden service” means the provision of gardening services by a certificate holder including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

“general waste” means waste that does not impose an immediate hazard or treat to health or to the environment, and includes —

- (a) domestic waste;
- (b) building waste and demolishing waste;
- (c) business waste
- (d) inert waste

“hazardous waste” means any waste that contains organic or inorganic elements or compounds that may, owing to the physical, chemical, toxicological characteristics of that waste, have a detrimental impact on health and environment

“health care risk waste” means all hazardous waste generated at health care facilities which is capable of causing harm to health and the environment

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

“inert waste” means any waste that—

- (a) does not undergo any physical, chemical or biological transformation after disposal
- (b) does not burn, react physically or chemically biograde or otherwise adversely affect any other matter or environment with which it may come into contact with; and
- (c) does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

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

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

“local waste plan” means any integrated waste management planning system which the municipality must develop under national or provincial legislation or in terms of the municipality’s integrated development plan

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

“occupier” includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person,

includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;

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

“person” means a natural or juristic person and includes a certificate holder;

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

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

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

“radioactive waste” means any radioactive material which is or is intended to be disposed off as waste;

“receptacle” means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

“recyclable waste” means waste which has been separated from the waste stream, and set aside for purposes of re-use or reclamation;

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

“road reserve” means that portion of a road, street or thoroughfare which is improved, constructed or intended for vehicular traffic and which is between the edges of the roadway, or that portion of a road, street or

thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

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

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

“storage” means the storage of waste for a period of less than ninety days;

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

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

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

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

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

- (d) any substance prescribed as waste in these by-laws or any other legislation;

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

“waste generator” means any person or firm that generates or produces waste;

“waste handling facility” means any facility that accepts, accumulates, handles, recycles, reprocesses, sorts, stores or treats waste prior to its transfer for treatment by way of incineration or for final disposal;

“waste management officer” means a waste management officer designated in terms of section 10 of the National Environmental Management Waste Act (Act 59 of 2008)

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

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

2. Objectives of the by-laws

- (1) The objectives of these by-laws are to –
- (a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality’s jurisdiction
 - (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which

the municipality can manage and regulate waste management activities;

- (c) ensure that waste is avoided, or where it cannot be altogether avoided, minimised, re-used, recycled, recovered and disposed off in an environmentally sound manner;
 - (d) promote and ensure an effective delivery of waste services; and
 - (e) enhance sustainable development.
- (2) In pursuing the main objectives of these By-laws, and in particular the object set out in subsection (1) (e), the municipality must-
- (a) endeavour to minimise the consumption of natural resources;
 - (b) promote the reuse and recycling of waste
 - (c) encourage waste separation at source to facilitate re-use and recycling;
 - (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
 - (e) endeavour to achieve integrated waste planning and service on a local basis;
 - (f) promote and ensure an environmentally responsible municipal service and commercial service; and
 - (g) endeavour to ensure compliance with the provision of these By-laws

3. Scope of application

- (1) These by-laws must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59

of 2008).

- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates waste management, the provisions of this by-law shall prevail to the extent of the inconsistency.
- (3) The by-laws do not override any other national and provincial waste related legislation.

4. Principles

- (1) The municipality has the responsibility to ensure that all waste generated within the municipal area is-
 - (a) collected, disposed off or recycled in accordance with these by-laws; and
 - (b) that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection (2)
- (2) Any person exercising a power in accordance with these by-laws must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is in the following order of priority:
 - (a) promoting waste avoidance and minimisation;
 - (b) waste reuse;
 - (c) recycling, recovery and waste treatment; and
 - (d) disposal.
- (3) The by-laws seek to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the municipality's jurisdiction.

- (4) The by-laws promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

5. General duty of care

- (1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
- (a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
 - (b) waste is reduced, reused, recycled or recovered;
 - (c) where waste must be disposed off, the waste is treated and disposed in an environmentally sound manner;
 - (d) the waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
- (2) Any person subject to the duty imposed in subsection (1) may be required by the municipality or an authorised official to take measures to ensure compliance with the duty.
- (3) The measures referred to in subsection (2), that a person may be required to undertake include—
- (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;

- (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
- (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
- (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
- (e) eliminating or mitigating any source of damage to the environment; or
- (f) rehabilitating the effects of the damage to the environment.

CHAPTER 2

WASTE MANAGEMENT INFORMATION SYSTEM

6. Decision to Establishment a Waste Management Information System

- (1) The municipality may establish and maintain a waste management information system in terms of this chapter to record how waste is managed within the municipality.
- (2) A decision to establish a waste management information system in terms of **section 6(1)** must be published by a notice in the Provincial Gazette and will come into operation on a date announced in the notice which must not be less than 3 months from the date of its publication.

7. Purpose of the Information System

- (1) The purpose of an information system is for the municipality to—

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

8. Content of the Information System

- (1) An information system established by the municipality may include any information relating to or connected to the management of waste within the municipality.
- (2) The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law.
- (3) In giving effect to the right in subsection 8(2), the municipality must—
 - (a) at the request of a member of the local community, provide information contained in the information system;
 - (b) take steps to ensure that the information provided is in a format appropriate for lay readers; and

- (c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

9. Provision of Information

- (1) The municipality may, subject to the provisions of any other law including the common law, require any waste generator, certificate holder, service provider or person involved in or associated with the provision of basic services or commercial services within the municipality to furnish information to the municipality that may reasonably be required for the information system.
- (2) The information referred to in subsection 9(1) may concern—
 - (a) significant sources of waste generation and the identification of the generators of waste;
 - (b) quantities and classes of waste generated;
 - (c) waste handling, waste treatment and waste disposal facilities;
 - (d) population and development profiles;
 - (e) reports on progress in achieving any waste management targets;
 - (f) the management of radioactive waste;
 - (g) markets for waste by class of waste or category; and
 - (h) any other information required by legislation, regulation or guidelines.
- (3) The municipality may, at its own discretion and as reasonably possible, require any facility, person or activity to register and report to the municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

- (4) Any person who conducts an activity, which has been identified in terms of local provincial and/or national waste information system must, upon request, present to the municipality proof that such an activity is registered and the required information is reported.

CHAPTER 3

GENERAL DUTIES

10. General Duty of Municipality to provide waste collection services

- (1) The municipality has a duty to the local community of progressively ensuring efficient, affordable, economical and sustainable access to the municipal service.
- (2) The duty referred to in subsection (1) is subject to –
- (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the municipality to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The municipality must take the following factors into account in ensuring access to the municipal service:
- (a) The waste management hierarchy set out in section 4(2);
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirements of operational efficiency;
 - (e) the requirements of equity; and

- (f) the need to protect human health and the environment.
- (4) The following matters in respect of waste collection services shall be determined by the municipality, and the power to make a determination in this section may not be assigned to a service provider in terms of chapter 4
- (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require basic services more frequently than the regular collection service for reasons of health, safety and environmental protection; and
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff.
 - (d) requirements for the provision of waste storage areas and access to such area in respect of premises which are constructed or reconstructed after the commencement of these bylaws
- (5) The following additional matters in respect of waste collection services may be determined by the municipality-
- (a) collection schedules;
 - (b) locations for placing approved receptacles for collection;
 - (c) which types of waste generated by the occupier of any premises are separable for the purposes of recycling and determine the conditions for their separation, storage or collection; and
 - (d) which waste items are unsuitable for collection because they do not constitute -domestic waste, and where such waste is determined to be unsuitable for collection, a process for the collection of these items must be recommended to the owner of the waste.

- (6) The municipality must notify in writing all generators of domestic waste, business waste and dairies of any decisions taken in terms of subsections 11(4) or 11(5), and may at any time review these decisions.
- (7) The municipality may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dairies pending collection.
- (8) Where a receptacle referred to in subsection 11(7) is provided by the municipality, it remains the property of the municipality.
- (9) The municipality may require a generator of dairies and business waste to compact that portion of the waste that is compactable when—
 - (a) the quantity of dairies or business waste generated on premises requires daily removal of more than the equivalent of 24x85 litre bins; and
 - (b) in the opinion of the municipality, the major portion of such waste is compactable.
- (10) The occupier of premises may elect to compact any volume of such waste and place it into a receptacle or wrapper that is approved by the municipality: Provided that—
 - (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms; and
 - (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- (11) The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be

placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the municipality may require.

11. General Duty of Waste Generators

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the municipality.
- (2) Any person or owner of premises contemplated in subsection (1) must ensure that-
 - (a) the receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
 - (b) on agreed collection date, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
 - (c) pollution and harm to the environment is prevented;
 - (d) waste cannot be blown away and that the receptacle is covered or closed;
 - (e) measures are in place to prevent tampering by animals;
 - (f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
 - (g) suitable measures are in place to prevent accidental spillage or leakage;
 - (h) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
 - (i) that a receptacle(s) provided by the municipality is not used for any other purpose other than storage of waste;

- (j) in cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the municipality and arrange for replacement as soon as it comes to their attention;
 - (k) waste is only collected by the municipality or authorised service provider; and
 - (l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.
 - (m) no hot ash unwrapped glass or other waste which may cause damage to receptacles or which may cause injury to municipal employees while carrying out their duties, is placed in an approved receptacle before suitable steps have been taken to avoid injury or damage;
 - (n) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the municipality to handle or carry, is placed in an approved receptacle;
 - (o) every approved receptacle is placed and be kept in a clean and hygienic condition
 - (p) dailies are not placed in a receptacle or compactor where they are able to contaminate other waste streams.
- (3) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the municipality as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.
- (4) The owner or occupier of premises must provide adequate space considered necessary by the municipality, on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection 11(4) must—

- (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
- (6) Where dailies are generated on the premises—
 - (a) be in such a position as will allow their collection and removal by the municipality's employees without hindrance; and
 - (b) be placed not more than 20m from the entrance to the premises used for the collection of waste by the municipality;
 - (c) be so located as to permit convenient access and egress for the municipality's waste-collection vehicles;
 - (d) comply with any further reasonable requirements imposed by the municipality by written notice to the owner or occupier of the premises; and
 - (e) be constructed in accordance with the requirements of any applicable building regulations.
- (7) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection 11(4) and must at all times keep them there, except where the municipality is unable to collect and remove waste from the space provided in terms of subsection 11(4).

12. Liability to pay applicable tariffs

- (1) The owner of premises where the municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services, and is not exempted from or reduction of such tariffs due to non usage, partial or limited use of such services.

- (2) The municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- (3) The municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

CHAPTER 4

SERVICE PROVIDERS

13. Service Providers/Contractors

- (1) The municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the municipality.
- (3) Any reference in these by-laws to "Municipality or Service Provider" should be read as the "Municipality" if the municipality has not entered into a service delivery agreement, and should be read as "Service Provider" if the municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality and which must-
 - (a) accord with the provisions of these by-laws;
 - (b) be accessible to the public;

- (c) establish the conditions of the service including collection times; and
- (d) provide for the circumstances in which municipal services may be limited.

CHAPTER 5

COMMERCIAL SERVICES

14. Provision of Commercial Services by Certificate holders

- (1) Except in the case of garden waste only a certificate holder may provide commercial services.
- (2) Any person requiring commercial services must satisfy himself or herself that the contractor has a certificate of approval to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed off in terms of these by-laws.
- (3) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as such waste is collected by a certificate holder from the premises on which it was generated—
 - (a) the waste is stored within a bulk container or other approved receptacle; and
 - (b) no nuisance or health risk of any kind whatsoever is caused by the waste in the course of generation, storage, or collection.
- (4) The owner or occupier of premises where business, industrial and recyclable waste is generated must ensure that—
 - (a) the container in which the waste is stored is not kept in a public place except for the purpose of collection;

- (b) the waste is collected by a certificate holder within a reasonable time after its generation; and
 - (c) that the service rendered by a certificate holder is in respect only of that portion of the business, industrial or recyclable waste authorised in its certificate of approval.
- (5) A certificate holder must dispose of business, industrial or recyclable waste at an appropriately permitted waste handling facility or waste disposal facility; and in disposing of waste, a certificate holder must comply with any notice given in terms of subsection (8) and with the provisions of section **34**.
- (6) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (7) The municipality may, by notice in the provincial gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice. The notice may include but not limited to-
 - (a) the application forms;
 - (b) a prescribed fee;
 - (c) renewal intervals;
 - (d) list of transporters, types and thresholds of waste transported;
 - (e) minimum standards or requirements to be complied with.
- (8) The municipality may direct, by a notice published in the Provincial Gazette, that a category of waste be disposed off at a particular depot or disposal site; and no person may dispose of waste other than as specified in a notice that has been gazetted under this section or as specified by the municipality under other legislation prior to the coming into operation of these by-laws.

CHAPTER 6

GARDEN WASTE, BULKY WASTE AND BUILDING WASTE

15. Storage, collection, composting and disposal of garden waste

- (1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- (2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) The municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the municipality.
- (4) At the written request of the owner or occupier of premises the municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

16. Collection and disposal of bulky waste

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed off at a designated facility and may not put such waste as part of the municipal routine collection.
- (2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff, provided that the Municipality is able to do so with its refuse removal equipment.

- (3) In case a municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

17. Generation, storage, collection, reuse and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—
- (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises is promptly retrieved; and
 - (d) pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed.
- (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
- (3) Should the municipality provide such a service, it shall be done at a prescribed tariff.
- (4) The owner or occupier of premises may apply to the municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must –

- (a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
- (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed off at a facility designated for that purpose by the municipality.
- (7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the municipality, be deposited at a place other than the municipality's waste disposal sites.
- (8) A consent given in terms of subsection (7) shall be subject to the conditions, as the municipality may deem necessary.

CHAPTER 7

INDUSTRIAL, HAZARDOUS AND HEALTH CARE RISK WASTE

18. General conditions for special industrial, hazardous or health care risk waste

- (1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored, until it is collected, on the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises must be stored in a manner that does not become a nuisance or cause harm to public health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.

- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding three months or any other period stipulated by the Department of Water and Environmental Affairs, the Provincial Government, or the municipality.
- (4) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.
- (5) Subsection (4) does not apply to generators of waste who have the capacity to conduct the service.
- (6) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.
- (7) The municipality may enact additional by-laws providing guidelines for the management of health care risk waste.

19. Generation of Special Industrial, Hazardous or Health Care Risk Waste

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the municipality in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the certificate holder removing such waste:
- (2) Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must give the municipality such notice within 6 months of the commencement of these by-laws.

- (3) If so required by the municipality, the notification referred to in subsection 19(1) must be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- (4) The person referred to in subsection 19(1) must notify the municipality in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

20. Collection, transportation and Disposal of Special Industrial, Hazardous or Health Care Risk Waste

- (1) Only a person authorised by any relevant legislation or permitted by a competent authority may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the permit or authorisation, as well as the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of the type of vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste.
- (2) A person who is permitted or authorised in terms of subsection (1) to collect and dispose of special industrial, hazardous or health care risk waste, must inform the municipality in an appropriate manner as determined by the municipality prior to the date of collection of the date of collection, the quantity and the composition of the waste collected and the facility at which the waste is to be disposed.
- (3) A person who is permitted or authorised in terms of subsection (1), who is approved or permitted by competent authority, must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated for that purpose in terms of the National Environmental Management Waste Act (Act 59 of 2008).

CHAPTER 8

GENERAL PROVISIONS

21. Duty to provide facilities for litter

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

- (3) In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

22. Specific provision for street refuse bins

- (1) A street refuse bin is solely for the use of pedestrians and no person, other than a pedestrian, may dispose or cause any domestic or business waste to be disposed in a street refuse bin.
- (2) No person may damage or cause a street refuse bin or other refuse equipment to be damaged, or put any unauthorized stickers or advertisements on any municipal street refuse bin or equipment.
- (3) It is the responsibility of the person, or in the case of an organization, business, institution or any other institution, the responsible person, who has put any sticker or advertisement on a municipal street refuse bin or other refuse equipment, to remove such a sticker/s or advertisement.
- (4) If it can be proved that a person, organization, business, institution or any other institution has damaged municipality's street refuse bin or other refuse equipment, or has put any sticker or advertisement on such a bin or equipment, the person, organization, business, institution or any other institution shall be responsible for the cost involved for the repairs which are necessary on the street refuse bin or refuse equipment.
- (5) No private person or company may place any street refuse bin within the municipal's jurisdiction, without prior written approval of the Municipality.
- (6) The municipality shall, in consultation with the private company determine the positions where private street refuse bins can be placed.
- (7) The municipality shall determine the number, type and position of any municipality's or private street refuse bin within the Municipality.

- (8) No person may remove, replace or shift any municipality's or private street refuse bin without the approval of the municipality.

23. Prohibition of littering

- (1) No person may –
- (a) cause litter;
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

24. Prohibition of nuisance

- (1) Any person handling waste within the municipality, either through storage, collection, transportation, recycling or disposal must–
- (a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
 - (b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;

- (c) at their own cost, clean any waste causing nuisance to any person or the environment;
- (d) ensure compliance to the notice contemplated in sub section (1) (c); the municipality may clean or remedy waste causing nuisance to any person or the environment, at the municipality's cost and claim such cost from the offender.

25. Burning of waste

- (1) No person may-
 - (a) dispose of waste by burning it, either in a public or private place;
 - (b) incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the municipality for such purpose.

26. Unauthorised disposal/dumping

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) The municipality may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

27. Abandoned articles and advertisement

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the municipality as having been abandoned, may be removed and disposed off by the municipality as it may deem fit.
- (2) No handbill or advertisement on vehicle, street or public place without permission
 - (a) No person shall deposit or leave any circular, dodger, handbill or other advertisement on any vehicle in any street or public place without having permission to do so from the municipality.
 - (b) For the purposes of this section any person found depositing or leaving any circular, dodger, handbill or other advertisement on a vehicle in a street or public place, shall be presumed to have done so without the permission in terms of subsection 27(2)(a) unless he shall produce satisfactory evidence of such permission.
- (3) The municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the municipality, without authorisation as it may deem necessary.

28. On-site disposal

- (1) The municipality may, as it deem fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.
- (2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to—

- (a) time frames for such a declaration;
 - (b) minimum standards to be adhered to for on-site disposal;
and
 - (c) quantity of waste that may be disposed.
- (3) The municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

29. Recycling

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the municipality of an intention to undertake such an activity in writing.
- (2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in National or Provincial legislation.
- (3) The municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the municipality or service provider.
- (4) The municipality may require businesses operating within their jurisdiction to participate in recycling.
- (5) In cases where the municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 9

LISTED WASTE MANAGEMENT ACTIVITIES

30. Commencement, conducting or undertaking of listed waste management activities

- (1) Any person conducting a listed waste management activity listed in terms of part 4 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in subsection (1) must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the municipal waste management officer in writing of the intention.

CHAPTER 10

TRANSPORTATION AND DISPOSAL OF GENERAL WASTE

31. Transportation of General Waste

- (1) No person may—
 - (a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) to cover loose waste on an open vehicle with a tarpaulin or suitable net;

- (d) cause or permit any waste being transported in or through the municipality to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility; and
 - (e) knowingly dispose waste at a waste disposal facility that is not permitted to accept that waste.
 - (f) use a vehicle for other purposes whilst transporting waste.
- (2) Subject to subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act 93 of 1996).

32. Disposal of General Waste

- (1) Waste generated within the municipality must be disposed off at a waste disposal facility that has been appropriately permitted by the competent national authority.
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.
- (3) Any person disposing waste at a municipal owned disposal site must adhere to the site operational procedures and the tariff charge policy as approved by the municipality.
- (4) All private waste disposal sites within the jurisdiction of the municipality, must comply to local norms and standards and any other relevant legislation.
- (5) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by the competent national authority, be subject to any condition the municipality may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed off, the manner of disposing of waste and any other matters which the municipality considers necessary to ensure the environmentally sound management of waste.

- (6) Every person who enters a waste disposal facility must—
- (a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
 - (b) on request, provide the municipality or the operator of the waste disposal facility with any information regarding the composition of the waste; and
 - (c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.
- (7) No person may—
- (a) bring any liquor or intoxicating or narcotic substance on to a waste disposal facility or enter such facility in an intoxicated state;
 - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these by-laws, unless authorised to do so by the operator of the waste disposal facility or the municipality and then only at such times and on such conditions as the municipality or operator may from time to time determine;
 - (c) dispose of waste at a waste disposal facility which is not licensed for waste of that kind or in terms of the Waste Act, 2008;
 - (d) light any fire upon or near any disposal area without authorisation.
- (8) Any person who contravenes subsection 32(7) will be liable for all reasonable costs incurred by the municipality in removing or otherwise dealing with waste improperly disposed off at a waste disposal facility.
- (9) The operator of the waste disposal facility or any authorised official may at any time require a vehicle, or a container on a vehicle, that

has entered the waste disposal facility for the purposes of disposing waste, to be weighed at a weighbridge.

- (10) The municipality, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the municipality may, at a waste disposal facility, inspect the content and nature of waste to be disposed off or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (11) Any person contravening any of the provisions of this section may be refused entry or be removed from a waste disposal facility.
- (12) No person may store waste for more than ninety consecutive days without authorisation from the competent national authority in terms of section 20(1) of the Environment Conservation Act, 1989 (Act 73 of 1989).

CHAPTER 11

CERTIFICATE OF APPROVAL

33. Establishment of a Certificate of Approval System

- (1) A municipality may establish a certificate of approval system in terms of this chapter.
- (2) A decision to establish a Certificate of approval system in terms of subsection 33(1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.
- (3) If a municipality has not established a certificate of approval system, firms providing waste management services may be treated as certificate holders by generators of waste for the purpose of chapter 5 of these by-laws.

34. Requirements

- (1) If a certificate system is established in terms of section 33(1), no person may collect or transport any of the waste streams listed in subsection 34(2)—
 - (a) without having first obtained and being in possession of a valid certificate of approval; and
 - (b) except in properly constructed, watertight vehicles or in containers that prevent spillage of waste and are suitable for the waste stream which is being collected or transported, as specified in the National Road Traffic Act, 1996 (Act 93 of 1996).
- (2) The following categories of waste are covered by the certificates of approval under this chapter of the by-laws—
 - (a) business (bulk containerised) waste;
 - (b) industrial waste;
 - (c) recyclable waste
 - (d) building waste.
- (3) Certificate of approval issued under these by-laws—
 - (a) may not be ceded or assigned without the prior written consent of the municipality;
 - (b) are valid only for the category of waste specified; and
 - (c) expire within one year of the date of issue unless extended by the municipality

35. Application for Certificate of Approval

- (1) An application for a certificate of approval must be in writing on a form prescribed by the municipality.
- (2) The form prescribed by the municipality must specify the information to be included in the application, as well as any necessary

documentation, and the time available for making the application, which period must not be less than two months in duration.

- (3) The information provided in the application form must include the following:
 - (a) the name and the residential and postal address of the person providing commercial services and, if the person providing commercial services is a company or close corporation, its registration number, the names of its directors or members and the address of its registered head office; and
 - (b) the nature of the commercial services to be provided or intended to be provided by the person.
- (4) The municipality must determine the fees to be imposed on each vehicle used by a person to collect or transport waste, and the application must be accompanied by the relevant fees.

36. Adjudication of certificate of approval

- (1) The municipality must designate within its administration a waste management officer to adjudicate certificate of approval applications on its behalf
- (2) A person designated to the waste management officer must not be an employee or director of a service provider or certificate holder or a councillor of the municipality; and must be suitably qualified to adjudicate applications in terms of this section.
- (3) The waste management officer must consider each application, having regard to the following:
 - (a) the applicant's compliance with the National Road Traffic Act, 1996 (Act 93 of 1996) and with these by-laws;
 - (b) the environmental, health and safety record of the applicant;
 - (c) the nature of the commercial service to be provided; and

- (d) any other matter which the waste management officer considers relevant.
- (4) After considering the application the waste management officer must either—
 - (a) approve the application by issuing a certificate of approval subject to any term or condition it considers appropriate; or
 - (b) refuse the application, which refusal must be accompanied by written reasons.
- (5) The waste management officer may refuse an application only because the applicant—
 - (a) failed to submit a complete and satisfactory application to the municipality; or
 - (b) failed to comply with the standards established in these by-laws.
- (6) If the waste management officer refuses an application for a certificate of approval, the applicant may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Municipal Structures Act, or if no such committee has been established, to the municipal manager of the municipality, on the basis set out in section **46(1) to 46(5)** of these by-laws with all the changes that may be necessary to apply those provisions.
- (7) If the waste management officer fails to consider and grant or refuse the certificate application within two months of its receipt of the application, the validity of an existing certificate of approval is automatically extended until the waste management officer makes its decision, and the municipality must—
 - (a) inform the applicant in writing that the period for consideration is extended; and

- (b) inform the applicant of the date by which the decision will be made.

37. Certificate Terms and Conditions

- (1) When issuing a certificate of approval the municipality may, subject to the provisions of subsection **37(2)**, impose any condition/s necessary in furtherance of national, provincial or municipal waste management policy.
- (2) Certificate of approval issued by the municipality must—
 - (a) specify the certificate period and the procedure for the renewal of a certificate;
 - (b) specify the category or categories of waste that the certificate holder may collect and transport;
 - (c) contain a requirement that the certificate holder must comply, and ensure compliance by its employees, agents and sub-contractors, with these by-laws and applicable provincial and national legislation; and
 - (d) require the certificate holder to keep monthly written records on a form prescribed by the municipality in respect of the quantities of each category of waste it collects and transports during the certificate period, which quantities must be confirmed and verified by the municipality in any application for renewal of a certificate or application for a new certificate by the same contractor.
- (3) In prescribing certificate conditions in terms of this section, the municipality must comply with its local waste plan if it has one.

38. Renewal of Certificates

- (1) If certificate holders intend to renew their certificate, they must do so within two months before the expiry of an existing certificate; and the waste management officer must assess and grant or refuse the

certificate application within two months of the receipt of that application in accordance with section **37**.

- (2) If the waste management officer fails to consider or to grant or refuse the certificate renewal application within two months, the validity of an existing certificate is automatically extended until the waste management officer makes its decision, and the municipality must—
 - (a) inform the applicant in writing that the period for consideration is extended; and
 - (b) inform the applicant of the date by which the decision will be made.
- (3) When considering whether to grant another certificate, the waste management officer must confirm and verify the previous records kept by the certificate holder in terms of section **37(2)(d)** of these by-laws.

39. Display of Waste Certificate of Approval

- (1) Upon issuing a certificate to a contractor to collect or transport a specific category of waste, the municipality must issue to the contractor a numbered sticker for each vehicle to be used by him which shall—
 - (a) confirm that the certificate holder is authorised to collect or transport the category of waste specified on the sticker; and
 - (b) be colour coded for easy identification of the waste stream to which the certificate applies.
- (2) The contractor must affix the sticker referred to in subsection **39(1)** to each vehicle to be utilised in providing the service and display it at all times.

- (3) A waste disposal facility is authorised and directed to admit waste to its facility for processing or disposal only from contractors who are certificate holders and whose vehicles display the necessary sticker as required in subsection 39(1) above.

40. Prohibited Conduct

- (1) Certificate holders may not—
- (a) operate in contravention of the terms and conditions of their certificate of approval;
 - (b) fail or refuse to give information, or give false or misleading information when required to do so in terms of these by-laws; or
 - (c) fail to take all reasonable steps to prevent an act or an omission by an employee acting in the course and scope of his duties which is unlawful in terms of these by-laws.

41. Suspension and Revocation of Certificates

- (1) A certificate issued under these by-laws may be suspended or revoked by the municipal manager of the municipality on the grounds that the certificate holder—
- (a) has failed to comply with the obligations set out in these by-laws; or
 - (b) has failed to comply with any national or provincial legislation which regulates the collection, transportation or disposal of any waste; or
 - (c) has failed to comply with the terms of a certificate and any condition set out in section 37.
 - (d) on any other ground that the municipal manager considers relevant, and which is fair and reasonable in the circumstances.

- (2) A certificate may only be suspended or revoked by the municipal manager after—
- (a) he has given adequate notice to the certificate holder in terms of section 3(2) (b) (i) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) that he intends to make a decision regarding the suspension or revocation of the certificate; and
 - (b) after the certificate holder has been given a reasonable opportunity to make representations to the municipal manager as to why its certificate should not be suspended or revoked in terms of section 3(2)(b)(ii) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
- (3) The length of time given to the certificate holder to make representations and the nature of the representations allowed must be fair and reasonable in the circumstances, taking into account the nature and severity of the infringement, the potential risk of harm to the environment, human life or property, or any other factor relevant in the circumstances.
- (4) The municipal manager must make a decision within two weeks of receiving the representations, if any, of the certificate holder, or within two weeks after the closing date for making representations specified by the municipal manager in terms of subsection **41(3)**; and must inform the certificate holder of his decision within seven days of making it.
- (5) If a certificate is suspended or revoked in terms of subsection **41(4)**, the holder of the suspended certificate may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Structures Act, or if no such committee has been established – to the executive committee or executive mayor of the municipality, on the basis set out in section 50 with all the necessary amendments of the wording to those provisions.

- (6) At no time may the municipality disclose any confidential commercial information submitted as part of the certificate application procedure to any other party, other than to the party who disclosed such information to the municipality.

42. Transitional Provisions and Exemptions

- (1) Any person lawfully providing commercial services within the municipality when a notice is issued in terms of section 42(2) that the municipality intends to establish a certificate of approval system, must, if that service requires a certificate, apply for a certificate of approval but may continue to provide commercial services while the certificate application is being considered by the municipality, but may do so only if that person has submitted an application for a certificate within three months after the section 33 notice is issued.
- (2) The municipality may, having regard to the main object of these by-laws and its Local Waste Plan, exempt any form of commercial service from the provisions of Chapter 5 of these by-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

CHAPTER 12

ADMINISTRATIVE ENFORCEMENT PROVISIONS

43. Designation of Authorised Officials

- (1) The municipality must designate authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the Municipal Systems Act.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act 51 of 1977) and has no powers of arrest in respect of any offence created in these by-laws.

- (3) In designating an authorised official, the municipality must have regard to—
 - (a) a person's technical understanding and experience of matters related to waste management; and
 - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the municipality or any service provider of the municipality, but neither the service provider nor any of its employees may be involved in enforcing compliance with these by-laws by certificate holders.
- (5) Upon designation, authorised officials must be issued with a means of identification by the municipality which must state the name and function of the authorised official, and must include a photograph of the officer.
- (6) An authorised official, acting within the powers vested in him by these by-laws, is required to:
 - (a) present identification on demand by any member of the public;
 - (b) liaise with or co-ordinate action with any environmental management inspector designated under the National Environmental Management Act, 1998 (Act 107 of 1998) in enforcing the National Environmental Management Act, or any specific Environmental Management Act within the municipality.

44. Powers to Execute Work and Inspect Vehicles and Premises

- (1) In addition to the powers, an authorised official as an authorised representative of the municipality under section 101 of the Systems Act or any other legislation may—
 - (a) enter any land or premises to execute work or conduct an inspection; and

- (b) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- (2) Where consent is not obtained in terms of subsection 44(1) (b), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued in accordance with the law.
- (3) A search conducted in terms of these by-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause harm to public health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (5) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these by-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to public health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to public health or damage to the environment.
- (6) In the event of the seizure of any vehicle under subsection **44(5)**, the municipality must—

- (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to public health or damage to the environment; and the cost of such disposal must be borne by the owner of the vehicle; and
- (b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the certificate holder or person from whose possession or control it was taken.

45. Powers to Question

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

46. Supervision of a Certificate of Approval

- (1) If a certification system has been established in terms of section 33 of these by-laws, authorised officials must inspect the workplace of a certificate holder not less than twice a year, and an authorised official is entitled to enter the workplace of a certificate holder for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law and, in particular, an authorised official in conducting an inspection under

subsection **46(1)** must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

- (3) If an authorised official is of the opinion, after such an inspection, that a certificate holder is complying with these by-laws, he may, subject to the provisions of subsection **46(4)**, issue the certificate holder with a certificate confirming compliance, which must state –
 - (a) the name and residential and postal address of the certificate holder;
 - (b) the time, date and scope of the inspection; and
 - (c) any remarks which in the opinion of the authorised official may be relevant.
- (4) If a certificate holder fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the municipality review the certificate, and should there be reasonable grounds, the municipality may revoke the certificate in terms of section **41**, but may do so only if the consecutive inspections occur at not less than four month intervals.
- (5) Authorised officials must keep a register recording each inspection that has been undertaken.

47. Supervision of Owners and Occupiers

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

48. Enforcement Notices

- (1) If, in the opinion of the authorised official, a person is—

- (a) causing a nuisance, harm to public health or damage to the environment; or
 - (b) as certificate holder, is failing to comply with the terms of a certificate granted in terms of these by-laws; or
 - (c) as owner or occupier, has failed to satisfy an obligation in terms of section **46** of these by-laws, the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state—
- (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
 - (b) the nature of the nuisance, harm to public health or damage to the environment that the affected person is causing or is likely to cause;
 - (c) the steps required to forestall or remediate the nuisance, harm to public health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
 - (d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
 - (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in subsection 2(d) may result in civil and criminal liability; and
 - (f) that written representations may be made to the municipality, in terms of section 50, or a designated committee or internal functionary to which or to who powers under these by-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.
- (3) If an affected person fails to comply with an enforcement notice, the municipality or anyone authorised by the municipality, may perform

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

- (4) Where the municipality incurs any expenditure as a result of performing such steps, the municipality may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
- (5) If a certificate holder commits an offence in terms of these by-laws and has, within the last two years, been convicted of the same offence, the municipality may revoke his certificate of approval immediately.

49. Complaints

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

50. Representations

- (1) Any affected person may make representations to the municipality, or a designated committee or internal functionary of the municipality to which the municipality has delegated its powers, in the manner specified in the enforcement notice.
- (2) Representations must be made by submitting a written statement that has been sworn or affirmed to the municipality, designated committee or internal functionary within 21 calendar days of the service of the notice.

- (3) Any representation not lodged within 21 calendar days shall not be considered, except where the affected person has shown good cause and the municipality, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The municipality, or designated committee or internal functionary, must duly consider the representations and any response to them by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigation to verify the facts if that, in its opinion, is necessary.
- (5) If the municipality, or designated committee or internal functionary, should conduct any further investigations, the results of the investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the municipality, or designated committee or internal functionary, must also consider his further response.
- (6) After the municipality, or designated committee or internal functionary, is satisfied that the requirements of subsection **50(5)** have been satisfied, the municipality, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order must –
 - (a) confirm, alter or set aside in whole or in part, an enforcement notice; and
 - (b) if compliance with the order (or the altered order) is required, specify the period within which the affected person must comply with any order made by it.
- (7) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the municipality, or designated committee or internal functionary, must inform the affected person that he must discharge the obligations set out in the enforcement notice.

- (8) If an affected person lodges a representation, any requirement in terms of section **48** of these by-laws requiring compliance with an enforcement notice, is suspended unless, in the opinion of the municipality, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered by the municipality, orally or in writing, to do so.
- (9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection **50(8)**, fails to comply with it, the municipality may itself cause the environmental emergency to be stopped, reversed or abated, in which event the municipality may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting

51. Establishment of an Administrative Penalty System

- (1) The municipality may establish an administrative penalty system in terms of this section.
- (2) A decision to establish an administrative penalty system in terms of subsection **51(1)** must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.

52. Infringement Notices

- (1) If a municipality has established an administrative penalty system, an authorised official may issue an infringement notice to any person whom he believes may have committed an offence listed in Column A of Schedule 2.
- (2) The infringement notice must—

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

53. Trial

If a person who elects to be tried in court in terms of subsection **52(2)(g)**, notifies the municipality of his election, the authorised official must, if he believes that there are sufficient grounds in law for doing so, within 10 calendar days, take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event, or in the event of his considering that there are no grounds for taking further steps, the infringement notice is cancelled.

54. Withdrawal of Infringement Notice

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

55. Infringement Notice Not an Admission

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

CHAPTER 13**JUDICIAL ENFORCEMENT PROVISIONS****56. Offences**

- (1) Subject to the provision of these by-laws, any person —
 - (a) who contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for basic services;
 - (b) who fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;

- (c) who fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws, or
 - (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these by-laws,
 - (e) is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding **R1 000-00** or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

CHAPTER 14

GENERAL PROVISIONS

57. Responsibility of business owners with regard to public pavements

- (1) The owner of a business premises shall accept full responsibility with regard to the public appearance of a pavement in front of his premises, and shall not allow the accumulation of dirt, or any other un-cleanliness to occur.
- (2) Any person contravening subsection **57(1)** shall be instructed by municipality or authorized official to restore the pavement area in front of his premises to a clean and hygienic condition.

58. Charges

- (1) Services rendered by the municipality in respect of which a monthly tariff charge is prescribed, shall only be discontinued by the municipality after receipt of a written notification from the owner or occupier of the premises to which the services are rendered that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the municipality that the generation of such refuse on the premises has ceased.
- (2) Monthly tariff charges shall be payable until receipt by the municipality of the notice mentioned in subsection **58(1)**, or when it has become obvious to the municipality that the generation of such refuse on the premises has ceased.

59. Ownership

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

60. Service of Documents and Process

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of basic services, the address of the owner of the premises on which domestic waste and dailies is

generated is the place where service of documents and process shall be made.

61. Service of Notices

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

- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

62. Repeal of By-Laws

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

63. Date of commencement

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

SCHEDULE 1: BY-LAWS REPEALED

TITLE OF BY-LAW	EXTENT OF REPEAL
Emalahleni Local Municipality: Solid Waste Management By-Laws, Local Authority Notice No.64 of 2008	The Whole

SCHEDULE 2: ADMINISTRATIVE PENALTIES

Column A: Offence Section	Column B: Administrative Penalty
Section 11	R 500
Section 14	R 1000
Section 15	R 300
Section 16	R 600
Section 17	R 1000
Section 18, 19, 20	R 1000
Section 22	R 1000
Section 23, 24, 25	R 400
Section 26, 27	R 600
Section 27 (2)	R 1000
Section 31	R 1000
Section 32	R 1000
Section 39, 40	R 400
Section 57	R 1000

PROVINCIAL NOTICE OF 2 2016

EMALAHLENI LOCAL MUNICIPALITY
NOISE CONTROL BY-LAWS

The Emalahleni Local Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) and the National Environmental Management Act, 1998 (Act 107 of 1998); hereby publishes the Noise Control by - laws as set forth hereafter laws as approved by Council on 30 July 2015 under Council Resolution number: A. 124/15 as by - laws made by the Municipality which by - laws will come into effect , the day after publication hereof.

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PART I: DEFINITIONS, PRINCIPALS AND OBJECTIVES

1. Definitions

In these bylaws any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates:

“ambient sound level” means the reading taken at the end of a period at least 10 minutes, uninterrupted by an alleged disturbing noise, or an integrating impulse sound level meter placed at a measuring point during which period the said meter has been in operation at all times;

“animal” also includes birds and poultry;

“controlled area” means a piece of land designated by the Municipality where, in the case of:

- (a) road transport noise in the vicinity of a road:
 - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 on any day, during which period the said meter has been in operation at all times, exceeds 65 dBA; or
 - (ii) the outdoor equivalent continuous “A” – weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210, and projected for a period of 15 years following the date on which the Municipality has made such designation exceeds 65 dBA;

- (b) aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the Municipality has made such designation, exceeds 65 dBA;
- (c) industrial noise in the vicinity of an industry:
 - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter is in operation, exceeds 61 dBA; or
 - (ii) the calculated outdoor equivalent continuous “A” weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 60 dBA; or
- (d) noise from any other source in the vicinity of that source -
 - (i) the reading on an integrating sound level meter, set on impulse or faster acquisition rate, taken outdoors at the end of a period extending from the time when such source of noise became active until the time when it was no longer active, while such meter was in operation, exceeds 65 dBA; or
 - (ii) the outdoor equivalent continuous “A”-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground, as calculated in accordance with acceptable mathematical/acoustic methods for a period extending from the time when the source of noise became active until the time when it was no longer active, and projected for a period of 15 years following the date on which the municipality made such designation, exceeds 65

dBA: provided that methods of calculation as described in SABS ARP 020 may be used for the calculation.

“**dBA**” means the value of the sound pressure level in decibels, determined using a frequency-weighting network A, and derived from the following equation:

PA 2

$LPA = 10 \log^{10} [PA/P^O]^2$ where

PA – the ‘A’-weighted sound pressure; and

P^O – the reference sound pressure

(P^O = 20µPa):

“**disturbing noise**” means a noise, excluding the unamplified human voice, which—

- (a) exceeds the rating level by 7 dBA;
- (b) exceeds the residual noise level where the residual noise level is higher than the rating level;
- (c) exceeds the residual noise level by 3 dBA where the residual noise level is lower than the rating level; or
- (d) in the case of a low-frequency noise, exceeds the level specified in Annex B of SANS 10103;

“**emergency**” means a situation that arises suddenly and involves imminent or actual—

- (a) danger to persons; or
- (b) damage to property or the environment, and which demands immediate action;

“erect” also means alter, convert, extend or re-erect;

“integrating sound level meter” means a device that integrates a function of the root mean square value of sound pressure over a period of time and indicates the result in dBA;

“integrating impulse sound level meter” means an integrating sound level meter set on “I”-time weighting or at a sampling rate greater than “I” weighting and integrated to provide the result in dBA;

“local authority” means the municipality having jurisdiction;

“low-frequency noise” means sound which contains sound energy at frequencies predominantly below 100 Hz;

“measuring point”, relating to:

- (a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of bylaw 6;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of bylaw 6; and
- (c) a stationary vehicle, means a point as described in SABS 0181, where a measuring microphone must be placed

“model aircraft” includes an unmanned recreational aircraft, whether full size or scaled down;

“municipality” means the Emalahleni Local Municipality established in terms of the Constitution of the Republic of South Africa, 1996.

“NEMA” means the National Environmental Management Act, 1998 (Act 107 of 1998);

“noise control officer” means a person with a qualification equivalent to a senior certificate plus three years tertiary education in engineering, physical sciences or health sciences and who is registered with a professional council;

“noise level” means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter was put into operation, and, if the alleged disturbing noise has a clearly discernible pitch, for example, a whistle, buzz, drone or music;

“noise nuisance” means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

“noise sensitive activity” means any activity that could be negatively impacted by noise, including residential, healthcare, educational or religious activities;

“noisiness index” means a number expressed in dBA as defined in SANS 10117;

“non-exempted vehicle” means a vehicle not listed in Annexure A to SANS 10281;

“plant” means a refrigeration machine, air conditioners, fan system, compressor, power generator or pump or mechanical driven device;

“property projection plane” means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

“recreational vehicle” means –

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;

- (b) a model aircraft, vessel or vehicle;
- (c) any aircraft or helicopter used for sport or recreational purposes;
- (d) a vessel used on water; or
- (e) any other vessel or model which is used for sport or recreational purposes.

“SABS 0103” (now SANS 10103) means South African Bureau of Standards publication No.10103 entitled: “The measurement and rating of environmental noise with respect to annoyance and to speech communication” published under Government Notice No. 718 in Government Gazette No. 18022 of 30 May 1997, as amended from time to time or its corresponding replacement;

“SANS 10117” means South African Bureau of Standards publication No. 0117 – 1974 titled: “Code of Practice for the determination and limitation of disturbance of the Act; around an aerodrome due to noise from aeroplanes” published under Government Notice No. 151 of 01 February 1985, as amended from time to time or its corresponding replacement;

“SANS 10181” means South African Bureau of Standards publication No. 0181 – 1981 titled: “Code of Practice for the measurement of noise emitted by road vehicles when stationary” published under General Notice No. 463 of 09 July 1982, as amended from time to time or its corresponding replacement;

“SABS 0210” means South African Bureau of Standards publication No. 0210 – 1986 titled: “Code of Practice for calculating and predicting road traffic noise” published under Government Notice No. 358 of 20 February 1987, as amended from time to time or its corresponding replacement;

“SANS 10281” means South African Bureau of Standards publication No. 0281 – 1997 titled: “Engine speed (S values), reference sound levels and permissible sound levels of stationary road vehicles” published under Government Notices

761, 762 and 763 in Government Gazette No. 18040 of 06 June 1997, as amended from time to time or its corresponding replacement;

“sound level” means the reading on a sound level meter taken at a measuring point at the end of the measurement period;

“sound level meter” means a device measuring sound pressure while it is set on

“F”-time weighting or at a sampling rate greater than **“I”** weighting and integrated to provide the result in dBA; and

“the Act” means the Environmental Conservation Act, 1989 (Act 73 of 1989).

2. Principles and Objectives

- (1) The municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts these by-laws with the aim of protecting and promoting the health and well-being of all people in the Emalahleni Municipality by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its obligations.
- (2) In the implementation and enforcement of these by-laws, the municipality may take into consideration the realities of the Emalahleni area, the different customs, cultures, circumstances, geographical areas, kinds of property levels of development and conventions. The municipality may use the devices provided for in these by-laws, including the application of different norms, standards and guidelines and the granting of exemptions.

PART II: PROHIBITION OF DISTURBING NOISE AND NOISE NUISANCE**3. Prohibition of Disturbing Noise**

A person may not—

- (a) cause a disturbing noise; or
- (b) allow a disturbing noise to be caused by any person, animal, machine, device, apparatus, vehicle, vessel or model aircraft, or any combination thereof.

4. Prohibition of Noise Nuisance

No person may or without prior consent of the municipality –

- (a) operate or play, or allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound so as to cause a noise nuisance;
- (b) offer any article for sale by shouting, ringing a bell or making other sounds or by allowing it to be done in a manner which causes a noise nuisance;
- (c) allow an animal owned or controlled by him or her to cause a noise nuisance;
- (d) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft or object on or near residential premises, or allow, such actions if it cause a noise nuisance;
- (e) use or discharge any explosives, fireworks, firearms or similar device that emits sound and may cause a noise nuisance, or allow such actions, except with the prior consent in writing of the municipality and subject to condition as the municipality may deem necessary;

- (f) on a piece of land or in water or in airspace above that piece of land designated by a municipality by means of a notice in the press –
 - (i) move about on or in a recreational vehicle; or
 - (ii) exercise control over a recreational vehicle; or
 - (iii) as the owner or person in control of the piece of land, water or airspace, allow such activity to take place, if this cause a noise nuisance;
- (g) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it cause a noise nuisance;
- (h) operate any machinery, saw, sander, drill, grinder, lawnmower, power tool or similar device or allow it to be operated in a residential area during the following hours:
 - (i) before 06:00 and after 18:00 from Monday to Saturday; and
 - (ii) before 08:00 and after 14:00 on a Sunday, if it causes a noise nuisance or noise disturbance.
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow such actions, if it causes a noise nuisance;
- (j) use any power tool or power equipment for construction work, drilling work or demolition work, or allow it to be used in or near a residential area during the following hours:
 - (i) before 06:00 and after 18:00 from Monday to Saturday; and
 - (ii) before 08:00 and after 14:00 on a Sunday, if it causes a noise nuisance or noise disturbance.

- (k) perform cultural customs or allow such actions, if it causes a noise nuisance;
- (l) make any other noise not indicated in paragraphs (a)-(k).

5. Noise in Relation to Land Use

- (1) The local authority, or any other authority responsible for considering an application for a building plan approval, business license approval, planning approval or environmental authorisation, may instruct the applicant to conduct and submit, as part of the application—
 - (a) a noise impact assessment in accordance with SANS 10328 to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103; or
 - (b) where the noise level measurements cannot be determined, an assessment, to the satisfaction of the local authority, of the noise level of the proposed land use or activity.
- (2) No person may –
 - (a) establish a new township unless the lay-out plans concerned, if required by the municipality, indicate in accordance with the specifications of the municipality the existing and future sources of noise, with related dBA values, which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commence;
 - (b) construct, erect, upgrade, change the use of or expand any building that will house a noise-sensitive activity in a predominantly commercial or industrial area, unless he or she insulates the building sufficiently against external noise so that the sound levels

inside the building will not exceed the appropriate maximum rating levels for indoor ambient noise specified in SANS 10103.

- (c) the owner of a building referred to in paragraph (b) must inform prospective tenants or buyers in writing of the extent to which the insulation measures contemplated in that paragraph will mitigate noise impact during the normal use of the building.
- (d) paragraph (b) does not apply when the use of the building is not changed.
- (e) build a road or change an existing road, or alter the speed limit on a road, if this will cause an increase in noise in or near residential areas, office, church, hospital or educational buildings, unless the need for noise control measures have been properly determined by the municipality in consultation with the authority concerned to ensure that the land in the vicinity of such roads will not be designated as a controlled area;
- (f) install, replace or modify a plant with input power exceeding 10 kilowatts on any premises, unless the municipality has been notified by the owner of the plant in writing at least 14 days before such installation, replacement or modification of —
 - (i) the particulars of the plant;
 - (ii) the number, street address and title deed description of the premises concerned; and
 - (iii) the date on which the installation, replacement or modification shall commence, provided that if an existing plant had to be replaced by necessity without preceding notification to the municipality, the municipality must be

notified in writing within 14 days after the replacement of the plant

- (3) The municipality may -
- (a) before commencement with any action as contemplated in subsection (1), require that noise impact assessments or tests be conducted by the owner, developer, tenant or occupant of the facilities, land or buildings and that reports or certificates relating to the noise impact be submitted;
 - (b) if excavation work, earthmoving work, pumping work, drilling work, construction work, or demolition work or any similar activity, power generation or music causes or may cause a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with;
 - (c) set conditions relating to noise control to be included in the conditions of the establishment of a new township, in order to achieve the objectives of the Act;
- (4) Where the results of an assessment undertaken in terms of subsection (2) indicate that the applicable noise rating levels referred to in that subsection will likely be exceeded, or will not be exceeded but will likely exceed the existing residual noise levels by 5 dBA or more—
- (a) the applicant must provide a noise management plan, clearly specifying appropriate mitigation measures to the satisfaction of the local authority, before the application is decided; and
 - (b) implementation of those mitigation measures may be imposed as a condition of approval for the application.

- (5) Where an applicant has not implemented the noise management plan as contemplated in subsection
- (6) The local authority may instruct the applicant in writing to—
 - (a) cease any activity that does not comply with that plan; or
 - (b) reduce the noise levels to an acceptable level to the satisfaction of the local authority.

6. Noise from machinery in residential areas

A person may not use a pool pump, irrigation pump, generator, refrigeration unit, or any heating ventilation or air-conditioning equipment, or any similar device, in a residential area if the noise on the property projection plane exceeds 50 dBA or exceeds the residual noise level by more than 5 dBA, except if authorised by the local authority or in an emergency.

7. Noise from places of late-night entertainment

- (1) A person may not conduct the business of a nightclub, or any similar late-night entertainment involving amplified sound, on or from any premises, unless the premises are soundproofed sufficiently so that a disturbing noise will not be caused outside the property projection plane of the premises.
- (2) The local authority may require a person referred to in subsection (1) to provide proof of the soundproofing, or may require access to the premises to assess the efficacy of the soundproofing.
- (3) A person who conducts a business referred to in subsection (1) on the date of publication of these by-laws is exempted from the application of that subsection for a period of six months after that date.

8. Noise from places of worship

- (1) New and old buildings used to worship must have noise attenuation measures in place that prevent disturbance or nuisance to neighbouring houses. These measures must be capable to prevent noise escaping from the building at any time. It is important that a competent person is engaged from the outset design, to advise and make recommendations for implementing appropriate acoustic treatment to the building. These recommendations should be submitted with the planning application.
- (2) The use of public address systems, for example to call members to worship, will generally only be accepted outside residential areas and even when acceptable in principle, will need to be the subject of a condition restricting it's time and duration of use
- (3) The use of private houses in a residential area for worshiping and holding religious meetings that may result in noise nuances is prohibited in terms of these by-laws.

9. Designation of Controlled Areas

- (1) The municipality may –
 - (a) by notice in the provincial gazette, designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area; and by notice in the Provincial Gazette; and
 - (b) designate zone sound levels for specific areas and for specific times in its area of jurisdiction or amend or cancel such designation;
- (2) No person may –
 - (a) erect educational, residential, flat, hospital, church or office buildings in an existing township in a controlled area or area for

which a zone sound level has been designated in terms of subsection (1)(b), unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA or to such level as may be determined in accordance with subsection (1)(b): Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;

- (b) locate educational, residential, hospital or church erven within a controlled area in a new township or an area that has been rezoned: Provided that such situation may be allowed by the municipality in accordance with the acoustic screening measures mentioned by the municipality in the approved building plans

10. Noise from Motor Vehicles

- (1) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SANS 10181 exceeds:
 - (a) in the case of a non-exempted vehicle, the sound level specified in Table 1 of SANS 10281 for that type of vehicle; or
 - (b) in the case of an exempted vehicle, the applicable sound level indicated in the tables of Annexure A to SANS 10281, for that type of vehicle by more than 5 dBA;
- (2) The municipality may –
 - (a) in order to determine whether a vehicle being used on any road in the area of jurisdiction of that municipality, including a private, provincial or national road crossing its area of jurisdiction, complies

with the provisions of these by-laws, instruct the owner or person in control of the vehicle—

- (i) to have an inspection or test conducted on the vehicle as the municipality may deem necessary, on a date and at a time and place determined by the municipality in writing; and
 - (ii) to stop the vehicle or cause it to be stopped;
- (b) subject to the provisions of subsections (3) and (4) and the applicable provisions of any other law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in subsection (1) by more than 5 dBA.
- (3) A vehicle attached under subsection (2)(b) must be kept in safe custody by a municipality;
- (4) The municipality may lift the attachment contemplated in subsection (2)(b) if the owner or person in control of the vehicle concerned has been instructed in writing by such authority-
 - (a) to repair or to modify the vehicle concerned or to cause it to be repaired or to be modified; and
 - (b) to have any inspection or test, as the municipality may deem necessary, conducted on the vehicle on a date and a time and place mentioned in the instruction.

11. Noise from Open-Air Music, Music Festivals and Similar Gatherings

- (1) Subject to the provisions of sections 5 and 6(a), no person may operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a

member of the public or at one metre from the source of the sound, exceeds 70 dBA, unless prior consent has been obtained from the municipality.

- (2) No person may stage an open-air music festival or similar gathering without the prior written consent of the municipality and the municipality may impose conditions.
- (3) If any music causes or may cause a noise nuisance or a disturbing noise, the municipality may instruct in writing that such music be forthwith discontinued until such conditions as the municipality deem necessary have been complied with.
- (4) Subject to the provisions of subsections (5) and (6) and the applicable provisions of any other law, the municipality may attach any instrument used to generate music if the sound level of such instrument exceeds the sound level referred to in subsection (1) and no permission has been obtained from the municipality.
- (5) An instrument attached under subsection (4) shall be kept in safe custody by a municipality.
- (6) The municipality may lift the attachment contemplated in subsection (4) if the owner or person in control of the instrument has applied for permission in terms of subsection (1).

PART III: GENERAL PROVISIONS

12. General Powers of the Municipality

- (1) The municipality may –
 - (a) for the purpose of applying these by-laws, at any reasonable time enter a premises except—
 - (i) with the consent of the owner or person in charge of the premises; or
 - (ii) on the authority of a warrant issued by a magistrate after the magistrate has been satisfied that reasonable grounds exist to justify the warrant
 - (b) if a noise emanating from a building premises, vehicle, recreational vehicle, animal or street is a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefore, or the owner or occupant of such building, premises, vehicle, recreational vehicle or street, or all such persons, to discontinue or cause to be discontinued such noise or to take steps to lower the level of such noise to a level conforming to the requirements of these by-laws within the period stipulated in the instruction: Provided that the provisions of the paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or air traffic or by vehicles that are not used as recreational vehicles on a public road;
 - (c) if the owner or person in charge of an animal fails to comply with an instruction referred to in subsection (b), subject to the applicable provisions of any other law, impound or cause to be impounded such animal;

- (d) impose such conditions as it deems fit when granting any permission or exemption in terms of these by-laws, including the specification of times and days when activities that may cause noise are permitted or prohibited;
- (e) subject to the applicable provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these by-laws: Provided that road traffic signs and notices shall be placed on private property only with the permission of the owner.

13. General Prohibition

- (1) No person may –
 - (a) fail to comply with a written condition, instruction, notice, requirement or demand issued by a municipality in terms of these by-laws;
 - (b) temper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in position by or on behalf of a municipality;
 - (c) for the purposes of these by-laws, in respect of a duly authorized employee of a municipality—
 - (i) fail or refuse to grant admission to such employee to enter and to inspect a premises;
 - (ii) fail or refuse to give information which may lawfully be required of him or her to such employee;

- (iii) hinder or obstruct such employee in the execution of his or her duties; or
 - (iv) give false or misleading information to such employee knowing that it is false or misleading.
- (2) Prior to hosting any event that may potentially generate high noise levels nuisance any person shall—
 - (a) Fill in a consent form in Annexure A obtained from the municipality. The application for consent must be returned to the municipality within 3 days before the event with the following information—
 - (i) name and address of the applicant;
 - (ii) the nature of the noise;
 - (iii) period of the noise; and
 - (iv) signatures from surrounding neighbours.

the municipality will decide whether or not it approves the applicants request.

14. Designation of employees by local authorities to perform noise control functions

- (1) The Municipality may within a year of the publication of these by-laws
 - (a) designate an employee of the local authority with the necessary competencies who must be responsible for the administration of these by-laws within the area of jurisdiction of the local authority;
 - (b) designate an employee of the local authority with appropriate knowledge and skills for conducting noise control or acoustic measurement, who must be responsible for—

- (i) analysing, evaluating, approving and advising on noise impact assessments and noise management plans;
 - (ii) approving sound mitigation measures;
 - (iii) conducting noise impact measurements and calculating sound levels; and
 - (iv) scrutinising sound modeling and techniques; and
- (c) if it cannot designate an employee as contemplated in paragraph (b)—
 - (i) by agreement with another local authority, appoint an official of the other local authority to fulfill the duties of such an employee; or
 - (ii) appoint a professional consultant who is qualified in noise control and competent to fulfill the duties of such an employee, when necessary

15. Interdict

- (1) Any person who feels aggrieved by any contravention of or any failure to comply with any provision of any by-law, shall have the legal capacity to apply to any competent court of law for an interdict in connection with the contravention or failure to comply.

16. Use of Measuring Instruments

- (1) Any person taking reading must ensure that –
 - (a) the acoustic sensitivity of sound level meters is checked before and after every series of measurements by using a sound calibrator, verified every two years by an accredited calibration laboratory for compliance with the specifications for accuracy of national codes of

- practice for acoustics, to comply with the Measuring Units and National Measuring Standards Act 2006 (Act No. 18 of 2006);
- (b) the microphones of sound measuring instruments are at all times provided with a windshield;
 - (c) the sound measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
 - (d) the equipment complies with the requirements for type 1 instruments as indicated by SANS 658; and
 - (e) the measurement and calculation procedures comply with SANS 10103, SANS 10328, SANS 10117 and SANS 10210, as the case may be.
- (2) The measuring of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of these by-laws shall be done as follows:
- (a) outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and
 - (b) indoor measurements in a room or enclosed space which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.

- (3) Any deviation from heights and distances referred to in subsection (2) shall be reported with the furnishing of reason.
- (4) The person taking a measurement may in his or her discretion determine the measuring or calculation point as—
 - (a) a point where the complainant is most affected by the noise; or
 - (b) a point on the property projection plane of the premises concerned that is representative of the noise matter concerned.

17. Procedure for control of noise

- (1) When a person lodges a complaint of a suspected disturbing noise or noise nuisance to the municipality, a designated person must—
 - (a) investigate the complaint and determine by calculation or measurement in accordance with SANS 10328 whether it is a disturbing noise;
 - (b) apply the rating level except where the residual noise level differs by more than 10 dBA from the rating level; and
 - (c) if a noise is a disturbing noise, issue written instructions to—
 - (i) the person causing the noise or who is responsible for the noise; or
 - (ii) the owner, tenant, occupant or person in charge of the premises concerned, to cease the disturbing noise or to mitigate it to a level conforming to the requirements of these by-laws within the period specified in the instructions.
- (2) If a person is found to be responsible for or creating a disturbing noise, the local authority may hold that person liable for the cost incurred in conducting an investigation as contemplated in subsection 15(1).

- (3) A complaint to the municipality on an alleged noise nuisance or disturbing noise must be in the form of an affidavit, specifying—
 - (a) the nature of the alleged noise nuisance;
 - (b) when the noise nuisance was first noticed;
 - (c) the duration of the noise nuisance;
 - (d) if applicable, how often the noise nuisance has occurred;
 - (e) the origin of the noise nuisance; and
 - (f) if obtainable, the name and address of the occupant of the premises from which the nuisance originates.

18. Exemptions

- (1) The municipality may exempt any person or venue or type of venue from any provision of these by-laws—
 - (a) on its own initiative; or
 - (b) on application by any person.
- (2) The applicant referred to in subsection 1(b) must—
 - (a) provide full reasons for the application; and
 - (b) in a manner determined by the local authority, solicit written comment regarding the application.
- (3) The process referred to in subsection (2) must afford an opportunity to potential interested and affected parties to submit written representations on the proposed exemption, and the applicant may comment in writing on any representations received.

- (4) The municipality must in writing, after considering an application or a proposal for the granting of an exemption, where applicable in accordance with the principles of environmental management under NEMA—
 - (a) grant an exemption and set out the conditions, if any, in terms of which the exemption is granted;
 - (b) refuse to grant an exemption and upon request provide reasons for the refusal; or
 - (c) require a noise impact assessment in terms of SANS 10328 before making a decision referred to in paragraph (a) or (b).
- (5) The conditions referred to in subsection (4)(a) may include, where applicable—
 - (a) the period for which the exemption is granted, including the times and days when acts that may cause noise are exempted;
 - (b) whether a notice of application for exemption must be placed, in a clearly visible position at each public entrance to the premises;
 - (c) whether noise levels must be monitored and, if so, the manner in which it must be done and how records must be kept for inspection; and
 - (d) any other conditions of the exemption.
- (6) The municipality may amend an exemption or condition granted or imposed by it under subsection 4(a)—
 - (a) on its own initiative; or
 - (b) on application by the holder of the exemption.

- (7) An application in terms of subsection (6)(b) must be in writing and accompanied by a motivation for the amendment.
- (8) Upon receipt of an application referred to in subsection (6)(b), the municipality—
 - (a) must consider whether approving the application is likely to adversely affect the rights or interests of other parties; and
 - (b) may for that purpose request the applicant to furnish additional information.
- (9) An exemption referred to in subsection (4) may not exceed one year.
- (10) If any condition of an exemption is not complied with, the municipality may—
 - (a) instruct the responsible person to comply with that condition; or
 - (b) suspend or withdraw the exemption forthwith.
- (11) A written exemption must be kept on the premises for which it is granted or in the possession of the exemption holder, for inspection by an authorised person of the municipality upon request.

19. Offences and Penalties

Any person who contravenes or fails to comply with any provision of these by-laws will be guilty of an offence and liable on conviction to a fine or to imprisonment as may be determined by a magistrate or to both such fine and such imprisonment, and, in the event of a continuing contravention, to a fine for every day such offence continues, or to both such fine and such imprisonment for each day on which such contravention continues, or in default of payment thereof, to imprisonment.

20. Appeal Procedure

(1) A person may appeal if—

- (a) the Municipality refuses consent or does not give consent within 28 days; or
- (b) the Municipality attaches any unfavourable condition to the consent,

the applicant may appeal to a Magistrates' Court within 21 days thereafter.

(2) A person to whom the municipality gave an unfavourable conditional consent may on appeal base his/her grounds which are appropriate to the circumstances of that particular case.

21. Restriction of Liability

No authorized employee of the municipality shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of these by-laws.

22. Repeal of By-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in these by-laws.

23. Short title and Commencement

These by-laws shall be known as the Noise Control By-law of the Emalahleni Local Municipality and comes into operation on the date of publication thereof in the Provincial Gazette.

ANNEXURE A**PRIOR CONSENT APPLICATION FOR NUISANCE OR DISTURBING NOISE IN A RESIDENTIAL AREA.**

I/WE HEREBY SUBMIT AN APPLICATION to the Emalahleni Local Municipality in terms section 11 (2) of the Emalahleni Local Municipality Noise Control By-laws, to obtain consent to hold an event which has potential to result in noise nuisance/ disturbance.

Date of application: _____

1. Name and address of applicant.

2. Address where event will take place.

3. Nature of event (e.g. family gathering, party, festival, open air church services, etc.).

4. Instruments to be used.

5. Proposed hours of the event.

6. Proposed steps to minimise noise.

7. Number of expected people to attend the event.

8. Name and contact details of person to contact in case of complaint.

COMMENTS

9. Comment from Environmental Management.

10. Comment from Spatial Planning.

11. Comment from Law Enforcement.

APPROVED/ NOT APPROVED

.....
Municipal Manager

Date:.....

ANNEXURE B

Summary of SANS 10103 tables

SANS 10103:2008**4 Guidelines****Table 1 — Design and maximum rating levels for ambient noise for different areas of occupancy or activity indoors**

1	2	3
Types of occupancy or activity	Design equivalent continuous rating level ($L_{Req,T}$)^a for ambient noise dBA	Maximum equivalent continuous rating level ($L_{Req,T}$)^a for ambient noise dBA
1. Educational buildings		
Classrooms	35	40
Secondary "open space" teaching areas	40	45
Primary and preschool "open space" teaching areas	45	50
Conference rooms		
Up to 250 seats		
More than 250 seats	30	35 ^b
	25	30 ^b
Corridors and lobbies		
Engineering workshops	45	50
Gymnasiums	45	55
	45	55
Laboratories		
Teaching		
Working	35	40
	40	50
Lecture, teaching, and research staff offices	35	40
Lecture theatres or assembly halls		
Up to 250 seats	30	35 ^b
More than 250 seats	25	30 ^b
Manual arts workshops	40	45
Music practice rooms	35	45
Music studios	30	35
Office areas	40	45
Professional and administrative offices	35	40
	30	35
Seminar rooms	30	35
Tutorial rooms		
2. Health buildings		
Audiological test rooms	See SANS 10182	See SANS 10182

Casualty areas	40	45
Corridors and lobby spaces	40	50
Dental clinics and consulting rooms	40	45
Kitchens, sterilizing and service areas	45 40	50 45
Office areas		
Operating theatres (see note 1)	30	35
Staff residential areas	30	35
Surgery and consulting rooms	40	45
Ward spaces		
Single bed	30	35
Two or more beds	35	40
Waiting rooms and reception areas	40	50
3. Industrial buildings		
Assembly lines		70
Light machinery	50	60
Packaging and delivery	50	50
Foremen's offices and general control rooms	45	
Industrial processing or manufacturing		
	See SANS 10083	See SANS 10083
Laboratories or test areas		
Lunch and rest rooms	40	50
Precision assembly	40	55
	40	50
4. Indoor sports buildings		
Billiard and snooker rooms		
Bowling alleys and gymnasiums	40	50
Squash courts	50	55
Swimming pools	50	55
	50	60
5. Office buildings (see note 2)		
Boardrooms and conference rooms	30	35
Cafeterias	45	50
Calculation and tabulation areas	45	55
Computer rooms	45	55
Corridors and lobbies	45	50
Design and draughting offices	40	50
General office areas	40	45
Private offices	35	40
Public spaces	40	50
Reception areas	40	45
Rest rooms	40	
Typing pool areas	45	45 55
6. Public buildings		
Airport terminals		
Departure lounges	45	55
Luggage despatch and collection areas	45	60
Passenger check-in areas	45	50

Art galleries	40	50
Auditoriums	30	35
Cabarets and theatre restaurants	25	30
Concert and recital halls		
Conference and convention centres		
Up to 250 seats	30	35 ^b
More than 250 seats	25	30 ^b
Drama theatres	25	30
Motion picture theatres	30	35
Opera halls	25	30
Theatres for operettas and musical plays	30	35
Places of worship		
Up to 250 seats	30	35b
More than 250 seats	25	30b
Municipal buildings	35	40
Administrative offices	40	45
General offices	40	50
Public spaces	25	30
Council chambers		
Courts		
Court rooms	25	30
Court reporting and transcript areas	35	40
Judges' chambers	30	35
Legal and interview rooms	40	45
Waiting areas	40	50
Libraries		
Administrative office spaces	35	40
Reading areas	40	45
Stack areas	45	50
Workshop areas	45	55
Museums (exhibition spaces)	40	45
Parking stations (car-park areas)	55	65
Post offices and general banking areas	45	50
Corridors and lobbies	45	50
Restaurants and cafeterias		
Cafeterias	45	55
Coffee bars	40	50
Restaurants	40	45
Hotels and motels		
Bars and lounges	45	55
Conference areas		
Up to 250 seats	30	35 ^b
More than 250 seats	25	30 ^b
Dining-rooms		
Enclosed car parks	40	45
Foyers and recreation areas	55	65
Kitchens, laundries and maintenance areas	45	50
Sleeping areas	45	55
Washrooms and toilets	30	40
Hostels and barracks	40	55
Cafeterias	40	50
Common rooms	35	40
Games rooms	40	50

Kitchens and service areas	45	55
Sleeping areas	30	40
7. Shop buildings		
Department stores and supermarkets	50	55
General shopping areas	45	50
Speciality areas or show areas	55	65
Enclosed car parks	45	50
Show rooms, small retail stores and speciality shops		
8. Studio buildings	20	25
	20	25
Drama studios	20	25
Music recording studios		
Sound stages	25	30
	25	30
Talk-show studios		
Television studios		45
9. Residential buildings	35	55
	45	55
Living rooms	40	40
Kitchens and service areas	30	
Bathrooms and toilets		
Bedrooms		

1	2	3	4	5	6	7
Type of district	Equivalent continuous rating level ($L_{Req,T}$) for noise dBA					
	Outdoors			Indoors, with open windows		
	Day/night $L_{R,dn}$ a	Daytime $L_{Req,d}$ b	Night-time $L_{Req,n}$	Day/night $L_{R,dn}$ a	Daytime $L_{Req,d}$ b	Night-time $L_{Req,n}$
a) Rural districts	45	45	35	35	35	25
b) Suburban districts with the road traffic	50	50	40	40	40	30
c) Urban districts	55	55	45	45	45	35
d) Urban districts with one or more of the following: workshops; business premises; and main roads	60	60	50	50	50	40
e) Central business districts	65	65	55	55	55	45
f) Industrial districts	70	70	60	60	60	50

NOTE 1 If the measurement or calculation time interval is considerably shorter than the reference time intervals, significant deviations from the values given in the table might result.

NOTE 2 If the spectrum of the sound contains significant low frequency components, or when an unbalanced spectrum towards the low frequencies is suspected, special precautions should be taken and specialist advice should be obtained. In this case the indoor sound levels might significantly differ from the values given in columns 5 to 7. (See also annex B.)

NOTE 3 In districts where outdoor $L_{R,dn}$ exceeds 55 dBA, residential buildings (e.g. dormitories, hotel accommodation and residences) should preferably be treated acoustically to obtain indoor $L_{Req,T}$ values in line with those given in table 1.

NOTE 4 For industrial districts, the $L_{R,dn}$ concept does not necessarily hold. For industries legitimately operating in an industrial district during the entire 24 h day/night cycle, $L_{Req,d} = L_{Req,n} = 70$ dBA can be considered as typical and normal.

NOTE 5 The values given in columns 2 and 5 in this table are equivalent continuous rating levels and include corrections for tonal character, impulsiveness of the noise and the time of day.

NOTE 6 The noise from individual noise sources produced, or caused to be produced, by humans within natural quiet spaces such as national parks, wilderness areas and bird sanctuaries, should not exceed a maximum A weighted

sound pressure level of 50 dBA at a distance of 15 m from each individual source.

a The values given in columns 2 and 5 are equivalent continuous rating levels and include corrections for tonal character and impulsiveness of the noise and the time of day.

b The values given in columns 3, 4, 6 and 7 are equivalent continuous rating levels and include corrections for tonal character and impulsiveness.

a The values given in columns 2 and 5 are equivalent continuous rating levels and include corrections for tonal character and impulsiveness of the noise and the time of day.

b The values given in columns 3, 4, 6 and 7 are equivalent continuous rating levels and include corrections for tonal character and impulsiveness.

Table 3 — Equivalent sound levels for noise and intelligibility distances

1	2	3
Equivalent continuous rating level (LReq,T) dBA	Maximum distance at which everyday speech is intelligible m	Maximum distance at which raised speech is intelligible m
45	7	14
50	4	8
55	2,2	4,4
60	1,3	2,6
65	0,7	1,4
70	0,4	0,8
75	0,2	0,4
80	0,13	0,26
85	0,07	0,14

ANNEXURE C**PROPOSED FINES FOR NON COMPLIANCE WITH NOISE CONTROL BY-LAWS**

OFFENCE CODE	NUMBER OF SECTION IN THE BY-LAWS	DESCRIPTION OF OFFENCE	FINE
	3	Make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, animal, machine, device or apparatus or any combination thereof.	R1000
	4(a)	Operate or play or allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound so as to cause a noise nuisance.	R1000 (business) R500 (residential)
	4(b)	Offer an article for sale by shouting, ringing a bell or making other sounds or by allowing shouting, the ringing of a bell or making of other sounds in a manner which may cause a noise nuisance.	R500
	4(c)	Allow an animal owned or controlled by him/her to cause a noise nuisance.	R500
	4(e)	Discharge fireworks in a residential area in a manner which may cause a noise nuisance.	R500
	4(f)(i)	On a piece of land or in water or in airspace above that piece of land designated by a local authority by means of a notice in the press move about on or in a recreational vehicle.	R500
	4(f)(ii)	On a piece of land or in water or in airspace above that piece of land designated by a local authority by means of a notice in the press exercise control over a recreational vehicle.	R500
	4(f)(iii)	On a piece of land or in water or in airspace above that piece of land designated by a local authority by means of a notice in the press as the owner or person in control of the piece of land, water or airspace, allow such activity to take place.	R500
	4(g)	Emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance.	R500
	4(h)	Operate any machinery, saw, sander, drill, grinder, lawnmower, power garden tool or similar device or allow it to be operated in a residential area, if it may cause a noise nuisance.	R500
	4(i)	Load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other	R500

		article, or allow it to be loaded unloaded, opened, shut or handled, if this may cause a noise nuisance.	
	4(j)	Use any power tool or equipment used for construction work, drilling work or demolition work, or allow it to be used, in or near a residential area if it may cause a noise nuisance.	R1000
	4(k)	Perform any cultural customs or allow such actions, if it causes a noise nuisance	R500
NOISE FROM MACHINERY IN RESIDENTIAL AREAS			
	6	Use a pool pump, irrigation pump, generator, refrigeration unit, or any heating ventilation or air-conditioning equipment, or any similar device, in a residential area if the noise level is more than 50dBA	R500
PLACES OF LATE NIGHT ENTERTAINMENT			
	7(1)	Conduct the business of a late night or any similar late-night entertainment involving amplified sound, on or from any premises, unless the premises are soundproofed sufficiently so that a disturbing noise will not be caused outside the property projection plane of the premises	R1500
NOISE FROM PLACES OF WORSHIP			
	8(a)	Buildings used to worship must have attenuation measures in place that prevent disturbing or noise nuisance to neighbouring houses. These measures must be capable to prevent noise escaping from the building at anytime.	R1000
	8(b)	Public address systems, for example to call members to worship in residential areas.	R1000
	8(c)	The use of private houses in residential area for worshipping and holding religious meetings that results in noise nuisance	R1000
MOTOR VEHICLES			
	10	Drive a vehicle, or allow is to be driven on a public road in such manner that it may cause a noise nuisance.	R1000
MUSIC, OPEN-AIR MUSIC FESTIVALS AND SIMILAR GATHERINGS			
	11(1)	Operate or play a radio, television set, gramophone recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played in a public place, if the noise level measured at any point which may be occupied by a member of the public, exceeds 95 dBA, unless permission has been obtained from the local authority.	R1500
	11(2)	Stage an open-air music festival or similar gathering without the prior written consent in writing of the local authority.	R1500

	13(a)	Fail to comply with a written condition, written instruction, written notice, written requirements or written demand issued by a local authority in terms of these conditions.	R1000
	13(b)	Tamper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in a position by or on behalf of a local authority.	NAG
	13(c)(i)	For the purpose of these Regulations, in respect of a duly authorised employee of a local authority fail or refuse to grant admission to such employee to enter and to inspect a premises.	NAG
	13(c)(ii)	Fail or refuse to give information to a duly authorised employee of a Local Authority when requested to do so.	NAG
	13(c)(iii)	Hinder or obstruct a duly authorised employee of a Local Authority in execution of his/her duties.	NAG
	13(c)(iv)	Give false or misleading information to a duly authorised employee of a Local Authority whilst knowing that it is false or misleading.	NAG

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Nel Street, Nelspruit, 1200. Tel. (01311) 5-2133.