



THE PROVINCE OF MPUMALANGA
DIE PROVINSIE MPUMALANGA

Provincial Gazette Provinsiale Koerant

(Registered as a newspaper) • (As 'n nuusblad geregistreer)

Vol. 27

NELSPRUIT
25 DECEMBER 2020
25 DESEMBER 2020

No. 3221

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

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IMPORTANT NOTICE OF OFFICE RELOCATION**government
printing**Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICAPrivate Bag X85, PRETORIA, 0001 149 Bosman Street, PRETORIA
Tel: 012 748 6197, Website: www.gpwonline.co.za**URGENT NOTICE TO OUR VALUED CUSTOMERS: PUBLICATIONS
OFFICE'S RELOCATION HAS BEEN TEMPORARILY SUSPENDED.**

Please be advised that the GPW Publications office will no longer move to 88 Visagie Street as indicated in the previous notices.

The move has been suspended due to the fact that the new building in 88 Visagie Street is not ready for occupation yet.

We will later on issue another notice informing you of the new date of relocation.

We are doing everything possible to ensure that our service to you is not disrupted.

As things stand, we will continue providing you with our normal service from the current location at 196 Paul Kruger Street, Masada building.

Customers who seek further information and or have any questions or concerns are free to contact us through telephone 012 748 6066 or email Ms Maureen Toka at Maureen.Toka@gpw.gov.za or cell phone at 082 859 4910.

Please note that you will still be able to download gazettes free of charge from our website www.gpwonline.co.za.

We apologise for any inconvenience this might have caused.

Issued by GPW Communications

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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government
printing

Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

HIGH ALERT: SCAM WARNING!!!

TO ALL SUPPLIERS AND SERVICE PROVIDERS OF THE GOVERNMENT PRINTING WORKS

It has come to the attention of the *GOVERNMENT PRINTING WORKS* that there are certain unscrupulous companies and individuals who are defrauding unsuspecting businesses disguised as representatives of the *Government Printing Works (GPW)*.

The scam involves the fraudsters using the letterhead of *GPW* to send out fake tender bids to companies and requests to supply equipment and goods.

Although the contact person's name on the letter may be of an existing official, the contact details on the letter are not the same as the *Government Printing Works*. When searching on the Internet for the address of the company that has sent the fake tender document, the address does not exist.

The banking details are in a private name and not company name. Government will never ask you to deposit any funds for any business transaction. *GPW* has alerted the relevant law enforcement authorities to investigate this scam to protect legitimate businesses as well as the name of the organisation.

Example of e-mails these fraudsters are using:

PROCUREMENT@GPW-GOV.ORG

Should you suspect that you are a victim of a scam, you must urgently contact the police and inform the *GPW*.

GPW has an official email with the domain as @gpw.gov.za

Government e-mails DO NOT have org in their e-mail addresses. All of these fraudsters also use the same or very similar telephone numbers. Although such number with an area code 012 looks like a landline, it is not fixed to any property.

GPW will never send you an e-mail asking you to supply equipment and goods without a purchase/order number. *GPW* does not procure goods for another level of Government. The organisation will not be liable for actions that result in companies or individuals being resultant victims of such a scam.

Government Printing Works gives businesses the opportunity to supply goods and services through RFQ / Tendering process. In order to be eligible to bid to provide goods and services, suppliers must be registered on the National Treasury's Central Supplier Database (CSD). To be registered, they must meet all current legislative requirements (e.g. have a valid tax clearance certificate and be in good standing with the South African Revenue Services - SARS).

The tender process is managed through the Supply Chain Management (SCM) system of the department. SCM is highly regulated to minimise the risk of fraud, and to meet objectives which include value for money, open and effective competition, equitability, accountability, fair dealing, transparency and an ethical approach. Relevant legislation, regulations, policies, guidelines and instructions can be found on the tender's website.

Fake Tenders

National Treasury's CSD has launched the Government Order Scam campaign to combat fraudulent requests for quotes (RFQs). Such fraudulent requests have resulted in innocent companies losing money. We work hard at preventing and fighting fraud, but criminal activity is always a risk.

How tender scams work

There are many types of tender scams. Here are some of the more frequent scenarios:

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to a company to invite it to urgently supply goods. Shortly after the company has submitted its quote, it receives notification that it has won the tender. The company delivers the goods to someone who poses as an official or at a fake site. The Department has no idea of this transaction made in its name. The company is then never paid and suffers a loss.

OR

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to Company A to invite it to urgently supply goods. Typically, the tender specification is so unique that only Company B (a fictitious company created by the fraudster) can supply the goods in question.

Shortly after Company A has submitted its quote it receives notification that it has won the tender. Company A orders the goods and pays a deposit to the fictitious Company B. Once Company B receives the money, it disappears. Company A's money is stolen in the process.

Protect yourself from being scammed

- If you are registered on the supplier databases and you receive a request to tender or quote that seems to be from a government department, contact the department to confirm that the request is legitimate. Do not use the contact details on the tender document as these might be fraudulent.
- Compare tender details with those that appear in the Tender Bulletin, available online at www.gpwonline.co.za
- Make sure you familiarise yourself with how government procures goods and services. Visit the tender website for more information on how to tender.
- If you are uncomfortable about the request received, consider visiting the government department and/or the place of delivery and/or the service provider from whom you will be sourcing the goods.
- In the unlikely event that you are asked for a deposit to make a bid, contact the SCM unit of the department in question to ask whether this is in fact correct.

Any incidents of corruption, fraud, theft and misuse of government property in the *Government Printing Works* can be reported to:

Supply Chain Management: Ms. Anna Marie Du Toit, Tel. (012) 748 6292.
Email: Annamarie.DuToit@gpw.gov.za

Marketing and Stakeholder Relations: Ms Bonakele Mbhele, at Tel. (012) 748 6193.
Email: Bonakele.Mbhele@gpw.gov.za

Security Services: Mr Daniel Legoabe, at tel. (012) 748 6176.
Email: Daniel.Legoabe@gpw.gov.za

Closing times for **ORDINARY WEEKLY** 2021

MPUMALANGA PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- **23 December 2020**, Wednesday for the issue of Friday **01 January 2021**
- **31 December 2020**, Thursday for the issue of Friday **08 January 2021**
- **08 January**, Friday for the issue of Friday **15 January 2021**
- **15 January**, Friday for the issue of Friday **22 January 2021**
- **22 January**, Friday for the issue of Friday **29 January 2021**
- **29 January**, Friday for the issue of Friday **05 February 2021**
- **05 February**, Friday for the issue of Friday **12 February 2021**
- **12 February**, Friday for the issue of Friday **19 February 2021**
- **19 February**, Friday for the issue of Friday **26 February 2021**
- **26 February**, Friday for the issue of Friday **05 March 2021**
- **05 March**, Friday for the issue of Friday **12 March 2021**
- **12 March**, Friday for the issue of Friday **19 March 2021**
- **18 March**, Thursday for the issue of Friday **26 March 2021**
- **26 March**, Friday for the issue of Friday **02 April 2021**
- **31 March**, Wednesday for the issue of Friday **09 April 2021**
- **09 April**, Friday for the issue of Friday **16 April 2021**
- **16 April**, Friday for the issue of Friday **23 April 2021**
- **22 April**, Thursday for the issue of Friday **30 April 2021**
- **30 April**, Friday for the issue of Friday **07 May 2021**
- **07 May**, Friday for the issue of Friday **14 May 2021**
- **14 May**, Friday for the issue of Friday **21 May 2021**
- **21 May**, Friday for the issue of Friday **28 May 2021**
- **28 May**, Friday for the issue of Friday **04 June 2021**
- **04 June**, Friday for the issue of Friday **11 June 2021**
- **10 June**, Thursday for the issue of Friday **18 June 2021**
- **18 June**, Friday for the issue of Friday **25 June 2021**
- **25 June**, Friday for the issue of Friday **02 July 2021**
- **02 July**, Friday for the issue of Friday **09 July 2021**
- **09 July**, Friday for the issue of Friday **16 July 2021**
- **16 July**, Friday for the issue of Friday **23 July 2021**
- **23 July**, Friday for the issue of Friday **30 July 2021**
- **30 July**, Friday for the issue of Friday **06 August 2021**
- **05 August**, Thursday for the issue of Friday **13 August 2021**
- **13 August**, Friday for the issue of Friday **20 August 2021**
- **20 August**, Friday for the issue of Friday **27 August 2021**
- **27 August**, Friday for the issue of Friday **03 September 2021**
- **03 September**, Friday for the issue of Friday **10 September 2021**
- **10 September**, Friday for the issue of Friday **17 September 2021**
- **17 September**, Friday for the issue of Friday **24 September 2021**
- **23 September**, Thursday for the issue of Friday **01 October 2021**
- **01 October**, Friday for the issue of Friday **08 October 2021**
- **08 October**, Friday for the issue of Friday **15 October 2021**
- **15 October**, Friday for the issue of Friday **22 October 2021**
- **22 October**, Friday for the issue of Friday **29 October 2021**
- **29 October**, Friday for the issue of Friday **05 November 2021**
- **05 November**, Friday for the issue of Friday **12 November 2021**
- **12 November**, Friday for the issue of Friday **19 November 2021**
- **19 November**, Friday for the issue of Friday **26 November 2021**
- **26 November**, Friday for the issue of Friday **03 December 2021**
- **03 December**, Friday for the issue of Friday **10 December 2021**
- **09 December**, Thursday for the issue of Friday **17 December 2021**
- **17 December**, Friday for the issue of Friday **24 December 2021**
- **23 December**, Thursday for the issue of Friday **31 December 2021**

LIST OF TARIFF RATES

FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwnonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
 - 8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** **GPW**'s annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the e*Gazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

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

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

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

29. Requests for information, quotations and inquiries must be sent to the Contact Centre ONLY.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**PAYMENT OF COST**

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s)

GOVERNMENT PRINTING WORKS CONTACT INFORMATION**Physical Address:**

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROCLAMATION • PROKLAMASIE

PROCLAMATION 73 OF 2020**NOTICE OF APPROVAL OF EMALAHLENI AMENDMENT SCHEME 1634**

The Local Municipality of Emalahleni declares hereby in terms of the provisions of Section 66 (5) of Emalahleni Spatial Planning and Land Use Management By-Law, 2016, has approved an amendment scheme, being amendments of the Emalahleni Land Use Management Scheme, 2010, by the rezoning of Erf 3772, eMalahleni (was Witbank) Extension 23 from "Residential 1" to "Business 2".

Map 3 and the scheme clauses of the amendment scheme are filed with the Municipal Manager, Emalahleni Local Municipality and are open for inspection at all reasonable times. This amendment is known as Emalahleni Amendment Scheme 1634 and shall come into operation on date of publication of this notice.

**HS MAYISELA
MUNICIPAL MANAGER**

Civic Centre, Mandela Street, eMALAHLENI, 1035
P.O. Box 3 eMALAHLENI, 1035

Publication date: Provincial Gazette of Mpumalanga: 25 December 2020

PROCLAMATION 74 OF 2020**EMALAHLENI LOCAL MUNICIPALITY
NOTICE OF REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS -
ERF 305, EMALAHLENI (WITBANK) EXTENSION 1**

The Local Municipality of Emalahleni declares hereby in terms of the provisions of Section 67(1) of the Emalahleni Spatial Planning and Land Use Management By-Law, 2016, read with the provisions of the Spatial Planning and Land Use Management Act, that it has approved an application for the removal of restrictive title conditions (a) and (b) of Title Deed T133556/2005, pertaining to Erf 305, eMalahleni (Witbank) Extension 1 under resolution LUAC.018/19 dated 1 October 2019.

**HS MAYISELA
MUNICIPAL MANAGER**

Civic Centre, Mandela Street P.O. Box 3, eMalahleni, 1035

Publication date: Provincial Gazette of Mpumalanga: 25 December 2020

PROCLAMATION 75 OF 2020**EMALAHLENI LOCAL MUNICIPALITY****NOTICE OF APPROVAL OF EMALAHLENI AMENDMENT SCHEMES 1671, 1707, 1722, 1907, 1965, 2044, 2076, 2240 AND 2335**

The Local Municipality of Emalahleni declares hereby in terms of the provisions of Section 66 (5) of Emalahleni Spatial Planning and Land Use Management By-Law, 2016, has approved the amendment schemes below, being amendments of the Emalahleni Land Use Scheme, 2020, by the rezoning of the under mentioned properties from their present zonings to the new zoning as indicated below.

Amendment Scheme	Description of property	Present Zoning	New zoning
1671	Erf 1076, eMalahleni (Witbank) Extension 8	Residential 1	Business 2 with Annexure 554 for the purpose of a service delivery and workshop
1707	Portion 84 of the farm Kromdraai 292JS	Agricultural	Industrial 1
1722	Remaining Extent of Erf 16, President Park Extension 5	Institutional	Residential 4
1907	Remaining Extent of Portion 76 of the farm Kromdraai 292 JS	Agricultural	Industrial 1
1965	Erf 1075, eMalahleni (was Witbank) Extension 8	Residential 1	Business 2 with Annexure 683 for the purposes of a service industry
2044	Erf 3373, eMalahleni (was Witbank) Extension 10	Residential 1	Residential 3
2076	Erf 2808, eMalahleni (was Witbank) Extension 16	Residential 1	Business 2
2240	Erf 180, Jackarooopark	Residential 1	Residential 3
2335	Erf 257, Reyno Ridge Extension 5	Residential 1	Residential 2

Map 3 and the scheme clauses of the amendment schemes are filed with the Director, Department of Agriculture, Rural Development and Land Administration Mpumalanga Province, and the Municipal Manager, Emalahleni Local Municipality and are open for inspection at all reasonable times.

HS MAYISELA
MUNICIPAL MANAGER

Civic Centre, Mandela Street, eMALAHLENI, 1035

P.O. Box 3 eMALAHLENI, 1035

Publication date: Provincial Gazette of Mpumalanga: 25 December 2020

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 129 OF 2020**MPUMALANGA GAMBLING ACT, 1995 (ACT NO.5 OF 1995) AS AMENDED APPLICATION FOR
REMOVAL OF PREMISES**

Notice is hereby given that the following Applicant intends submitting application for removal site operator licence(s) to the Mpumalanga Economic Regulator (MER).

1. Surebet Sport Betting (Pty) Ltd intends submitting application to the Mpumalanga Economic Regulator for the Removal of its Bookmaker's Licence from the current premises at: D4590, Stand No 1964, Schoemansdal, Mpumalanga Province to the future premises that will be located at: Shop No 4 Opposite Matsamo Plaza, Buffelspruit, (Sibisi Business Center, Stand 5/R18/1140) Mpumalanga Province

These applications will be open for public inspection and objection at the offices of the MER from 24/12/2020

Attention is directed to the provisions of Section 26 of the Mpumalanga Gambling Act, 1995 that makes provision for the lodging of written objections or representations in respect of the applications. Such objections or representations should be lodged with the Chief Executive Officer, Mpumalanga Economic Regular, Private Bag X9908, White River, Mpumalanga, 1240, within one month from the aforementioned inspection period.

PROVINCIAL NOTICE 130 OF 2020**Regulations for the Election of School Governing Bodies of Public Schools in the Mpumalanga Province.**

I, Bonakele Amos Majuba, Member of the Executive Council for Education in the Mpumalanga Province, acting in terms of section 28 of the South African Schools Act, 1996 (Act No 84 of 1996) hereby publish in the schedule hereto Regulations for the Election of School Governing Bodies of Public Schools in the Mpumalanga Province.

Mr Bonakele Amos Majuba, MPL
MEC: EDUCATION

SCHEDULE

To provide for a uniform system for the organization and elections of school governing bodies; to amend and repeal certain regulations relating to schools and to provide for matters connected therewith.

1. DEFINITIONS

“CNS system” means the candidate nominations system, a secure electronic system, to be used for the electronic submission of the information and documents contemplated in the guideline;

“days” means calendar days including Saturdays, Sundays and public holidays;

“district electoral officer” means a senior district official at a district office responsible to oversee and manage the election process in the district;

“e-election” means a school governing body election in which electronic means are used in one or more stages;

“e-voting” means an e-election that involves the use of electronic means in the casting of the vote;

“e-voting station” means the voting station for an e-election established at a place as determined by the School Electoral Officer;

“e-voting system” the hardware, software and processes which use electronic means to make a choice between options in an election;

“educator” means any person, excluding a person who is appointed to exclusively perform extra-curricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a public school;

“electronic ballot box” means the electronic means by which the votes are stored pending being counted;

“HOD” means the Head of the Education Department in the province;

“member” means a member of the governing body;

“non-educator member of staff” means a person appointed according to the Public Service Act or the South African Schools Act who is not an educator at a school;

“Member of the Executive Council” (MEC) means the political head who is responsible for education in the province;

“parent” means –

- i. the biological or adoptive parent or legal guardian of a learner;
 - ii. the person legally entitled to custody of a learner; or
- the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learner’s education at school;

“personal protection equipment”/PPEs means equipment used in terms of COVID-19 protection;

“principal” means an educator appointed or acting in a post established as the head of a school;

“provincial elections co-ordinator” means a senior provincial official at a provincial office responsible to oversee and manage the election process in the province;

“public school” may be —

- I. an ordinary public school; or
- II. a public school for learners with special education needs; or
- III. a public school that provides education with a specialised focus on talent, including sport, performing arts or creative arts.

“remote e-voting” means e-voting where the casting of the vote is done by a device not controlled by an election official;

RCL means a representative council of learners established in terms of section 11 of the Act;

“school” means an ordinary public school or a public school for learners with special education needs which enrolls learners in one or more grades from grade R to grade 12;

“primary school” means a public school that offers grade R – 7 or learning within that range;

“secondary school” means a public school providing education from the eighth to the twelfth grade;

“combined school” means a public school providing education in grades falling in the foundation, intermediate and senior phases of curriculum;

“school electoral officer” means the Principal. In exceptional cases the District Director may appoint an education official who is trained in order to manage the election process of the school.

“SASAMS” means the South African Schools Administration and Management System, which must be used by schools to upload and update their learner information including details of parents linked to each learner;

“the Act” means the South African Schools Act, 1996 (Act 84 of 1996), as amended.

2. APPLICATION

These regulations shall apply to all public schools in the Mpumalanga Province and shall come into operation upon publication in the Provincial Gazette.

3. SIZE OF THE SCHOOL GOVERNING BODIES

The number of parent, educator, non-educator member of staff and learner members of a governing body shall vary according to the type and grading of the school.

4. COMPOSITION OF GOVERNING BODIES OF ORDINARY PUBLIC SCHOOLS

4.1 A governing body of an ordinary public school shall consist of:

- (a) Elected members
- (b) The principal by virtue of his or her official capacity; and
- (c) Co-opted members.

4.2 Elected members of the governing body shall comprise a member or members of each of the following categories:

- (a) parents of the learners admitted to the school;
- (b) educators employed at the school;
- (c) non-educator members of staff employed at the school; and
- (d) learners in the eighth grade or higher at the school drawn from the RCL or nominated by the RCL if applicable.

5. COMPOSITION OF GOVERNING BODIES OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS

- 5.1 The governing body of a public school for learners with special education needs should be composed as follows:
- (a) Parents of learners enrolled at the school, if reasonably practicable;
 - (b) Educators at the school;
 - (c) Members of staff at the school who are not educators;
 - (d) Learners in Grade 8 or higher, if reasonably practicable;
 - (e) Representatives of sponsoring bodies, if applicable;
 - (f) Representatives of organisations of parents of learners with special education needs, if applicable;
 - (g) Representatives of organisations of disabled persons, if applicable;
 - (h) People with disabilities, if applicable;
 - (i) Experts in relevant fields of special needs education; and
 - (j) The Principal by virtue of his or her official capacity.
- 5.2 The chairperson of the school governing body in the case of a public school for learners with special education needs can be any member of the governing body elected from the persons referred to in sub regulation (5.1) (a), (e), (f), (g), (h), and (i).
- 5.3 The number of parent, educator, non-educator member of staff and learner members of a governing body must, depending on the type and grading of the school concerned, comply with schedule A of these regulations.
- 5.4 Parents must elect the members referred to in sub regulation (5.1) (a).
- 5.5 Educators employed at the school concerned must elect the members referred to in sub regulation (5.1) (b)
- 5.6 Members of staff at the school concerned who are not educators must elect the members referred to in sub regulation (5.1) (c).

- 5.7 The Representative Council of Learners must elect the members referred to in sub regulation (5.1) (d).
- 5.8 Members of categories referred to in sub regulation (5.1) (e), (f), (g) and(h) must be elected or appointed as determined by the Member of the Executive Council.
- 5.9 The person referred to in sub regulation (5.1) (i) shall be appointed as determined by the Member of the Executive Council.

6. CRITERIA FOR REPRESENTATION IN PUBLIC SCHOOLS

- 6.1 Criteria for the achievement of the highest practicable level of representativity of members of the governing body as prescribed in Section 28 (e) of the Act.

Representativity shall refer to the following aspects:

- (a) Race;
 - (b) Gender; and
 - (c) Disability;
- 6.2 In the case of by-election and co-option, parents aged 35 and below shall be taken into account if reasonably practicable, excluding the co-option of experts.
- 6.3 The School Governing Body shall discuss as part of its meetings and with parents the aspect of representativity in preparing for the tri annual School Governing Body Elections and by elections.
- 6.4 Nominations shall reflect the aspect of representativity where practical or possible.
- 6.5 Prior to the election of office-bearers the principal shall inform the members of the governing body of their responsibilities.

7. PROFILE OF A GOVERNING BODY

- (a) The particulars of each member of a SGB must be recorded in the SGB Data Form and be captured in the SASAMS
- (b) The same SGB data must be updated after by-election occurred or during the annual election of office bearers.

8. CO-OPTED MEMBERS

- 8.1 A school governing body may at any time during its term of office co-opt two types of co-opted members namely, those with voting rights and those without voting rights to serve on the school governing body in the discharging of its functions.
- 8.2 Subject to regulation 30(4) members co-opted in terms of regulation 30(5) shall have voting rights.
- 8.3 A school governing body of a public school which provides education to learners with special needs, shall, where practicably possible, co-opt a person or persons with expertise in the field of the relevant education needs of such learners as provided in terms of regulations 5.
- 8.4 A school governing body of a public school situated on private property may co-opt the owner of the property occupied by the school or the nominated representative of such owner.
- 8.5 If a governing body of a public school acts under sub-regulation (4), and there is more than one owner of the property on which the school is situated, such owners shall nominate one of their member, or a representative to represent them on the school governing body.

9. TERM OF OFFICE OF MEMBERS AND OFFICE-BEARERS OF GOVERNING BODIES.

- 9.1 The term of office of a member of a school governing school other than a learner shall be three years calculated from the date of elections.

- 9.2 The term of office of a learner member shall be one year.
- 9.3 A member or office-bearers of a school governing body may be re-elected or co-opted, as the case may be after the expiry of his or her term of office.
- 9.4 The term of office of an office bearer of School Governing Body may not exceed one year.

10. ELIGIBILITY

- 10.1 A person shall be ineligible to be a member of a governing body if he or she;
- (a) Is mentally ill and has been declared so by a competent court;
 - (b) Is an un-rehabilitated insolvent;
 - (c) Has been convicted of an offence and sentenced to imprisonment in a court of law in South Africa or in a foreign country, without the option of a fine for a period exceeding six months.
 - (d) Has been declared to be unsuitable to work with children as stipulated in terms of the Children's Act, 2005 (Act 38 of 2005); or is listed in the register of people unsuitable to work with children in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; or
 - (e) Does not fall within one of the categories of members who make up a governing body;
 - (f) No longer falls within the category of members that he or she represented at the time of his /her election.
 - (g) Has had his/her membership terminated by the Head of Education in terms of SASA
- 10.2 If a person elected as a member of a governing body ceases to fall within the category for which they were nominated and elected, he or she shall cease to be a member of the governing body.
- 10.3 A parent who is employed at a school may not be elected as a parent member of a governing body at the school.

- 10.4 A principal of a school may not be elected as an educator member of a governing body at the school.
- 10.5 No learner may be elected to a governing body of an ordinary public school unless he or she is admitted to eighth grade or higher and he or she is an elected member of the representative council of learners at the school concerned.
- 10.6 In the case of learners with special education needs learners in the eighth grade or higher may be elected, only if it is reasonably practicable.
- 10.7 A parent shall be entitled to vote only for a parent member of the governing body and shall have one vote in respect of each parent candidate.
- 10.8 An educator employed at a public school shall be entitled to vote only for educator members and shall have only one vote in respect of each educator candidate.
- 10.9 A non-educator member of staff shall be entitled to vote only for non-educator members and shall have one vote in respect of each non-educator candidate.
- 10.10 Every member of the representative council of learners shall be entitled to vote only for a learner member, and shall have only one vote in respect of each learner candidate.
- 10.11 It is the responsibility of the person who alleges to have complied with the definition of a parent to inform the principal on the change of personal details.
- 10.12 The Provincial Election Coordinator, District Electoral Officer and School Electoral officer may not be nominated, elected or co-opted as members of any governing body of any school in the province.

11. ELECTORAL CODE OF CONDUCT

11.1 No registered candidate shall-

- (a) Use language or act in a way that may provoke;
- (b) Interrupt/use or cause violence during an election; or
- (c) Intimidate candidates, or voters;
- (d) Discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election;
- (e) Abuse a position of power, privilege or influence, including parental, or employment authority to influence the conduct or outcome of an election.

11.2 Undue influence

- (a) Subject to these regulations, no person may prevent anyone from exercising a right conferred by these regulations.
- (b) No person, knowing that another person is not entitled to be registered as a parent/guardian, shall-
 - (i) persuade that the other person is entitled to be registered as a parent/guardian; or
 - (ii) represent to anyone else that the other person is entitled to be registered as a parent/guardian;

11.3 No person, knowing that another person is entitled to vote, shall-

- (a) Assist, compel or persuade the other person to vote; or
- (b) Represent to anyone that the other person is entitled to vote.

12. PROVINCIAL ELECTION COORDINATOR

- 12.1 The Head of Education shall appoint an official of the department as the Provincial Election Coordinator in writing.

12.2 The duties of the Provincial Electoral Coordinator are amongst others to:

- (a) ensure that Provincial Regulations are promulgated in order to conduct the SGB elections;
- (b) ensure that there is adequate advocacy concerning the election date;
- (c) ensure compliance with provincial procedures with regard to elections;
- (d) coordinate the resources to conduct efficient and fair governing body elections;
- (e) ensure that the school electoral officers have the templates and all documents required for the election process;
- (f) monitor and evaluate the election process in the province; and
- (g) consolidate a provincial database of governing body members after the elections.
- (h) Adjudicate on all appeals resulting from the nomination and election process;
- (i) Investigate and address any matter brought under his/her attention by a member of the public which are not in line with these regulations.

13. ELECTORAL OFFICERS

There shall be two (2) Electoral Officers namely; the District and School Electoral Officer

13.1 District Electoral Officer

The District Director must appoint a District Electoral Officer in writing.

13.2 The Duties of the District Electoral Officer

The duties of a District Electoral Officer shall be amongst others, to:

- (a) Coordinate the election processes in the district;
- (b) Advise the district on the proposed strategy and implementation of the election in the district and ensure that the process is conducted as per the Provincial Regulations.
- (c) Compile a management plan to implement the Provincial Regulations.

- (d) Ensure that each school has an Electoral Officer in line with provincial regulations, and that the School Election Teams are established;
- (e) Ensure that all election officials working at school level are adequately trained and are aware of their roles and responsibilities;
- (f) Ensure that all Electoral Officers receive the provincial election Regulation/Notice and other documents in good time;
- (g) Ensure that the election advocacy is conducted as planned;
- (h) Ensure that the entire election process is monitored;
- (i) Ensure that the names and contact details of the persons elected to governing bodies Notification of all Members Elected to the Governing Body) are submitted within a week of the elections taking place;
- (j) Ensure that they receive the Data Form: Governing Body Data Form) from the School Principal and submit it to the district within 14 days of the meeting at which the office bearers are elected;
- (k) Resolve disputes related to the decision which could not be resolved at school level.
- (l) Develop a database of newly elected governing bodies and submit it to the Provincial Election Coordinator; and
- (m) Compile a written district report on elections and submit it to the Provincial Coordinator (as per the management plan)

13.3 Composition of the District Electoral Team:

The District Electoral Team shall comprise of officials from the following:

- (a) Teacher Development and Governance;
- (b) Labour Relations;
- (c) Circuit Coordination;
- (d) Curriculum Management;
- (e) Inclusive Education and Curriculum Enrichment;
- (f) Communications.
- (g) Transformation

13.4 The District Election Team Shall:

- (a) Assist the district electoral officer with all election duties;
- (b) Be responsible for an advocacy strategy to ensure that SGB elections are well advertised amongst all stakeholders in the district.

14. SCHOOL ELECTORAL OFFICER

The District Director or the delegated official must appoint a School Electoral Officer who is a principal of a neighbouring school in writing. The appointed principal must not delegate this responsibility to the Deputy Principal except under unavoidable situations with the approval of the District Director.

14.1 Duties of a School Electoral Officer

The duties of a School Electoral Officer shall amongst others be to:

- (a) Prepare a notice giving details of the date, time and venue of the nomination and election meeting;
- (b) Ensure that there is a suitable venue for the nomination/election meeting;
- (c) Ensure that the School Election Team knows the electoral process to be followed and complies with relevant legislation;
- (d) Intervene in and resolve any disputes on the day of nomination/ election; and
- (e) Submit election results to the district office within 5 days after the election have been concluded

14.2 Code of Conduct Electoral Officers (District and School)

An Electoral Officer, shall: -

- (a) act honestly and with dignity;
- (b) act in an unbiased way;
- (c) be familiar with the election process and applicable legislation;
- (d) carry out the election in terms of the provincial prescripts;
- (e) co-operate with school managers and line management;
- (f) manage the voting process in a fair and just manner;
- (g) deal with difficulties that may arise with courteousness;

- (h) be polite and diligent; and
- (i) not exceed his or her mandate.

15. COMPOSITION OF THE SCHOOL ELECTION TEAM

The school election team shall consist of:

- The deputy principal of the school or a person delegated by the principal;
- The admin clerk to assist with administrative duties including the compiling of the voters roll;
- A number of educators determined by the principal and all the members of the team identified shall be appointed in writing for this assignment

The duties of the school election team shall be to:

- Assist the principal and school electoral officer with all their duties;
- Be responsible for an advocacy strategy to ensure that SGB elections are well advertised amongst all stakeholders;
- Assist with the attendance register and minutes of the nomination and election meeting.

16. THE MONITORING OF ELECTIONS

The Provincial Election Coordinator/District Electoral Officer shall appoint any number of persons to monitor all the SGB elections. Such persons shall:

- a) Have access to any proceeding relevant to the elections as far as reasonably possible;
- b) Not interfere with any processes relating to the elections;
- c) Monitor the election processes in the district, compile a written report of his/her observations and submit it to the provincial electoral officer/district electoral officer within seven (7) days of the conclusion of the elections.

17. THE VOTERS ROLL

17.1 A voter's roll for each of the categories must be made available containing the names of all eligible parents, educators, members of staff and the learners;

- (a) the voters' roll for parents must be based on the school learners' admission register. Eligible voters are those persons appearing in the admission register as parents or who can show proof that they are parents as defined in the Act. Only two parents per learner are eligible to vote;
- (b) the voters' roll must close 7 days before the election day to ensure that the electoral officer can focus on the nomination and voting processes and quality assure the voters' roll;
- (c) the voters' roll for educators must consist of all educators employed at the school;
- (d) the voters' roll for other members of staff must consist of all other members of staff employed at the school;
- (e) the voters' roll for learners must consist of all members of the Representative Council of Learners (RCL) at the school.

17.2 The electoral officer must, at least 14 days prior to the date of the election for parent members, inform the parents of the voters' roll in accordance with publication method adopted by the school.

17.3 All nominations, seconders and nominees must be people who are listed on the voters' roll.

18. FRANCHISE

- (a) Every parent of a learner officially enrolled at a school is entitled to vote for parent members of the governing body and has one vote in respect of each nominee with a maximum number of votes equal to the number of parent members to be elected.
- (b) Every educator, employed at a school including the principal, is entitled to vote for educator members and has one vote in respect of each nominee with a

maximum number of votes equal to the number of educator members to be elected.

- (c) Every member of an RCL is entitled to vote for learner members and has one vote in respect of each nominee with a maximum number of votes equal to the number of learner members to be elected.
- (d) Every member of staff is entitled to vote for a member of staff and has one vote. If the school has only one member of staff, that member is automatically elected.
- (e) Proxy votes are not allowed.

19. QUORUM

- 19.1 A quorum of 15 % of the total number of parents on the voters' roll are required for the nomination and election meeting to proceed.
- 19.2 If the quorum is not met at the first election meeting the election must be rescheduled not less than 7 or more than 14 days in which event the procedure in regulation 21 shall be repeated.
- 19.3 Candidates nominated prior to the rescheduling of the nomination and election meeting will remain nominated for election at the rescheduled meeting but further nomination may still be lodged and accepted.
- 19.4 Notice of the second election meeting should clearly state that no quorum is required for that meeting.

20. NOMINATION AND ELECTIONS

- 20.1 The advent of COVID 19 has provided the sector with an opportunity to re-look and modify the election process. Schools will, with effect from 2021 be given a choice to select an election mode that suits their individual circumstance. The available election modes are:
 - a) Nomination and Election Meeting;
 - b) Full Day Elections; and
 - c) e-Elections mode.

- 20.2 Schools must indicate to the HOD or his or her delegate the mode of election they will undertake, not less than 30 days prior to the date of election referred to in regulation 20.1
- 20.3 The HOD must respond within 14 days of receiving the notification.
- 20.4 When considering the notification, the HOD will, among others consider that:
- (a) the mode of the election will promote the best interests of the school community and the school and will allow for maximum participation of voters in the voting process;
 - (b) the mode of election will not discriminate unfairly against any potential voter or group of voters;
 - (c) sufficient provision is made for the nomination process; and
 - (d) sufficient resources are available for the preferred mode.
- 20.5 The principal must communicate the mode of election to the School Electoral Officer to prepare and sign notices to parents accordingly.
- 20.6 The school electoral officer must inform the district electoral officer of the mode of the election and submit a management plan 14 days prior to the elections.
- 20.7 The management plan referred to in (regulation (21.1) must at least contain:
- (a) The proposed date for the mode of the election;
 - (b) The time for the start of the election, times when voting station open and close;
 - (c) The time that the votes will be counted and results announced;
 - (d) The schedule for the school elections team members to monitor the voting stations to ensure that there are enough officials available for the process to continue.

21. NOMINATION AND ELECTION MEETING

21. 1 Dates, Times and Place of the Nomination and Election of Parent

Members

- (a) The school electoral officer must prepare notices in the prescribed form, which indicate the date, time (including duration) and place of the nomination and election. The nomination and election of members must be in line with the mode of election that the school will undertake.
- (b) For this mode of elections, the nomination and election are two sessions conducted at one meeting.
- (c) When the nomination session ends the election session starts immediately.
- (d) The school electoral officer must ensure that the notices regarding the nominations and elections are distributed and displayed in prominent places at the school and in the community at least 14 days prior to the date of the nominations and elections and hand the notice prior thereto to the principal.
- (e) The principal must:
 - I. Inform Eligible parents;
 - II. Hand a copy of the notice to every learner of the school concerned, with the oral instruction to hand it to his or her parents, at least 14 days prior to the date of the nomination and election for parent members; or
 - III. Use any other method that works for the school community, as long as it does not in any way disadvantage any member of the school community; and
 - IV. Post nominee profiles in a convenient place for parents to be able to view them at least **3 school days** before the Election Day.

21.2 Nomination Meeting for Parent Members

The School Electoral Officer must ensure that:

- (a) all COVID 19 protocols are adhered to (the maximum number of people in the venue, sanitising and the washing of hands with soap, wearing of face masks and social distancing) depending of prevailing Regulations and Directives at the time of elections;
- (b) the required quorum of 15% is met before nominations start;
- (c) the starting and closing time for nominations is indicated at the beginning of the meeting;
- (d) nominations that were sent to school are announced ahead of opening for new nominations;
- (e) having a proposer and a seconder for each nominee; and
- (f) ensuring that the nominee, proposer and seconder appear on the voters roll.

21.3 Nomination Procedures for Parent Members

The Electoral Officer must:

- a) Confirm that the 15% quorum of parents eligible to vote has been achieved before the start of the nomination meeting;
- b) Closing the nomination meeting and schedule it to a period not less than 14 days should the quorum not be formed. Noting that a quorum will not be required for the second meeting;
- c) Explain the nomination procedure if the quorum of 15% is achieved;
- d) Inform the meeting about nominations received in advance;
- e) Set time for the nomination process;
- f) Make nomination forms available to parents to complete and assist those who require assistance to nominate candidates;
- g) Ensure that each form is correctly completed with the signature of the Nominee, Proposer and Secunder;
- h) Verify that the nominee, the Proposer and the Secunder are all eligible parents in the school;
- i) Disqualify nominations forms which do not meet the stipulated requirements;
- j) Prevent the nomination of candidates through the raising of hands; and

- k) Close the nomination meeting when the allocated time has elapsed.

21.4 Elections for Parents Members

- (a) If the total number of valid nominations is equal to the required number of parent members after the elapse of the nomination time, those nominated are declared to be duly elected, and the School Electoral Officer must sign a declaration indicating that members were not elected by secret ballot, and that he or she has provided enough time for more nominations.
- (b) If the number of nominated candidates is more than the required number of expected parent members, the Electoral Officer must prepare ballot papers containing the names of all nominated candidates in alphabetical order (Ballot Paper for Parent Members). These ballot papers must have the school stamp on them, or some other distinguishing feature which prevents the ballot papers from being tampered with.
- (c) Nominated candidates must be allocated numbers corresponding to the number next to their names on the ballot paper.
- (d) The Electoral Officer must allow nominated parents to introduce themselves where each parent needs to provide the following information:
- I. full names;
 - II. the names and grades of children in the school;
 - III. occupation, skills and experience that may benefit the SGB; and
 - IV. the parent's vision for the school.
- (e) The Electoral Officer must indicate the number of parents to be voted for as predetermined according to the size of the school, while ballot papers are being prepared.
- (f) Each parent, verified on the voters' roll must receive a ballot paper to mark in **secret** a maximum number of parents as indicated in regulation 10.
- (g) The marked ballot paper must be folded and placed in a ballot box or any closed container provided for this purpose.

- (h) A person who cannot read nor write or a person who is not able to vote because of any physical challenge may, at his or her own request, be assisted by the School Electoral Officer with a witness identified by the voter.

21.5 Counting of Votes

- (a) The Electoral Officer must open the ballot papers in the presence of monitors, observers and candidates who wish to be present.
- (b) The Electoral Officer must reject a ballot paper:
- I. which is without the school stamp or distinguishing feature as indicated in regulation 21.4 (b);
 - II. with more vote crosses than the number of members to be elected; or
 - III. which is marked in such a way that it is not clear as to which nominee or nominees a cross has be allocated.
- (c) A ballot paper with fewer crosses or marking than the expected number of parents to be voted for is valid.
- (d) After the rejection of any spoilt ballot papers, the Electoral Officer must:
- i. count the votes in the presence of monitors, observers and nominees who wish to be present;
 - ii. announce to the monitors the name of each nominee and the number of votes cast for each;
 - iii. complete the counted ballot papers form in order of the most votes to the least votes; and
 - iv. declare who has been elected in terms of the expected number of positions in the SGB. The parents with the most votes are listed first and parents with least votes listed last.

determine the elected parent member. This must be done openly in the presence of the identified observers as indicated in 21.5(a) above.

22. FULL DAY ELECTION

This mode is a manual full day election in which voters physically come to the venue to cast their votes at any time within the allocated hours of the day without any meeting held. The counting of votes may proceed only if the number of votes cast by the close of the polls indicates that a 15% quorum of voters has been reached.

22.1 Nomination for Full Day Election

- (a) The school electoral officer must prepare notices in the prescribed form, which indicates the date, time (including duration) and place of the nomination and election 14 days before the Election Day.
- (b) Nomination takes place prior to the Election Day which is not more than 7 days and not less than 3 days prior to the elections.
- (c) Nomination forms are made available to parents to complete, indicating the name and signature of the Proposer and Seconder, with the nominee signing to indicate acceptance of the nomination.
- (d) The Nominee, Proposer and Seconder must all appear on the voters roll.
- (e) The Nominee must provide the following information to accompany the nomination form for distribution to parents before the Election Day:
 - i. a recent passport size photo;
 - ii. full names;
 - iii. name(s) and grade(s) of child(ren) in the school;
 - iv. occupation, skills and experience that would benefit the school; and
 - v. the nominee's vision for the school.

- (f) The profiles of all nominated candidates must be distributed to all parents 3 days before the Election Day.

22.2 Voting During the Full Day

The following takes place on the day of the elections:

- (a) Verification of eligible voters on the voters' roll;
- (b) Handing out of stamped ballot papers containing the names of all nominated candidates in alphabetical order;
- (c) The marking of the ballot paper by the parents secretly according to the expected number of parents to be elected or less;
- (d) Placing of the folded ballot paper in a sealed ballot box or container provided for this purpose.

22.3 Counting During the Full Day Election

- (a) Counting is as during the normal election mode (see 21.5).
- (b) Counting can only commence after it has been confirmed that the 15% quorum of votes have been cast.
- (c) If the 15 % quorum is not met, the election must be rescheduled to not less than 7 or more than 14 days from the date of the failed election.

23. E-ELECTIONS

e-Elections is a mode of elections conducted electronically through virtual platforms. This mode of election can only be selected by schools which have the capacity to deliver such elections virtually due to available resources and having the majority of the parent having access to the required technology and data to participate in the election.

23.1 The Role of the School in Selecting e-Elections

In selecting this mode of elections, the school must:

- (a) apply to the Head of Department or delegated official for approval to use this chosen mode of elections;
- (b) inform parents about the platform that the school will use for the elections;
- (c) provide guidance to the parents on how to use the election APP; and
- (d) provide an IT specialist for technical support before and during the election.
- (e) Appoint a suitable service provider in accordance to the set prescripts of the Department

23.2 Technical requirements for the e-voting system

- (a) The Service Provide must provide a Cloud Based System.
- (b) The Service Provider should provide a fully managed and maintained system including regular scheduled backups and relevant updates.
- (c) The system should run on various platforms (e.g. Microsoft, Oracle etc.).
- (d) The solution should be user friendly and be able to run on devices such as Laptops, Tablets, Smart Phones and have Browser compatibility.
- (e) The programme must be accredited.
- (f) The information collected during elections may not be used in any form or for any purpose other than the purpose stipulated in the agreement.
- (g) If the service provider wishes to use such information in any other form or for any other purpose, including, but not limited to, workshops, media releases and the like, it he/she must submit a written motivation for approval for the use of such to the provincial department.
- (h) The system must be able to generate reports and include the following functions:
 - i. Import voters roll from a spreadsheet format (List, No, Names/s, ID No, etc);
 - ii. Post pictures of candidates (user choice to toggle for on/off of function);
 - iii. Allow for a number of votes per voter if there are multiple candidates;

- iv. Provide real time results for quorum purposes;
- v. Provide admin panel for Electoral Officer to monitor proceedings;
- vi. Authentic parents on the voters' roll;
- vii. Set election start and end time;
- viii. Incorporate a User Log;
- ix. Provide the ability to cross-check and verify the correct operation of the e-voting and the accuracy of the result, to detect voter fraud, multiple votes by the same voter and to prove that all counted votes are authentic and that all votes have been counted;
- x. Provide an Audit Trail.

23.3 Nomination for e-Elections

- (a) The school Electoral Officer must prepare notices in the prescribed form, which indicates the date, time (including duration) of the nomination and election 14 days before the Election Day.
- (b) Nomination is similar to the nomination procedures followed in Full Day Elections see regulation 21.1 except that the whole process from sending out notices, information and the submission of nomination form is done electronically.
- (c) The completed nomination forms must be lodged with the School Electoral Officer not more than seven days and not less than 24 hours prior to the commencement of the elections.
- (d) The school should be in a position to assist parents to upload documents when required to do so.

23.4 Voting During e-Elections

- (a) Parents will receive log on details with a unique one-time pin to join the e-elections.
- (b) The system must be able to verify the credentials of the parents as they log on through the provided pin based on the voters' roll to accept them into the elections.

- (c) The Electoral Officer will explain the election process to the parents who have logged on.
- (d) An online ballot paper will be made available to parents to cast their vote for the required number of parents to be voted for.
- (e) Parents can log off after casting their vote.

23.5 Counting e-Elections Votes

- (a) The system should be able to calculate and provide results as soon as the election time has elapsed.
- (b) The Electoral Officer must use all the available checks and balances to verify the authenticity of the results and sign them off.
- (c) In case of a tie that affects the outcome of the results, the Electoral Officer should draw lots as a deadlock breaking mechanism as in all other election modes.

24. NOMINATION AND ELECTION OF EDUCATOR MEMBERS

- (a) The School Electoral Officer will decide on a date, time and place for the nomination and election for educator members. This process must be held at least 24 hours before the election of the parent member component.
- (b) The Principal must give the School Electoral Officer a list of all educators at the school. This will serve as the voters' roll.
- (c) The School Electoral Officer must ensure that each educator at the school receives a copy of the notice of the Nomination/Election (Notice of Nomination/Election for Educator Members of Staff) at least 14 days before the date of the election.
- (d) An educator can only be nominated and seconded by another educator employed at the school.
- (e) The completed nomination forms must be lodged with the School Electoral Officer not more than seven days and not less than 24 hours prior to the commencement of the nomination and elections.

- (f) Each nomination form will have to be properly completed and handed in to the School Electoral Officer within the time that the Electoral Officer allows for this purpose.
- (g) If the total number of valid nominations is equal to the required number of educator members, those nominated are declared to be duly elected, and the School Electoral Officer must sign a declaration indicating that members were not elected by secret ballot, and that he or she allowed sufficient opportunity for further nominations.
- (h) The School Electoral Officer and the Principal must use all reasonable means to ensure that the nomination process is successful at the first attempt.
- (i) If the nominations are more than the required number of educators, elections are conducted by secret Ballot Paper for Educator Members using the same procedure as described for the parent members' elections.

25. NOMINATION AND ELECTION MEETING OF A NON-EDUCATOR MEMBER OF STAFF

(The procedure for the election of the member of staff (who is not an educator) to the governing body is as follows:

- (a) The procedure as set out for the nomination and election of the educator component applies, with the necessary changes, to this category of the governing body;
- (b) In cases where there is no non-educator member of staff at the school, the position will be left unfilled;
- (c) Food handlers receiving stipends from the SGB fall within this category;
- (d) Where there is one member of staff, that person is regarded as duly elected to the governing body;
- (e) In cases where there are two or more members of staff at a school, a democratic election must be held to determine who should be

elected to the governing body Notice of Nomination Meeting for a Member of Staff); and

- (f) The Electoral Officer may, with the approval of the members of staff, draw lots as an alternative method to elect a member of staff if there are two members of staff on the school's staff establishment.

26. NOMINATION AND ELECTION OF LEARNER MEMBERS

- (a) The Representative Council of Learners shall elect from its ranks learners who shall be members of the governing body.
- (b) The procedure for the nomination and election of learner members shall be as prescribed for educator members.
- (c) The number of learners elected to the governing body should be in line with the formula for the calculation of members of the governing body as per category as indicated in schedule A.
- (d) The learners must be made aware of section 32 of the Act, which outlines the status of minors on the governing body.

27. ORDER OF ELECTIONS

The election of the parent component of the governing body shall be held after the nominations and elections of the educator, non-educator and learner members of the governing body.

28. DECISION OF THE SCHOOL ELECTORAL OFFICER

28.1 The School Electoral officer shall preside and take decisions in all matters related to the nomination and election of nominees in terms of all the categories.

28.2 All disputes should be reported to the School Electoral Officer during the process of the elections.

28.3 The School Electoral Officer shall resolve all disputes in order to declare elections undisputed. His or her decision during the election will be final.

28.4 If the School Electoral Officer is unable to resolve the dispute, the election should be completed and the dispute can then be referred to the District

Electoral officer within seven (7) days after the Election Day. The District Electoral officer shall inform the complainant in writing of his/her decision and the reasons for such within fourteen (14) days of receipt of the complaint.

28.5 In the event that knowledge of any alleged irregularity only became available after completion of the election process, a dispute can be referred to the District Electoral officer.

28.6 An appeal can be lodged with the MEC within seven (7) days, should the complainant not be satisfied with the decision taken by the District Electoral officer.

28.7 The MEC must inform the complainant in writing of his or her decision and the reasons thereof within thirty (30) days of receipt of the appeal.

29. ELECTION AND TERM OF OFFICE-BEARERS

29.1 The principal shall convene the first meeting of the governing body within fourteen (14) days after he or she has been notified in writing of the names and addresses of all the members of the governing body.

29.2 Prior to the election of office-bearers the principal shall orientate the members of the governing body indicating their responsibilities and the need to ensure that office-bearers are as representative of gender and racial diversity of the school as possible.

29.3 At the first meeting of the governing body such body must, from amongst its members, elect office-bearers, who must include at least a chairperson, a treasurer and a secretary. The Principal shall preside at the election of the Chair of the School Governing Body who shall then officially preside over the meeting.

29.4 The office bearers, with the exception of the learner component, shall remain in office for one year from the date of their election.

29.5 An office bearer of a governing body may be re-elected or co-opted after the expiry of his or her term of office.

29.6 If for any reason the office of an office-bearer becomes vacant, the governing body shall, at the first meeting after that vacancy has occurred, elect one of its members to fill that vacancy for the unexpired period of office of his or her predecessor.

29.7 The principal shall, after a meeting at which any office-bearer has been elected notify the Head of Education forthwith in writing of the date of the meeting and of the name, address and office of the person elected.

30. BY-ELECTIONS DUE TO VACANCIES IN THE GOVERNING BODY

30.1 The chairperson of the governing body, in consultation with the principal, must inform the District Director of any vacancies and arrangements for a by-election.

30.2 An electoral officer should be a principal of a neighbouring school.

30.3 A by-election must be held as and when there is a vacancy in the governing body. A vacancy shall occur in a governing body if a member:

- (a) resigns;
- (b) dies;
- (c) becomes disqualified as indicated in regulation 10;
- (d) absents himself or herself from three or more consecutive meetings of the governing body without a formal apology;
- (e) is removed from office in accordance with provisions contained in a code of conduct noted in section 18A of the Act; or
- (f) no longer falls within the category of members which he or she represented at the time of the election.

30.4 Whenever a vacancy occurs as envisaged in sub paragraph 30.3, a by-election must be held within 90 days of the occurrence of such vacancy.

30.5 A by-election must be held in accordance with regulation 20 to 30, depending on the category of the membership.

30.6 A member elected in accordance with this paragraph remains in office for the unexpired term of office of his or her predecessor, provided that he/she is still eligible.

30.7 If for any reason the position of an office-bearer becomes vacant, the governing body shall, at the first meeting after that vacancy has occurred, elect one of its members to fill that vacancy for the remaining period of office of his or her predecessor.

30.8 The principal shall, after a meeting at which any office-bearer has been elected, notify the Head of Department forthwith in writing of the date of the meeting, name, address and position of the person elected.

31. HAND OVER

31.1 The Principal, as a member of the outgoing and the newly elected governing body, must manage the handing-over process by:

- (a) Officially handing over all governing body files to the newly elected governing body;
- (b) Conducting an induction session for the newly elected members; and
- (c) Answering any questions that the newly elected governing body may have.

31.2 A list indicating the minimum documents that need to be handed over to the incoming governing body.

32. CONSTITUTION OF SCHOOL GOVERNING BODY

32.1 The governing body must submit a copy of its constitution to the Head of Education within 90 days of its election.

32.2 The Constitution of School Governing Body (SGB) of a public school shall reflect the following:

- a) The vision and mission statement of the school

- b) Duties of office bearers
- c) Establishment of committees with clear functions
- d) Meeting procedures and frequency
- e) Procedure to manage amendments to the constitution.

33. FUNCTION OF THE NEW GOVERNING BODY

The newly elected school governing body must start its function immediately after the successful completion on the election process.

34. FREEDOM OF ASSOCIATION

The governing body may join voluntary association representing governing bodies of public school.

35. REMOVAL OR SUSPENSION OF GOVERNING BODY MEMBERS FROM OFFICE

A member of the school governing body of a public school may be removed from office in terms of section 18A and 25 of the Act.

36. WITHDRAWAL OF THE FUNCTIONS

The of Department may, on reasonable grounds, withdraw the functions of a governing body, in terms of section 22 of the Act.

37. REVIEW OF REGULATIONS

These regulations may be reviewed at any given time.

38. REPEAL OF REGULATIONS

The Governing Body Regulations for Public Schools contained in Notice No. 2398 of 2014, and published in the Extraordinary Provincial Gazette of 12 December 2014, are hereby repealed.

39. SHORT TITLE

These Regulations shall be known as Regulations for the Constitution and Election of Governing Bodies in Public School in Mpumalanga, and shall come into effect on publication in the Provincial Gazette.

Schedule A**COMPOSITION OF SCHOOL GOVERNING BODY OF ORDINARY PUBLIC SCHOOLS BY TYPE AND LEARNER ENROLMENT**

- (1) The numbers of a school governing body of a school are set out for each category of membership in the table below.
- (2) The number of members in a category will vary according to the type of school and learner enrolment set out in columns 1 and 2.
- (3) In a school which does not have member of staff, the number of parents set out in column 4 shall be reduced by one and the total number of members set out in column 8 shall be reduced by one.

TYPE OF SCHOOL	NUMBER OF LEARNERS ENROLLED AT SCHOOL	PRINCIPAL	NUMBER OF EDUCATOR MEMBERS	NUMBER OF PARENT MEMBERS	NUMBER OF NON EDUCATOR MEMBERS	NUMBER OF LEARNER MEMBERS	TOTAL NUMBER OF MEMBERS
Primary School	1 to 159	1	1	4	1	0	7
Primary School	160 to 700	1	2	5	1	0	9
Primary School	701 and more	1	3	6	1	0	11
Secondary School	1 to 649	1	2	7	1	2	13
Secondary School	650 and more	1	3	9	1	3	17
Combined School	1 to 499	1	2	7	1	2	13
Combined School	500 and more	1	3	9	1	3	17

**COMPOSITION OF SCHOOL GOVERNING BODY OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATIONAL NEEDS
BY TYPE AND LEARNER ENROLMENT**

TYPE OF SCHOOL	NUMBER OF LEARNERS ENROLLED AT SCHOOL	PRINCIPAL	NUMBER OF EDUCATOR MEMBERS	NUMBER OF PARENT MEMBERS	NUMBER OF NON EDUCATOR MEMBERS	NUMBER OF LEARNER MEMBERS	ELECTED MEMBERS	TOTAL NUMBER OF MEMBERS
Primary School	1 to 149	1	2	5	1	0	9	Plus members appointed per applicable category
Primary School	150 and more	1	3	6	1	0	11	
Secondary School	1 to 149	1	2	6	1	1	11	
Secondary School	150 and more	1	3	8	1	2	15	
Combined School	1 to 149	1	2	7	1	2	13	
Combined School	150 and more	1	3	8	1	2	15	

PROVINCIAL NOTICE 131 OF 2020**MPUMALANGA GAMING ACT, 1995 (ACT 5 OF 1995) AS AMENDED APPLICATION FOR A REMOVAL OF A BOOKMAKER LICENCE**

Notice is hereby given that BETTABETS R40(Pty) Ltd Registration Number 2014/142484/07 trading as BETTABETS intends submitting to the Mpumalanga Economic Regulator an application for the removal of the bookmaker licence from Shop 18&19, Acornhoek Megacity, Corner R40 and Acornhoek Main Road, Acornhoek, Mpumalanga to Shop 59C, Acornhoek Mall, R40, Acornhoek, Mpumalanga.

The application will be open for public inspection at the office of the Mpumalanga Economic Regulator at First Avenue, White River, South Africa, 1240, from 28 December 2020 for 30 days. Attention is directed to the provisions of Section 26 of the Mpumalanga Gambling Act, 1995 (Act No.5 of 1995) as amended, which makes provision for the lodging of written objections in respect of the application. Such objections should be lodged with the Chief Executive Officer, Mpumalanga Economic Regulator, First Avenue, Private Bag X9908, White River, South Africa, 1240 or to ceo@mer.org.za, within the public inspection period.

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The application will be open for public inspection at the office of the Mpumalanga Economic Regulator at First Avenue, White River, South Africa, 1240, from 24 December 2020 for 30 days. Attention is directed to the provisions of Section 26 of the Mpumalanga Gambling Act, 1995 (Act No.5 of 1995) as amended, which makes provision for the lodging of written objections in respect of the application. Such objections should be lodged with the Chief Executive Officer, Mpumalanga Economic Regulator, First Avenue, Private Bag X9908, White River, South Africa, 1240 or to ceo@mer.org.za, within the public inspection period.

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 107 OF 2020

EMALAHLENI LOCAL MUNICIPALITY BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES

The Council of Emalahleni Local Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) hereby publishes the draft By-laws relating to public nuisance hereunder for public comment:

Date approved by Council: 25 June 2020

Council Resolution: A.100/20

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- 1. Definitions**
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1. Definitions:

In this by-law any word or expression to which a meaning has been assigned in the bylaw, unless the context otherwise indicates:

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“authorised official” means a person authorized as such by the Council for the purposes of these By-laws to perform, exercise and implement any or all of the functions specified therein, including but not limited to:

- (a) peace officers and EMIs as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1997); and
- (b) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorized by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer or an EMI;

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“construction” means any building work or demolition and any activity ancillary to such building work or demolition;

“environment” means the surrounding within which humans exist and that are made 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 and influence human health and well-being.

“executive director: Environmental and Waste Management” means the person appointed as Executive Director by the Council or any person lawfully acting in that capacity;

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

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

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as the head of the administration of the municipal council;

“municipal property” means any structure or thing owned or managed by or on behalf of the Council;

“nuisance” means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case maybe, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights to all or of any person;

“owner”

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to a public nuisance as contemplated in Part 1 of this by-law:
 - (i) the person or persons in whom from time to time shall be vested the legal title to any immovable property.

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

“person” means a natural or juristic person and includes an organ of state;

“pet” means a tame animal which is kept in a household for companionship or amusement;

“poultry” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“public nuisance” means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely effects the safety of the public;

“public space” includes any square, park, any area or centre, whether incorporating a community hall or not, at which group facilities of a sporting, cultural or recreational nature can be pursued, garden, enclosed or open space within the area of jurisdiction vested in the Council and includes any open or enclosed space vested in the Council to which the public has the right to access, public road and lane, foot pavement, overhead bridge, footpath, sidewalk, and any other municipal property;

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

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

“structure” means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

“waste” means any substance, whether or not that substance can be reduced, reused, recycled and recovered-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purpose of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sector, but:
 - (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once reused, recycled and recovered, ceases to be waste;

2. Objects of the By-law:

The objects of this By-law are:

- (1) To provide measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public space, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimized and managed; and
- (2) To provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the municipality can manage and regulate public nuisances.

3. Scope and limitations in the application of these by-laws:

- (1) These by-laws shall be read with any relevant and applicable provisions of the Provincial and National legislation including the Constitution of the RSA, Act 108 of 1996 and shall not override any of these legislation;
- (2) These By-law shall apply to all areas which fall under the jurisdiction of the Emalahleni Local municipality and is binding on all persons to the extent applicable; and
- (3) In the event of any conflict with any other municipal by-law which directly or indirectly, regulates the control of nuisances, the provisions of this by-law shall prevail to the extent of the inconsistency.

4. Principles:

- (1) The municipality has the responsibility to ensure that all activities which may create public nuisances within the municipal area are regulated in a manner that takes into account the rights of all citizens of Emalahleni Local Municipality; and
- (2) Any person exercising powers in accordance with these by-laws must at all times seek to promote rights of all citizens of Emalahleni Local Municipality.

5. General Duty of Care:

- (1) Every person has a duty to ensure that his or her actions or behaviour does not cause any harm to human health or damage to the environment;
- (2) Any person subjected to the duty imposed in subsection 5.1 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 (1) that a person may be required to undertake include:
- (a) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment and human health;
 - (b) eliminating or mitigating any source of damage to the environment and human health; or
 - (f) rehabilitating the effects of the damage to the environment.

6. General prohibition and nuisance behaviour:

- (1) Notwithstanding the provisions of any other law no person shall:
- (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person. Should the municipality be of the opinion that this provision is being ignored, the municipality may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (b) carry on any trade, business, profession or hobby on any premises in the municipal area which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
 - (f) use or cause or permit to be used any stoep and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
 - (h) enclose or cause or permit the enclosing of any stoep or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;
 - (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment;
 - (j) be foul, misuse or damage a toilet provided in a public building or public place;
 - (k) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless

- such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (l) accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the municipality is waste material or likely to constitute an obstruction in any street, public place or built-up or vacant premises or land. Where such action takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of sub-section 6 (2) (a);
 - (m) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (n) by an action directly or indirectly or by negligence allow that a nuisance be created or continued;
 - (o) urinate or defecate, except in a facility provided for such purpose;
 - (p) perform sexual act in a public place;
 - (q) start or keep a fire unless for the purpose of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law;
 - (r) lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it;
 - (s) beg for money or goods whether by gesture, words or otherwise;
 - (t) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose;
 - (u) at any time during the day or night disturb the public peace in any public or private place or premises or a street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
 - (v) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (w) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;
 - (x) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
 - (y) cleanse or wash any vehicle or part in any street or public place; and
 - (z) discharge any fire-arm, fireworks, airgun or air pistol on any premises except premises zoned for the purpose.

- (2) In the event of a contravention of section 1(a) to (z):
 - (a) the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to remove the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued, whether or not such owner or occupier is responsible therefore;
 - (b) Where a person complies with a notice issued in terms of subsection (a), the municipality may require such person to apply for a certificate of compliance which will be issued by the municipality once the nuisance has been removed or the action creating a nuisance has been terminated; and
 - (c) Where the municipality has evidence that any vacant or developed premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in section 1(l) are being dumped or deposited on such premises, it may serve notice in writing on the owner or occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which in the opinion of the municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance;
- (4) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which in the opinion of the municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance; and
- (5) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under shall be guilty of an offence.

7. Vegetation:

- (1) No person may allow any tree or other growth on any premises under his or her control to interfere with any public service infrastructure, communal services infrastructure, or to become a source of annoyance, danger, inconvenience or discomfort to persons using a public road;
- (2) the Municipality may by written notice direct the owner, occupier or person in control of premises contemplated in subsection (1) to prune or remove such tree or growth to the extent and within the period specified in such a notice;
- (3) If the person contemplated in subsection (2) fails to take measures contemplated in the notice issued in terms of that subsection, the Municipality may act and recover costs from that person; and
- (4) No person other than a duly authorized official of the Municipality may plant, mark, cut, remove or damage a tree or shrub in a public place or, except with the written permission of the Municipality.

8. Animals:

- (1) No person, including animal breeders, pet shops, pet parlours shall keep or permit to be kept on any premises or property any animals, excluding pets as defined, without the written permission issued by the municipality in consultation with the Nkangala District Municipality;
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number as well as the kind and sex of animals that may be kept and the areas within which the keeping of such animals shall be prohibited;
- (3) In order to consider an application in terms of sub-section (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises before permission is granted or refused;
- (4) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal;
- (5) Where consent is granted, the municipality may impose conditions and restrictions as the municipality, in consultation with another responsible authority, may deem fit to impose;
- (6) Whenever animals kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance and to carry out such work or take such steps necessary for the said purpose;
- (7) No person may permit an animal owned or kept by him or her to be in a street or public place without supervision or permit such animal to behave in any other manner that interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours or permit such animal to be a source of danger or injury to any other person including employees of the municipality entering upon such premises for the purpose of carrying out their duties;
- (8) The municipality may:
 - (a) order the destruction of an animal which is dangerous or ferocious; injured or diseased to such an extent that it would be humane to do so; and
 - (b) seize and impound at a place designated by the municipality, an animal which is found in a street or public place in contravention with the provisions of sub-section (7).
- (9) An animal impounded in terms of sub-section (8) may be released to the owner of such animal upon payment of a fee determined by the municipality;
- (10) An animal impounded in terms of sub-section (8) may be sold or destroyed after having been kept in custody for seven days;
- (11) Animals destroyed in terms of sub-section (10) must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible;
- (12) No person may hawk an animal in a street or public place; or in or from a movable structure or vehicle; and
- (13) A person who contravenes any provisions of this section commits an offence.

9. Excavation in public places:

- (1) No person may make or cause to be made an excavation, a pit, trench or hole in a public place except with the written permission off the Municipality and/or otherwise than in accordance with the requirements prescribed by the Municipality or authorized in terms of the applicable By-laws of the Municipality or any other law; and

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

10. Weed-killers, herbicides, poisons or pesticides:

- (1) No person other than an authorized official or an authorized person who administers legally approved weed-killers, herbicides, poisons or pesticides may set or cast such substances in any public place without prior permission obtained from the municipality.

11. Municipal property:

- (1) No person, unless authorized by the Municipality or in terms of any other law, may within a public place:
 - (a) deface, damage, destroy or remove any property of part thereof which is affixed, placed or erected in or on a public place;
 - (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
 - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - (d) affix or place on any municipal property, or distribute, any printed matter; or
 - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.
- (2) The provisions of subsection (1) do not apply to any person who is employed or authorized by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such services for or on behalf of the Municipality.

12. Service Delivery Arrangements:

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) the practical arrangements with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcement of conditions with regard to any application in terms of this by-law, in so far as such conditions pertain to the functions and powers performed by the district municipality;
- (c) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of section 86 of the Municipal Structures Act, mechanisms for the settlement of disputes with regard to execution of powers or functions in terms of this by-law or the matters on which have been agreed; and
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

13. Provisions on the powers and functions of the municipality:

- (1) The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to protect any aspect of the environment within a public place; improve the administration of a public place and/or undertake

- any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law;
- (2) The municipal manager may delegate an employee or employees within the municipal administration as an authorized official to exercise the powers and functions that fulfils the objective of this by-law;
 - (3) An authorized official may, in respect of premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and inspect or monitor the land or premises; question the owner, occupier or person in control of the land or premises; serve any compliance notice to the owner, occupier or person in control; take photos of any items used on the land or in the premises to cause a nuisance; and take samples or other evidence in respect of any nuisance caused;
 - (4) When entering a premises in terms of sub-section (3), the authorized employee must on request by any person, identify him-/herself by producing written proof of authorisation;
 - (5) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection;
 - (6) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence;
 - (7) A duly authorized official may, in respect of a nuisance caused or alleged to be caused in a public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect;
 - (8) If it appears to the authorized official that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a compliance notice in the format prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period. In the event of non-compliance with such notice and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued, whether or not such owner or occupier is responsible therefore;
 - (9) When issuing a compliance notice the authorized official must procure the signature of the offending person confirming receipt of a warning notice;
 - (10) The authorized official must inform the offending person that:
 - (a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
 - (b) it is an offence in terms of this By-law to refuse to sign a compliance notice issued by an authorized official.

14. Offences and penalties:

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

- (3) Any person who is convicted of an offence under this By-law is liable to a fine as reflected in the attached Annexure or to imprisonment for a period not exceeding 2 years, or both such fine and imprisonment; and
- (4) In the case of a continuing offence, an additional fine of an amount not exceeding R2000-00 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

15. Appeals:

- (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision;
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority;
- (3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period;
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision;
- (5) The appeal authority must furnish written reasons for its decision on all appeal matters;
- (6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law; and
- (7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsection (1) to (5).

16. Short title and commencement:

These By-Laws shall be called the Emalahleni Local Municipality By-laws for the prevention of public nuisances and takes effect three months from the date of publication thereof in the Provincial Gazette or on such earlier date as may be determined by the publication of a commencement notice in the Provincial Gazette.

EMALAHLENI LOCAL MUNICIPALITY
By-Law on the prevention of public nuisances
SCHEDULE OF OFFENCES AND FINES DETERMINED IN TERMS OF SECTION
14 (3) OF THE BY-LAW

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
	Notwithstanding the provisions of any other law:			
6 (1) (a)	Do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the comfort, convenience, peace or quiet of other people or to become a source of danger to any person;	R1 500		EMC PN01
6 (1) (b)	Carry on any trade or business, profession or hobby on any premises which may be a source or become a source of discomfort or annoyance to other people;	R1 500		EMC PN02
Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
6 (1) (c)	Notwithstanding the provisions of any other law:	R1 500		EMC PN03
6 (1) (a)	Deposit, leave, spill, drop or place any object or degradable debris, broken bottles, glass, refuse, building or land for purposes calculated to disfigure such premises or to interfere with the comfort, convenience, peace or quiet of other people or to become a source of danger to any person;	R1 500		EMC PN01
6 (1) (d)	allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;	R1 500		EMC PN04
6 (1) (b)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 500		EMC PN02
6 (1) (e)	allow any building or premises to fall into a state of disrepair or to become unsightly or dilapidated;	R1 500		EMC PN05
6 (1) (c)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 500		EMC PN03
6 (1) (d)	allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;	R1 500		EMC PN04
6 (1) (f)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN06
6 (1) (e)	allow any building or premises to fall into a state of disrepair or to become unsightly or dilapidated;	R1 500		EMC PN05
6 (1) (g)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN07
6 (1) (f)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN06
6 (1) (h)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN08
6 (1) (g)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN07
6 (1) (i)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN09
6 (1) (h)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN08
6 (1) (i)	use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, keeping any waste or material, refuse, cartons, crates, containers or other articles of all kinds, machinery, malfunctioning air conditioning units or similar appliances or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC PN09

6 (1) (j)	be foul, misuse or damage a toilet provided in a public building or public place;	R1 500	EMC PN10
6 (1) (k)	carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;	R1 500	EMC PN11
6 (1) (l)	accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the municipality is waste material or likely to constitute an obstruction in any street, public place or built-up or vacant premises or land.	R1500	EMC PN12
6 (1) (m)	allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;	R2 000	EMC PN13
6 (1) (n)	by an action directly or indirectly or by negligence allow that a nuisance be created or continued;	R1 500	EMC PN14
6 (1) (o)	urinate or defecate, except in a facility provided for such purpose;	R1 500	EMC PN15
6 (1) (p)	perform sexual act in a public place;	R1 500	EMC PN16
6 (1) (q)	start or keep a fire unless for the purpose of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law;	R1 000	EMC PN17
6 (1) (r)	lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it;	R500	EMC PN18
6 (1) (s)	beg for money or goods whether by gesture, words or otherwise	R500	EMC PN19
6 (1) (t)	bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose;	R500	EMC PN20
6 (1) (u)	at any time during the day or night disturb the public peace in any public or private place or premises or a street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;	R1 500	EMC PN21

6 (1) (v)	advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;	R1 000		EMC PN22
6 (1) (w)	in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;	R1 500		EMC PN23
6 (1) (x)	in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;	R500		EMC PN24
6 (1) (y)	cleanse or wash any vehicle or part in any street or public place;	R500		EMC PN25
6 (1) (z)	discharge any fire-arm, fireworks, airgun or air pistol on any premises except premises zoned for the purpose;	R500		EMC PN26
7 (1)	allow any tree or other growth on any premises under his or her control to interfere with any public service infrastructure, communal services infrastructure, or to become a source of annoyance, danger, inconvenience or discomfort to persons using a public road;	R1 000		EMC PN27
7 (4)	other than a duly authorized official of the Municipality plant, mark, cut, remove or damage a tree or shrub in a public place or, except with the written permission of the Municipality;	R1 000		EMC PN28
8 (1)	keep or permit to be kept on any premises or property any animals, excluding pets as defined, without the written permission issued by the municipality in consultation with the Nkangala District Municipality.	R1 000		EMC PN29
8 (7)	permit an animal owned or kept by him or her to be in a street or public place without supervision or permit such animal to behave in any other manner that interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours or permit such animal to be a source of danger or injury to any other person including employees of the municipality entering upon such premises for the purpose of carrying out their duties.	R500		EMC PN30
8 (12)	Hawking in animals in a street or public place; or in or from a movable structure or vehicle without prior permission obtained from the municipality.	R1 000		EMC PN31

9 (1)	make or cause to be made an excavation, a pit, trench or hole in a public place except with the written permission of the Municipality	R2 000		EMC PN32
10 (1)	Unless authorised to do so, set or cast any poisonous substance in any public place without prior permission obtained from the municipality.	R3 000		EMC PN33
11 (1)	unless authorized by the Municipality or in terms of any other law- (a) deface, damage, destroy or remove any property of part thereof which is affixed, placed or erected in or on a public place; (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place; (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage; (d) affix or place on any municipal property, or distribute, any printed matter; or (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations;	R2 000		EMC PN34
13 (6)	fail to give or refuses access to an authorised employee if he/she requests entrance on any land or premises, or obstructs or hinders him/ her in the execution of his/her duties under this by-law, or failure or refusing to give information that he/she may lawfully be required to give to such employee, or gives false or misleading information knowing it to be false or misleading.	R2 500		EMC PN35
13 (10)	fail to sign a compliance notice issued by a compliance officer	R2 000		EMC PN36

LOCAL AUTHORITY NOTICE 108 OF 2020

EMALAHLENI LOCAL MUNICIPALITY BUSINESS TRADING CONTROL BY LAWS



The Council of Emalahleni Local Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) hereby publishes the draft Emalahleni Local Municipality Business Trading Control By-laws for public comment.

Date approved by Council: 30 January 2020

Council Resolution: A.001/20

Date of review:

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1. Definitions:

In this By-Law, unless the context otherwise indicates-

“authorized officer” means an officer in the employ of the Municipality authorized by the Municipality to enforce these By-laws and any authorized official appointed in terms of the Mpumalanga Business Act no of 1996 and the Mpumalanga Trading Hours Act no. 5 of 1999;

“Boarding house” means a boarding house as defined in the Spatial Planning and Land Use Management Scheme

“business license” means a business license issued to a business in terms of the Mpumalanga Business Act no. 2 of 1996 and which falls within listed businesses in schedule A of these by-laws and the word **“license”** shall have a corresponding meaning;

“designated area” means an area designated by the Municipality in terms of the Spatial Planning and Land Use Management Scheme in which business trading is allowed;

“conducting business” means to buy, sell or barter any goods or to provide or offer to provide any service for remuneration;

“foodstuff” means foodstuff as defined in section 1 of the foodstuff, cosmetics and disinfectants act no. 54 of 1972

“licensing authority” means the Emalahleni Local Municipality as delegated in terms of Provincial Gazette no. 855 (Notice 770 of 2002) or person or body designated as a license authority in terms of section 2 of the Mpumalanga Business Act, 1996 (act no. 2 of 1996).

“municipality” means the Emalahleni Local Municipality established in terms of Local Government Municipal Structure Act no. 117 of 1998;

“municipal manager” means a person appointed in terms of section 54A of the Local Government Municipal Systems Act no. 32 of 2000;

“permission to conduct a business” means a permission issued by the municipality in terms of these by-laws and which falls within the listed businesses in Schedule B of these By-laws;

“property” means, with regard to a person doing business on premises or as a street trader, any place/area, article, receptacle, vehicle or structure used or intended to be used in connection with such business;

“public place” include any land, park or open space, road, street, sanitary passage or thoroughfare, bridge, building or structure which is commonly used by the public and is the

property of the Municipality or, of which the control, to the entire exclusion of the owner, is vested in the Municipality or to which the inhabitants of the Municipality have a common right or access and shall also mean any public place as defined in the Spatial Planning and Land Use Management Scheme of the municipality;

"residential place" relates to an area consisting of private housing rather than offices or factories or shop and shall also mean a residential place as defined in the Spatial Planning and Land Use Management Scheme of the municipality;

"trader" means a person who does business in, at or from a public/private place, but shall not include a person selling newspapers, and **"trade"** or any like words shall have a corresponding meaning attached to a hawker as defined in the Mpumalanga Business Act of 1996;

"trade license inspector" shall have a corresponding meaning to an authorized official";

"zoning certificate" means a certificate issued by the municipality in accordance with the Land Use Planning and Management Scheme.

2. Objective of these by-laws

- 2.1. To provide for the control of business trading in the jurisdiction of the Emalahleni Local Municipality, and for matters connected therewith.
- 2.2. To provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the municipality can manage and regulate business trading.

3. Scope and limitations in the application of these by-laws

- 3.1. The Emalahleni Local Municipality has been designated as a licensing authority under the Mpumalanga Business Act no. 2 of 1996 as promulgated in the Provincial Gazette Notice 770 of 2002.
- 3.2. These by-laws shall be read with any applicable provisions of the, Constitution of the RSA, Act 108 of 1996, Mpumalanga Trading Hours Act no. 5 of 1999, the Mpumalanga Business Act no. 2 of 1996 and the Business Act, 71 of 1991, National Road Traffic Act no 93 of 1996, National Health Act, 61 of 2003 and the Foodstuffs, Cosmetics and Disinfected Act 54 of 1972.
- 3.3. In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates business trading, the provisions of this by-law shall prevail to the extent of the inconsistency.
- 3.4. These by-laws shall not override any other national and provincial business trading Legislation.
- 3.5. These by-laws are limited to businesses mentioned in Schedule A and B of these by-laws.

4. Principles

- 4.1. The municipality has the responsibility to ensure that all businesses within the municipal area are regulated in a manner that will promote economic development and that takes into account the rights of all citizens of Emalahleni Local Municipality and those of other business people within the municipality.
- 4.2. Any person exercising powers in accordance with these by-laws must at all times seek to promote development that is sustainable.
- 4.3. These by-laws shall promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound business practices within the municipality.

CHAPTER 1: GENERAL MANAGEMENT REQUIREMENTS FOR BUSINESSES**5. General Duty of Care**

- 5.1. Every person has a duty to manage his/her business and/or the activities of persons working in his/ her business in such a manner that does not cause any harm to human health or damage to the environment
- 5.2. Any person subjected to the duty imposed in subsection 5.1 may be required by the municipality or an authorised official to take measures to ensure compliance with the duty.
- 5.3. The measures referred to in subsection 5.2 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 and human health;
 - (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 and human health;
 - (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment and human health;
 - (d) containing or preventing the movement of pollutants or other causes of damage to the environment and human health;
 - (e) eliminating or mitigating any source of damage to the environment and human health; or
 - (f) rehabilitating the effects of the damage to the environment.

6. Prohibitions in conducting a business without a license or permission.

- 6.1. No person shall conduct a business listed in schedule 1 and 2 as a trader—
 - (a) except with the prior written permission of the municipality and in accordance with the conditions set out in the permission;
 - (b) Unless he/she has a business trade license issued by the municipality and
 - (i) must be a South African citizen or
 - (ii) has been granted the right of permanent residency or
 - (iii) be an approved foreign national with a valid work or residence permit issued by the immigration authorities;
 - (c) outside a designated area unless the area has been rezoned accordingly;
 - (d) unless all relevant municipal fees are paid or up to date and
 - (e) at any time other than during the hours specified in these by- laws and which are consistent with the Mpumalanga Business Trading Hours Act.

- 6.2. Any person who does business as a trader must have the written permission or business trade license referred to in paragraphs (a) and (b) respectively which must conspicuously be displayed on the internal wall of the business.
- 6.3. The municipality may, in writing for the duration of a specific event and subject to any conditions determined by the municipality, exempt any person, or group of persons, from compliance with any or all of the provisions of subsection 6.1 above.

7. Requirements and conditions for applications to conduct a business

- 7.1. A person applying for a business trading license or business permission shall complete a prescribed application form in Annexure A provided by the municipality which must be accompanied by the following:
- (a) ID Copy in the case of a South Africa or a Visa and work permit in the case of a non- South African;
 - (b) Sketch map or locality map where the business will be situated;
 - (c) Application fee as determined by the municipality from time to time;
 - (d) A copy of the municipal water and lights account for the business which is not older than three months;
 - (e) A zoning certificate in the case of a private residential premises and
 - (f) where applicable, a certificate of acceptability obtained from the Nkangala District Municipality.
- 7.2. A trade license or written permission to conduct business as a trader shall –
- (a) be granted for a period not exceeding 12 months;
 - (b) not be transferrable, the new owner shall apply anew for a license or permission to conduct business;
 - (c) be issued only for the type of business to be conducted or type of goods that are enlisted in the business trade license or permission and
 - (d) In the event that the license is lost, destroyed or damaged, the municipality shall upon receiving an application for duplicate license, satisfy itself about the reasons for such application and subsequently issue a duplicate license or permission to conduct business with an endorsement of the word “DUPLICATE” inserted thereon.
- 7.3. The municipality may withdraw its permission or license to do business as a trader if the trader-
- (a) does not comply with or acts contrary to any condition set out in the permission or license;
 - (b) contravenes or fails to comply with any provision of this by-law or any other law;

- (c) fails to obey or comply with a lawful direction or request given or made by an authorized officer and
- (e) ignores or contravenes the provisions of a sign or notice displayed by the municipality in terms of this By-law.

8. Application procedure for license or permission to conduct business.

- 8.1. An application for permission to do business as a trader must-
 - (a) be directed to the Municipal Manager or his/her delegate;
 - (b) be in a form prescribed by the municipality and
 - (c) be accompanied by the fees determined by the Municipality from time to time, as well as fees for services or structures provided by the Municipality at the designated area, where applicable.
- 8.2. The Municipal Manager or his/her delegate must consider the application and grant or refuse the permission within 30 **(THIRTY)** days after receipt of the application.
- 8.3. If the application is successful, the Municipal Manager or his/her delegate must forthwith issue the written permission or business trade license setting out the conditions subject to which it is issued.
- 8.4. If the application is unsuccessful, the Municipal Manager or his/her delegate must forthwith notify the applicant accordingly and provide written reasons for his or her decision.
- 8.5. The provisions of section 62 of the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000), shall *mutatis mutandis* apply to an appeal against a decision of the Municipal Manager or his delegate as contemplated in subsection 8.2 above.

9. Prohibition on the hours of trading

- 9.1. No person shall conduct a business as a trader, except during the hours which shall be determined by Council from time to time and/or which are consistent with the Mpumalanga Trading Hours Act no. 5 of 1999
- 9.2. Trading outside the prescribed hours shall be done with prior consent of the Municipality.

CHAPTER 2 – SPECIFIC REQUIREMENTS FOR BUSINESS TRADING

10. Prohibited conduct of trading

- 10.1. No person who is a business license holder or business permission holder shall-
 - (a) place his or her property or goods in a public place that is not a designated

Area for business;

- (b) place or stack his or her property or goods on a pavement and in such a manner that it constitutes a danger to any person or property or is likely to injure any person or damage property;
- (c) erect any structure outside the boundaries of the business premises for the purpose of trading without the prior written approval from the municipality;
- (d) obstruct access to a fire hydrant or area demarcated solely for the purpose of and use of emergency vehicles or services;
- (e) leave his or her property or goods outside an area designated for business trading before or after trading hours;
- (f) when requested by an employee or agent of the municipality or any supplier of telecommunications, electricity or other services, omit or neglect to move his or her property or goods so as to permit the carrying out of any work with regard to a public place or any such service;
- (g) attach any object or goods by any means to any building, structure, pavement, tree, parking, meter, lamp post, electricity pole, telephone booth, post box, traffic sign, fence, bench, or any other street furniture in, on or at a public place;
- (h) make an open fire at the designated area or in circumstances where it could harm any person or cause air pollution;
- (i) disregard a reasonable requirement put by an authorized official of the municipality;
- (j) sell his or her goods by using a megaphone, radio, loudspeaker, or by constant shouting or disturbance without prior written consent of the municipality;
- (k) sell any property or goods which are dangerous or hazardous to public health or human health and
- (l) fail to comply with the relevant provisions of the solid waste management by-laws and/or any other by-law of the municipality.

11. General cleanliness and safety requirements for business premises

11.1. A person doing business as a trader shall-

- (a) keep his/ her property or goods in a clean and sanitary condition;
- (b) dispose of litter generated by his or her business in whatever receptacles approved by the municipality and not dispose of litter in any street litter receptacle which is meant for use by pedestrians;

- (c) ensure that on completion of business for the day, the business premises including the fore front and pedestrian walk way next to the business is free from litter;
 - (d) take such precaution as may be necessary or prescribed by the municipality to prevent the spilling or discharge onto a public place or municipal drainage system of any fat, oil, grease or any hazardous substances which might be generated in the course of conducting his or her business and to prevent that any smoke, fume, outdoor or noise emanating from his or her activities become a nuisance;
 - (e) comply with the general public health by- laws of the Nkangala District Municipality;
 - (g) ensure that no overnight sleeping takes place in the business;
 - (h) not pack his/her stock on the floor inside the business premises;
 - (i) have access to fire extinguishers or firefighting equipment as shall be prescribed by the municipality;
 - (j) ensure that no smoking is allowed in the business and
 - (k) ensure that no tobacco is allowed to be sold to under age children.
- 11.2. All buildings where business is conducted must have approved building plans or permitted by the municipality.

12. Prohibited trading practices that may cause obstruction.

12.1. No person shall conduct business as a trader at a place where such business-

- (a) obstructs access to or the use of a street facility such as a bus stop, shelter or queuing line, refuse disposal bin or other facility intended for public use;
- (b) obstructs the visibility of a display window, signboard or premises;
- (c) obstructs access to a building, automatic bank teller machine or queuing line, pedestrian crossing or vehicle;
- (d) leaves less than 2 meters in width of a sidewalk clear for pedestrian use, or in any other manner obstructs pedestrians in their use of a sidewalk;
- (e) obscures or impedes the view of any user of the road;
- (f) causes an obstruction on a roadway;
- (g) limits access to parking or loading bays or other facilities for vehicle traffic;
- (h) obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these by-laws; and/or
- (j) interferes in any way with any vehicle that may be parked alongside such place.

13. Display of signs by the Municipality

The Municipality may display any sign or notice to give effect to the provision of this By-law.

CHAPTER 3 – POWERS OF TRADE LICENSE INSPECTOR

14. Appointment of trade license inspector

14.1. An authorised official of the Municipality shall be appointed by the Municipal Manager as a trade license inspector.

14.2. A trade license inspector shall perform the duties and functions provided for in these by-laws.

15. Powers and functions of a trade license inspector

15.1. A person appointed in terms of subsection 14.1, or any officer appointed by law may at all reasonable times-

- (a) enter any shop or business or other premises or place connected to or belonging thereto and search or inspect any goods therein which he/she reasonably suspect to be used in connection with such business and on reasonable grounds determine:
 - (i) whether the business comply with the requirements of the relevant municipal by-laws
 - (ii) in consultation with the environmental health practitioner, whether any foodstuffs sold by the license holder or permit holder complies with the requirements of any public health by-laws;
 - (iii) in consultation with the environmental health practitioner, whether any apparatus, equipment, storing space, working surface or any article or place used for in connection with the preparation, handling or sale of foodstuffs complies with the requirements of any public health by-laws;
- (b) demand from the person in charge of the business to produce to him/her a business trade license or permission;
- (c) require that any person produce within 14 days any document issued in terms of any provision of the these by-laws, any regulation or any relevant legislation and
- (d) remove and impound any article, document, receptacle, vehicle or structure which he/ she reasonably suspects is being used or has been used for or in connection with business trading and in contravention with these by-laws which, in his or her opinion, constitutes an infringements of these by-laws

- 17.2. The person appointed in terms of subsection 14.1 shall forthwith deliver any such removed or impounded goods or property to a municipal pound or storage for safe keeping.
- 15.3. Any property removed and impounded as contemplated in subsection 15.1 (a)
- (a) after consultation with the environmental health practitioner may, in the case of perishable property, be sold or destroyed within a reasonable time after the impoundments thereof: provided that such property shall, subject to the provisions of paragraph (c) below, at any time prior to the disposal or selling thereof, be returned to the owner on proof of ownership and upon payment of prescribed impoundment fees and provided further, that such perishables are still fit for human consumption;
 - (b) shall, subject to the provisions of subsection (4), in the case of property other than perishable property, be returned to the owner on proof of ownership and upon payment of prescribed impoundment fees within a period of 1 month of the date of impoundment.
 - (c) The municipality shall be entitled to keep the property concerned until all expenses have been paid, failing which the property may be sold by public auction upon 14 days' notice: provided that where the property attached is perishable, the authorised officer may reduce the period of 14 days to such an extent as he/ she may think fit, or destroy the perishable, whichever is the most cost-effective.
- 15.4. In the case of sale of impounded property by the municipality, the proceeds of such sale, less the reasonable expenses incurred by the municipality in connection with the removal, impoundment or disposal of such property, shall be paid to the person who was the owner of such property when such property was impounded, but if such former owner fails to claim the said proceeds within 3 months of the date on which such property was sold, such proceeds shall be forfeited to the municipality and shall be paid into a special fund created by the municipality dedicated to the development of the business sector and matters ancillary thereto.
- 15.5. The owner of property which has been removed, impounded, sold or disposed of as contemplated in this section, shall be liable for all expenses incurred by the municipality in connection with such removal, impoundments, sale or disposal.
- 15.6. A person appointed in terms of subsection 14.1. shall keep proper record of any property so removed in terms of paragraph (c) and must inform the person

apparently in control of such property (if there is such a person), of the procedure to be followed for reclaiming such property and the venue where such property will be impounded; and

16. Offences

16.1. Any person who –

- (a) contravenes or fails to comply with any provision of this by-laws; ignores, disregards or disobeys any notice, sign or marking displayed or erected in terms of this by-laws;
- (b) contravenes or fails to comply with any approval granted or condition imposed in terms of this by-laws;
- (c) fails to comply with a lawful written instruction by the municipality to move or remove his or her property;
- (d) deliberately furnishes false or misleading information to an officer or an employee of the municipality; and/or
- (e) threatens, resists interferes with or obstructs an officer or employee of the municipality in the performance of his or her powers, duties or functions under this by-laws,

shall be guilty of an offence and shall be liable on conviction to a fine not more than R3 000.00 and as shall be determine by the magistrate or to imprisonment for a period not exceeding 1 year, or to both such fine and imprisonment.

17. Vicarious responsibility

17.1. When an employee or assistant of license holder or permission holder, does or omits to do any act which shall be an offence in terms of these by-laws, that trader shall be deemed himself/ herself to have done or omitted to do the act, unless he/ she satisfies the court that –

- (a) he/ she neither connived at nor permitted the act or omission; and
- (b) he/ she took all reasonable steps to prevent the act or omission.

17.2. The fact that the license holder or permission holder alleges that he/ she issued instructions whereby an act or omission is prohibited shall not in itself be sufficient proof that he/ she took all reasonable steps to prevent the act or omission.

18. Short title

This By-law shall be called the Emalahleni Local Municipality Business Trading Control by-laws and shall come into effect six months after the promulgation of the by-laws in the Government Gazette.

SCHEDULE 1

Business for which a business license is required in terms of the Mpumalanga Business Act, 1996 (Act no. of 1996) –

1. carrying of business which sells to the consumers;
 - (i) any foodstuff in the form of meals for consumption on or off the business premises and
 - (ii) Any perishable foodstuff
2. Carrying on of business by-
 - (a) Providing Turkish baths, saunas or other health baths;
 - (b) Providing massage or infra-red treatments;
 - (c) Making the service of an escort, whether male or female, available to any person,
 - (d) Keeping three or more mechanical, electronic or electrical contrivances, instruments apparatus or devices which are designed or used for the purpose of playing of any game or for the purpose of recreation or amusement, and the operation of which involves payment of any valuable consideration, either by the insertion of a coin, token coin or disc their or in an appliance attached or in any other manner.
 - (e) Keeping three or more snooker or billiard tables
 - (f) Keeping or conducting a night club or discotheque and
 - (g) Keeping or conducting a cinema or theatre

SCHEDULE 2

Business for which a business permit is required in terms of the By-laws –

1. Hairdressing and beauty salons
2. Second-hand goods dealer and scrap yards
3. Dry cleaner and Laundromat
4. Panel beaters and spray booths
5. Boarding houses
6. Mechanical workshop
7. Warehouse
8. Resorts

ANNEXURE A



EMALAHLENI

Local Municipality

INTEGRATED BUSINESS TRADING APPLICATION FORM

Very important to note:

Application must be completed in full, where not applicable please insert N/A

All non coloured spaces must be completed

Application must be completed by the owner of the property or the landlord, in the event that the landlord or owner of property is not available, a person authorised by the landlord or owner of property may complete the form.

Applicant must attach all relevant documents and sign the application form

If the applicant requires any upgrades of municipal services, the cost thereof will be borne by the Applicant

Submit proof of payment of the non-refundable application fee R1 691.20 (To be paid on vote number 023301001853 at the cashiers)

All municipal services account must be up to date

Proof of requirements with all other sector departments must be submitted

Date of submitting application: _____

Nature of business operation (give a short description of the business operations, e.g. selling groceries)

Particulars of applicant/s:

Surname	
First Names	
ID/ Passport number	
	Copies of ID/ Passport must be attached
Residential address	
Postal address	
Tel. no	
Cell no.	
Email:	

Particulars of business:

Name of business/ trade name	
Status of business	Please mark the appropriate box: Close cooperation <input type="checkbox"/> Private company <input type="checkbox"/> Cooperative <input type="checkbox"/> One-man Business <input type="checkbox"/>

	Business not registered with CIPC <input type="checkbox"/> Other (please specify):
Name and Surname of person operating the business	
Stand number or Portion number of farm where business is conducted	
Street name of business	
Township/ Extension where business is situated	
Name of building (if business is conducted within a shopping complex)	
Please indicate the number of businesses that are operated in the same property	

Checklist (Please complete the following checklist by ticking the box next to the corresponding statement)

1. Is the business situated in an informal settlement?	Yes	No
2. Is the business operated from a residential stand?	Yes	No
If Yes, Please attach zoning certificate or any Council approval.		
3. Is the business operated from a business stand?	Yes	No
If Yes please attach zoning certificate or Council approval		
4. Does the structure have approved building plans?	Yes	No
If Yes, Please attach approved building plans		
5. Is the building situated within the municipal building lines in terms of the building regulations? (applicable to formal areas)	Yes	No
6. Does the building you operate from have an electrical certificate of compliance (COC) issued by a qualified electrician	Yes	No
If Yes, Please attach COC.		
7. Does the building/s have an electricity meter?	Yes	No
Please indicate the method of connection by ticking the appropriate box below:		
Pre-paid <input type="checkbox"/> please provide the meter number: _____		
Conventional <input type="checkbox"/> Other <input type="checkbox"/> Please specify _____		
8. Does the building/s have a water meter?	Yes	No
If Yes, please provide a meter number: _____		
9. Does your business have a consumer account with the municipality?	Yes	No
If Yes, please attach the current municipal statement		
10. Does the business comply with fire safety requirements in terms of flammable liquids/ gases (Cylinder gas bottles, paraffin, motor oil, methylated spirits, etc) If Yes, please attach a compliance certificate from the fire department.	Yes	No

SIGNATURE OF APPLICANT

DATE

FOR OFFICE USE ONLY:

Date application received:

File/ reference number:

Payment receipt no:

Name of official receiving application:

Is the application fully completed? Yes/No

Did the applicant attach all the required documents? Yes/ No

Did the applicant attach proof of payment for this application? Yes/No

EMALAHLENI LOCAL MUNICIPALITY
Business Trading Control By-laws
SCHEDULE OF OFFENCES AND FINES DETERMINED IN TERMS OF SECTION
16 OF THE DRAFT BY-LAWS

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
	Notwithstanding the provisions of any other law:			
5 (5.1)	Fail to comply with the general duty of care	R3 000		EMC BT001
6 (6.1) (a)	Conducting a business without a valid business trade license issued by the municipality or written permission of the municipality;	R3 000		EMC BT002
6 (6.1) (c)	Conducting a business outside a demarcated area unless the area has been rezoned accordingly and	R3 000		EMC BT003
6 (6.2)	Failure to display a business trade license conspicuously on the internal walls of the business.	R1 000		EMC BT004
9 (9.1)	Conducting a business outside the hours of trading that are determined by the municipality and in line with the Mpumalanga trading hours Act, 1999	R 3000		EMC BT005
10 (10.1) (a)	Placing property or goods in a place that is not a designated area for trading;	R1 500		EMC BT006
10 (10.1) (b)	Placing or stacking of property or goods on a pavement and in such a manner that it constitutes danger to any person or property or is likely to injure any person or damage property;	R1 500		EMC BT007
10 (10.1) (c)	Erecting any structure outside the boundaries of the business premises for the purpose of trading without prior approval from the municipality;	R1 500		EMC BT008
10 (10.1) (c)	Obstructing access to a fire hydrant or area demarcated solely for purposes of and use of emergency vehicles or services;	R1 500		EMC BT009
10 (10.1) (d)	Leaving his or her property or goods outside and an area designated for business trading before or after trading hours;	R1 500		EMC BT010
10 (10.1) (e)	leave his or her property or goods outside an area designated for business trading before or after trading hours;	R1 500		EMC BT011
10 (10.1) (f)	when requested by an employee or agent of the municipality or any supplier of telecommunications, electricity or other services, omit or neglect to move his or her property or goods so as to permit the carrying out of any work with regard to a public place or any such service;	R1 500		EMC BT012
10 (10.1) (g)	attach any object or goods by any means to any building, structure, pavement, tree, parking, meter, lamp post, electricity pole, telephone booth, post box, traffic sign,	R1 500		EMC BT013

10 (10.1) (h)	fence, bench, or any other street furniture in, on or at a public place;	R1 500		EMC BT014
10 (10.1) (i)	make an open fire at the designated area or in circumstances where it could harm any person or cause air pollution;	R1 500		EMC BT014
10 (10.1) (j)	disregard a reasonable requirement put by an authorized official of the municipality;	R1 500		EMC BT015
10 (10.1) (k)	sell his or her goods by using a megaphone, radio, loudspeaker, or by constant shouting or disturbance without prior written consent of the municipality;	R1 500		EMC BT016
10 (10.1) (l)	sell any property or goods which are dangerous or hazardous to public health or human health and	R1 500		EMC BT017
10 (10.1) (l)	fail to comply with the relevant provisions of the solid waste management by-laws and/or any other by-law of the municipality.	R1 500		EMC BT017
11. (11.1) (a)	fail to keep his/ her property or goods in a clean and sanitary condition;	R1 500		EMC BT018
11. (11.1) (b)	fail to dispose of litter generated by his or her business in whatever receptacles approved by the municipality and not dispose of litter in any street litter receptacle which is meant for use by pedestrians;	R1 500		EMC BT019
11. (11.1) (c)	fail to ensure that on completion of business for the day, the business premises including the fore front and pedestrian walk way next to the business is free from litter;	R1 500		EMC BT020
11. (11.1) (d)	fail to take such precaution measures to prevent the spilling or discharge onto a public place or municipal drainage system of any fat, oil, grease or any hazardous substances which might be generated in the course of conducting his or her business and to prevent that any smoke, fume, outdoor or noise emanating from his or her activities become a nuisance;	R2 000		EMC BT021
11. (11.1) (f)	fail to ensure that no overnight sleeping takes place in the business;	R1 500		EMC BT022
11. (11.1) (i)	fail to have access to fire extinguishers or firefighting equipment as shall be prescribed by the municipality and	R1 500		EMC BT023
11. (11.1) (j)	fail to ensure that no smoking is allowed in the business and that no tobacco is allowed to be sold to under age children.	R1 500		EMC BT024
16 (16.1) (a)	fail to comply with any provision of this by-laws; ignores, disregards or disobeys any notice, sign or marking displayed or erected in terms of this by-laws;	R2 500		EMC BT025

16 (16.1) (b)	contravened or fail to comply with any approval granted or condition imposed in terms of this by-laws;	R2 000		EMC BT026
16 (16.1) (c)	fails to comply with a lawful written instruction by the municipality to move or remove his or her property;	R1 500		EMC BT027
16 (16.1) (d)	deliberately furnished false or misleading information to an officer or an employee of the municipality; and/or	R2 000		EMC BT028
16 (16.1) (e)	threatens, resists, interferes with or obstructs an officer or employee of the municipality in the performance of his or her powers, duties or functions under this by-laws,	R3 000		EMC BT029

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